

**AGENDA
CITY OF LINDEN
VIRTUAL REGULAR PLANNING COMMISSION MEETING**

Monday, May 3, 2021

7:00 p.m.

I. CALL TO ORDER

II. ROLL CALL

III. NEW COMMISSIONER INTRODUCTION

IV. MINUTES APPROVAL

(A) Minutes of the April 5, 2021 Virtual Regular Meeting

V. PUBLIC HEARING/SPECIAL PRESENTATION

VI. CITIZEN'S COMMENTS

Persons wishing to address the Planning Commission on non-agenda items only are asked to state their name and address for the record and limit their comments to five minutes or ten minutes if representing a group of persons. Opportunity will be given to address the Planning Commission on agenda items as they are called on the agenda.

VII. COMMUNICATIONS

VIII. UNFINISHED BUSINESS

IX. NEW BUSINESS

(A) PC-07-21 Discussion of Mobile Food Vehicle Vending Ordinance

X. COMMISSIONER/COMMITTEE REPORTS

XI. ADJOURNMENT

CITY OF LINDEN
Minutes for Virtual Planning Commission Regular Meeting
Held at 7:00 P.M. on Monday, April 5, 2021

In light of the current Coronavirus (COVID-19) pandemic, the Monday, April 5, 2021, Planning Commission meeting of the City of Linden, has put in place special accommodations for the public and board member attendance via Zoom Meetings or by phone.

CALL TO ORDER

The meeting was called to order at 7:13 p.m. by Chairperson Libby Elliott. The meeting was held virtually (online and by phone). The link was provided in a notice to the public.

ROLL CALL

Present: Libby Elliott (virtually from Linden, MI, Genesee County), Stephanie Johnson (remotely from Linden, MI, Genesee County), Joe Crawford (remotely from Linden MI), Ray Culbert (virtually from Linden, MI, Genesee County), John Hartranft (virtually from Linden, MI, Genesee County), Brad Dick (virtually from Linden, MI, Genesee County), Daniel Cusson (remotely from Linden, MI, Genesee County)

Absent: Bill Swor, Kathryn Prose,

Others Present: Ellen Glass, City Manager (remotely from Shiawassee County), Adam Young, City Planner (remotely from Wayne County), Kristyn Kanyak, Deputy Clerk (remotely from Genesee County)

MINUTES APPROVAL

Motion by Culbert, second by Cusson to approve the minutes of the March 1, 2021 Virtual Special Joint Meeting and the minutes of the March 1, 2021 Virtual Regular Meeting. Roll call. Motion carried 7-0.

AYES: Hartranft, Elliott, Cusson, Johnson, Dick, Crawford, Culbert

NAYS: None.

ABSENT: Prose, Swor

PUBLIC HEARING/SPECIAL PRESENTATION

(A) PC-03b-21 Accessory Building Regulations Zoning Amendment

Young briefly reviewed the public hearing process, verified there was no public in attendance and that no written correspondence was received on the item.

Elliott opened the public hearing at 7:11 p.m.

Kanyak verified no public comments in the chat.

Elliott closed the public hearing at 7:12 p.m.

CITIZEN'S COMMENTS

None.

COMMUNICATIONS

None.

UNFINISHED BUSINESS

(A) PC-03b-21 Accessory Building Regulations Zoning Amendment

Young reviewed his staff report: At their October 2020 meeting, the City Zoning Board of Appeals (ZBA) approved a variance allowing a detached accessory building in the front yard of a property with lake frontage on Byram Lake. At the conclusion of the meeting, the ZBA suggested that the Planning Commission be made aware of the request and consider whether any ordinance changes were necessary. Over the past several meetings, the Planning

Commission discussed and decided that an ordinance revision is appropriate and developed prospective zoning ordinance amendment language. Young reviewed the proposed language and opened it up for discussion.

Hartranft and Young discussed various properties on Byram Lake in regards to frontage and riparian access, fluctuating water level; in relationship to the proposed amended language.

Motion by Culbert, second by Dick to move to forward to City Council a recommendation of adoption of the proposed amendment to Section 154.061,(6) of the Zoning Ordinance as outlined in the March 11, 2021 report. Roll call. Motion carried 7-0.

AYES: Hartranft, Cusson, Elliott, Dick, Culbert, Johnson, Crawford

NAYS: None.

ABSENT: Prose, Swor

NEW BUSINESS

(A) PC-05-21 Planning Commission Member Attendance Policy

Young reviewed his staff report: We are providing a reminder about the attendance policy for Planning Commissioners as outlined in Section 6, of Article II, of the Planning Commission by-laws. This section of the by-laws states: Section 6. If a member shall miss four (4) consecutive regular meetings of the commission or fifty (50%) percent of such meetings in any calendar year of the appointed term, the appointment shall be declared vacant by the City Council. Notice shall be sent to any member when one (1) more absence would make it necessary for the Council to declare such a vacancy. It is important to ensure that members are attending the meetings, as upcoming decisions should have input from those who serve. Young discussed the importance of member attendance for meetings, and informing Staff prior to the meeting when you are not able to attend.

