

To: PNJ  
From: Wilmer Mitchell

November 5, 2015  
By Hand

Attention Tom Ninestine, Opinion Editor  
and PNJ Editorial Board

Re: Proposed Food Truck Ordinance  
No. 22-15 Revised

### VIEWPOINT

In two prior viewpoints I have addressed food truck ordinances primarily based on information appearing in the PNJ since no complete draft document was available. Now I have in hand the above ordinance passed by 6 to 2 vote of the City Council October 8, which was apparently written up October 9 in a document marked "REVISED".

I frankly was stunned by what the ordinance actually says. I wrote up a number of questions and submitted them to the Mayor and his lawyer and the Council President and the Council's lawyer to see if their answers agreed with my answers to be sure I knew what the ordinance actually said.

In separate meetings they agreed that my reading of what the proposed ordinance says is correct. I think everyone concerned with the issue should know those questions and those answers, so I will state them now:

Questions and answers on what proposed food truck ordinance No. 22-15, Revised, actually says:

1. Where are food trucks not allowed?  
Palafox, South of Garden

2. On what public streets are food trucks allowed to operate for business?

They may operate in every parallel parking space in the city which is open to the public. That includes Palafox north of Garden, and side streets off Palafox, and the Downtown Historic District and all other business areas as well as all residential areas. (A restriction to areas zoned for bars and restaurants in a previous draft was deleted.)

3. How big can the trucks be?

Not wider than the space (8 feet usually). Their length and height are not limited. (A 30' length by 8' width limit was deleted from a previous draft.) The average food truck is 24 to 26 feet. Pensacola parking spaces are usually 18 feet.

4. What will they look like?

Who knows? The ordinance requires a photo but gives no power to decline an applicant for aesthetic reasons.

5. How long may they stay?

If there are time restraints on the space (e.g. "2 hour parking") they must be observed. Those limits often do not apply after 6 PM. Otherwise there is no time limit.

6. Is there a limit on how many permits can be issued?

No. If they are cheap there will be many applicants.

7. May trucks congregate? If so, how?

The ordinance says no "group" more than two may be allowed without a special permit. However the ordinance does not define what operating as a "group" means so there is no way to calculate a proximity rule.

8. Are there any buffer zones to protect existing restaurants other than on south Palafox?

No.

9. What does a permit cost for a year?

\$250.

10. What other fees or taxes does the City get from the truckers?

No property taxes. No fees except coins from parking metered spaces, but even that cuts off at 6 PM usually. City gets only 15.62% of the 1.5% of sales taxes kept in the county. (e.g. on \$100,000 in sales, City gets only \$234.30.)

11. Does the City have the power to rent its streets and charge rental fees?

Yes, at its option. Nobody has any right to do business in the streets. For some special events (like parades) the City used to waive fees and assume the costs for placing barriers, clean-up, etc. For most events now it requires fees, insurance and clean-up (if Seville Quarter rents its street for an event for a day, it is charged \$250, a \$1,000,000 insurance policy covering the City, and responsibility for total, prompt clean-up of the whole area).

12. What is required of a food truck to operate on a city street for a day?

Insurance \$500,000 annual policy covering City. Clean-up - none on scene (a 20' circle of responsibility was deleted). Fees - parking meter on metered blocks, and none after 6 PM. If the annual license charge is counted as rent that is only 69 cents per day.

13. Are there other requirements?

Yes, trucks must abide by some state rules re: health, sanitation, etc. like restaurants except no restrooms. They also must not block driveways, ramps, loading zones, and must not block vision of traffic signs. They also must be 20 feet from any intersection. Most of these traffic rules also apply to other vehicles.

14. Does any other City agency have any power or authority over the trucks?

Of course the police, fire dept. and health dept. have their areas of control but the ordinance excludes the DIB, ARB and other agencies.\* Thus all power to regulate and tax is held by the City Council. The duty to execute is given to the mayor or his designees.

This proposed ordinance will actually give away the parallel parking spaces in Pensacola to Food Truckers for almost no payment to the City. That is unfair to all the established restaurants which are true invested, tax paying stakeholders on the issue. It is a major gift to the truckers who have no standing as stakeholders now, but will have if the ordinance passed October 8 or anything like it is passed on second reading at the Council meeting Thursday, November 12. I hope the citizens of this area, who also are true stakeholders, will speak up and oppose this ordinance. It is an unfair and I believe illegal giveaway which should be rejected. No City Council member has the right to give away valuable city property.

  
Wilmer Mitchell  
President, Seville Quarter

\*See p. 3 of an earlier draft which permitted outside agencies, DIB, Historic Pensacola Preservation Board “or other applicable agencies with jurisdictional authority” to “create their own... additional requirements and fees”... This was deleted from that prior draft and that removal prevents DIB, Historic Preservation Board, ARB etc. from putting rules or fees on Food trucks.. Removed from earlier draft ordinance 2-15 sec/ 7-12 (C) (5)(b) p.3