

**BAXTER CITY COUNCIL MINUTES**  
**Work Session**  
**April 19, 2016**

Mayor Darrel Olson called the Work Session to order at 6:15 p.m.

COUNCIL MEMBERS PRESENT: Mayor Darrel Olson and Council Members Quinn Nystrom, Steve Barrows, Todd Holman, and Mark Cross

COUNCIL MEMBERS ABSENT: None

STAFF PRESENT: City Administrator Gordon Heitke, Community Development Director Josh Doty, Assistant City Administrator Kelly Steele, and Public Works Director Trevor Walter.

**Proposed Seasonal Vending Ordinance**

Community Development Director Doty explained, as requested during the April 5, 2016 council meeting, staff has prepared an ordinance for seasonal vending. The proposed ordinance allows seasonal vending from a mobile vending unit as an accessory use for grocery stores, whereby the grocery store operates the seasonal vending to provide prepared only non-alcoholic beverages and food items that are customarily sold from their store. Seasonal vending allows up to 100 days of consecutive sales during a summer period with two days allowed for set up and two days for take down at the beginning and end of the sale period. A maximum of one mobile vending unit may be authorized by permit for each grocery store. The ordinance language would allow one permit per grocery store, not per property. For example, both Morey's and Von Hanson would be able to have a seasonal vending.

Council asked if a convenience store qualifies as a grocery store. Community Development Director Doty explained a convenience store was not the intent of staff.

The mobile vending unit shall remain stationary on private property, in an approved location on the site for the duration of the permit. The owner may move the mobile vending unit to and from the approved mobile vending unit site during the 100-day period, provided the mobile vending unit is not used within the City.

The mobile vending unit shall be located at least two hundred feet from a residentially zoned or used property.

Collocating more than one separately licensed mobile vending unit on the same site may be allowed, provided the site is designed to accommodate multiple vending units and provided the mobile vending units are permitted through the requirements of the ordinance.

The mobile vending unit must be located on private property, on a paved surface, in a location that does not interfere with pedestrian or accessible routes, required parking, traffic circulation or emergency vehicle access on the site. Mobile vending units are prohibited within the public right of way.

Exterior materials and colors of the mobile vending unit shall be designed to be complementary to the principal building. The Community Development Director has the authority to require that the mobile vending unit be reviewed by the City Architectural Review Commission and City Council to ensure that the mobile vending unit is consistent with the purpose and intent of the City's Architectural Design Standards for commercial property.

The mobile vending unit may be open between the hours of 8:00 A.M. and 8:00 P.M. Additionally, the mobile vending unit may not be open unless the grocery store is open so that customers have access to restroom facilities inside the building.

Providing or selling of merchandise or other retail items related to a mobile vending operation is prohibited.

The mobile vending area shall be kept clean by the permittee. Trash receptacles including leak-proof, nonabsorbent containers shall be kept covered with tightfitting lids and provided in proximity to the mobile vending unit. The trash receptacles shall be maintained to avoid any littering in association with the use and properly disposed of. Each permittee is responsible for the disposal of trash left by customers.

A staff person, legally capable of moving the unit shall be on the premises at all times while the mobile vending unit is open for business.

The use of seating, tents, canopies or umbrellas related to the mobile vending operation is prohibited. The exception is that a canopy that is attached to the mobile vending unit may be used to provide shade for the sales location.

The use of temporary power cords or water lines or sewer lines related to the mobile vending unit is prohibited. If the owner chooses to hook the mobile vending unit up to electric, water, or sanitary sewer services, the connections shall be installed in a permanent manor and approved with separate electric and/or mechanical permits. The owner may also use power cords that run from generator placed in the vicinity of the mobile vending unit to the mobile vending unit.

The city may require the use of bollards or other traffic or pedestrian flow devices, as needed to maintain safety.

The use of sound amplifying equipment, televisions or similar visual entertainment devices, lights, or noisemakers, such as bells, horns, whistles related to the mobile vending unit is prohibited. Exceptions include low volume use of a vehicle radio or other music that can only be heard at the mobile vending unit and televisions or other screens used in association with a menu board for the vending unit.