Young, Culbert and Glass discussed a potential vacancy and contacting that commissioner for confirmation. Glass explained formalizing communications for documentation, and emphasized importance of following the by-laws. Young explained the by-laws in reference to why we may wait until the end of the year to fill a vacancy.

(B) PC-06-21 Formalization of the Planning Commission Liaison to the Historic District Commission

Young reviewed his staff report: One of the Planning Commission members currently serves as a liaison to the Historic District Commission (HDC). Based on discussion at past Planning Commission meetings, we are adding this topic to the April Planning Commission agenda to clarify and formalize the role.

This PC Liaison to the HDC role was established by the Planning Commission to ensure coordination between the Planning Commission and Historic District Commission. The PC Liaison to the HDC was not intended to be a voting member of the Historic District Commission; rather, it was intended for the PC Liaison to attend HDC meetings, participate in discussions about HDC agenda items as appropriate, and report back to the Planning Commission on HDC activities. Presently, there is no reference in the Historic District Commission by-laws about this role. To eliminate confusion about this PC Liaison role, the Planning Commission may recommend to the HDC that they amend their by-laws to include a formal description of this role.

Young discussed the role and potential challenges, with the limited number of voting members on the Historic District Commission (HDC). Kanyak, Staff Liaison to the HDC, briefly reviewed HDC's by-laws pertaining to quorum; further explained if formalized as a non-voting role, it would affect application deliberation and result in postponement, creating an inconvenience to applicants. Kanyak suggested allowing City Staff dissolving the role and/or allow the liaison to vote.

Dick explained that this was not possible, as it goes against the Planning Commission's by-laws. Glass discussed attendance issues and position in which the liaison was forced to vote. Glass addressed communication breakdowns in the past regarding roles; and commented navigating the Certified Local Government Program (CLG) application process has helped develop a better understanding of the HDC's by-laws and ordinances, improved informational flow and questioned if the role is truly necessary moving forward.

Young clarified Dick was referring to the Zoning Ordinance and read section aloud; commissioners commented on the revision in 2014 and confirmed compliance. Young and commissioners discussed having a voting member on the Historic District Commission (HDC), and the roles of each commission. Hartranft commented on having an even number on boards is problematic for voting purposes.

Young and Dick discussed the Historic District Commission (HDC) amending by-laws to allow a planning commission member as a voting member, and have the Mayor continue to appoint one planning commissioner to the HDC. Discussion regarding language for the motion.

Motion by Culbert, second by Dick to recommend the Historic District Commission (HDC) amend their by-laws so that the planning commissioner serving on the HDC can be a voting member. Roll call. Motion carried 7-0.

AYES: Culbert, Dick, Crawford, Elliott, Cusson, Hartranft, Johnson

NAYS: None.

ABSENT: Prose, Swor

COMMISSIONER/COMMITTEE REPORTS

Young updated: no administrative site plans have been received, there has been a few sign review committee items, and provided a brief update on the progress of Sandalwood Village.

Young explained that the Planning Commission Vice Chairperson emailed the Mayor, requesting to step down as Vice Chair and resign from the Commission. Young and commissioners discussed in the past, there were motions made to accept resignations. Young referenced the by-laws and the electing of a new Vice Chair, questioning if commissioners wanted to appoint tonight, or have it added to the next meeting's agenda. Commissioners discussed potential language for a motion and to accept the resignation with regrets.

Motion by Elliott, second by Culbert to accept Kathryn Prose's resignation. Roll call. Motion carried 7-0.

AYES: Elliott, Johnson, Crawford, Culbert, Hartranft, Dick, Cusson

NAYS: None.

ABSENT: Swor, Prose

Young questioned commissioners if they wanted to appoint a new Vice Chairperson tonight or at the next meeting. Elliott asked if anyone was interested in the position, to which, Cusson expressed interest.

Motion by Culbert, second by Dick to nominate Daniel Cusson as Vice Chairperson. Cusson accepted the nomination. Nominations for Vice Chairperson were closed. Roll call. Motion carried 7-0.

AYES: Hartranft, Elliott, Cusson, Johnson, Dick, Crawford, Culbert

NAYS: None.

ABSENT: Prose, Swor

ADJOURNMENT

The meeting was adjourned by Chairperson Elliott at 7:56 p.m.

Respectfully Submitted,

Kristyn Kanyak, Deputy City Clerk

Approved: _____

PLANNING COMMISSION STAFF REPORT

MEMO NO.: PC-07-21

FROM: Adam Young, AICP, City Planner

AGENDA: May 3, 2021 New Business (A)

TOPIC: Discussion of Mobile Food Vehicle Vending Ordinance

Background: As you know, we have been working to develop ordinance language to permit and regulate mobile food vehicle vendors (food trucks) within the City of Linden. Presently, private property owners within the GC and CBD Districts are allowed by Section 154.067 of the Zoning Ordinance to conduct temporary outdoor retail sales. Food trucks are included as a form of temporary outdoor retail sales. These property owners may have temporary outdoor retail sales not exceeding 10 days in duration nor more than 4 times in a calendar year. The property owner is required to secure a zoning permit for such sales.