Other than lighting required for a vehicle or trailer, no lighting shall be used to light the mobile vending unit or the area around the mobile vending unit. Lighting shall not be used to attract attention to the mobile vending unit.

A mobile vending permittee shall be allowed signage that is secured flat against the mobile vending unit, not projecting more than six inches (6") from the exterior of the unit and no more than three feet (3') above the roof deck of the unit. No signage shall be placed on top of a roof deck of any mobile vending unit. Any menu boards shall be directly attached or inside of the mobile vending unit. No external freestanding signage or banners are allowed for the mobile vending operation. No inflatables, lights, or other attention attracting devices are allowed for the mobile vending operation.

A mobile vending unit may not have a drive-through.

A mobile vending permittee shall obey any lawful order of a police officer, traffic control agent, or regulatory services inspector to move to a different authorized location to avoid congestion or obstruction of parking lots, pedestrian trails, or adjacent streets.

No mobile vending unit shall be kept, stored, or maintained on a residentially zoned property in the City of Baxter. No mobile vending unit shall be used as sleeping quarters in the city.

The mobile vending permit locations shall be compatible with the character of the surrounding neighborhood considering the possible creation of problems including noise, lighting, traffic, sanitation, congestion and other factors affecting the public health, safety and welfare of such areas in addition to compliance with all ordinances of this city and applicable statutes and regulations.

Lastly, staff also notes that the draft ordinance is designed so that seasonal vendors are subject to the other sections of the existing mobile vending regulations for items such as permit requirements, indemnification, insurance requirements, and compliance, revocation and enforcement standards.

The ordinance requires the applicant to submit application 30-days prior to of the start date of when they want to operate to allow time to review the application and place on a council agenda. There is also a requirement to have insurance for liability as part of the mobile vending ordinance. There is a criteria to deny a permit based on architectural standards. The permit fee is \$300 per season, or can amend for \$30 during the calendar year for administrative staff review. Staff did not add SAC or WAC fees to the ordinance. If using containers to dump sanitary sewer or add hook-up there will be increased use. There is a seasonal permit where WAC and SAC fees are for permanent uses. The City does charge a percentage for restaurants to have outdoor seating for WAC and SAC. Two letters have been received, one from Morey's and one from a resident in support of the request.

The council questioned fats, oil, and grease ("FOG") ordinance and asked if this ordinance applies to the FOG requirements. The proposed ordinance does not specify FOG ordinances as does for permanent restaurants. Staff could add language to the ordinance. Storm water component no open drainage opportunities. Ordinance proposals say water cannot drain to the storm sewer. How do we get gray water to the sanitary sewer so we do not have a campground drain pit.

The council questioned if outdoor seating provided as an opportunity. Outdoor seating may not work, but it could at least be listed as an option. Staff would suggest abilities to regulate outdoor seating if allowed. Questions with SAC and WAC and how the use would work with the site.

Steve Frank, the applicant, provided a written response to the proposed ordinance amendments. Mr. Frank explained the requirement of not exceeding 100 days seems arbitrary; the inability to have the unit on site for storage purposes is an undue burden; if the vehicle was placed in such manner as to enable power hook up to the building, it would seem vastly superior to running a generator for months creating

noise and exhaust; and the liability insurance requirement seem to be an extraordinary requirement and discriminatory for an existing Baxter business entity operating on its own site.

Mr. Frank explained Community Development Director Doty did a good job putting the ordinance together. Mr. Frank questioned if it would be a big different to allow the use from May through September if the weather cooperates. Mr. Frank explained they will be architectural standards and the unit would not be any more of an eyesore that other things along the highway. Mr. Frank explained the use does not have black water and very little gray water.

**Adjournment**

**MOTION** by Council Member Cross, seconded by Council Member Barrows to adjourn at 6:45 p.m. Motion carries unanimously.

Approved by:

Respectfully submitted,

---

Darrel Olson  
Mayor

---

Kelly Steele  
Assistant City Administrator/Clerk