A new, stand-alone Mobile Food Vehicle Vending Ordinance is now proposed, which would become the new Chapter 117 of the City Code. We shared an initial draft of this Ordinance last Fall. In December, the City Council passed a moratorium concerning the permitting of food trucks to allow for the study and refinement of the proposed Mobile Food Vehicle Vending Ordinance. The City sought and received comment from existing restaurants on the proposed language. The proposed Mobile Food Vehicle Vending Ordinance will be on the City Council's May 10th meeting for consideration. We are providing a copy of this proposed Ordinance for your review. (Please note that the Council has authority for developing and adopting Ordinances which are not part of the zoning ordinance.) Below is an overview of the approach that is proposed by the Ordinance:

- The Ordinance would not apply to short-term vendors (such as ice cream trucks) that are in place at one location for no more than 15 minutes. The Ordinance also would not apply to food trucks operating at community-sponsored events.
- Any mobile food vehicle vendor would need to secure a permit from the City. There will be a permit fee and permits will be valid for one calendar year.
- The City may also issue a "single event permit", which is for a mobile food vehicle vendor that wishes to operate at a single event (such as a graduation party) on private property for no more than 1 day. Religious/charitable organizations can request a longer period such as an entire weekend.
- No mobile food vehicle vendor is allowed to operate within any public street, public parking lot, or on public property. The only exception would be for a special event permit requested by a religious/charitable organization.
- Mobile food vehicle vendors would need the permission of the property owner in order to operate on private property.
- Mobile food vehicle vendors could only operate on property which is zoned for commercial use (LS, GC or CBD Districts).
- Mobile food vehicle vendors could not operate within 500 feet of an existing "brick-and-mortar" restaurant during the hours when such restaurant is open to the public for business.

- Mobile food vehicle vendors will be subject to additional health, safety, sanitary and nuisance regulations.

If the City Council adopts the stand-alone Ordinance, the reference to food trucks in Section 154.067 of the Zoning Ordinance will need to be deleted. Attached is a proposed Zoning Ordinance amendment that would accomplish this. This amendment to the Zoning Ordinance must go through the Planning Commission and would require holding a public hearing. After the public hearing, the Planning Commission could forward a motion of adoption to Council.

Requested action: Discussion only

City Planner's recommendation: Review the proposed ordinances and provide comments to be passed along to City Council.

Recommended motion: n/a

Attachments:

- Proposed Mobile Food Vehicle Vending Ordinance (new Chapter 117 of the Code of Ordinances)
- Proposed amendment to Chapter 154.067,(H) of the Zoning Ordinance

**CITY OF LINDEN
ORDINANCE NO. ____**

An ordinance amending Title XI of the Code of Ordinances by adding thereto a new Chapter 117 entitled "Mobile Food Vehicle Vending" and to prescribe penalties for violations thereof.

THE CITY OF LINDEN ORDAINS THAT:

Section 1. Amendment of Title XI of the Code of Ordinances.

The City Council hereby amends Title XI of the Code of Ordinances by adding thereto a new Chapter 117 to read as follows:

CHAPTER 117: MOBILE FOOD VEHICLE VENDING

117.01 Definitions

117.02 Scope

117.03 Permit Required

117.04 Regulations

117.05 Permit Suspension or Revocation

117.06 Violations

§ 117.01 DEFINITIONS.

As used in this chapter, the following terms shall have the meanings indicated:

MOBILE FOOD VEHICLE – A motorized vehicle or trailer used for the purpose of selling prepared foods to the general public.

MOBILE FOOD VEHICLE VENDOR – An operator of a mobile food vehicle who has obtained a license or permit from the City to operate a mobile food vehicle.

OPERATE – Shall mean all activities associated with the conduct of business, including set up and take down and/or actual hours where the mobile food vehicle vendor is open for business.

§ 117.02 SCOPE.

(A) The provisions of this chapter shall apply to mobile food vehicle vendors operating with or without charge upon or in public and private spaces within the City of Linden.

(B) Exceptions. This chapter does not apply to:

- (1) Vehicles which dispense food and that move from place to place and are stationary in the same location for no more than fifteen (15) minutes at a time,

such as ice cream trucks or food vending pushcarts and stands located on sidewalks.

- (2) Mobile food vehicle vendors operating at community events approved by the City Council if such operation is approved by the committee in charge of such event or the City Council prior to the event.

§ 117.03 PERMIT REQUIRED.

(A) Permit Required. No vendor shall engage in mobile food vehicle vending without a permit from the City Clerk authorizing such vending. The City Clerk shall prescribe the form of such permits and application for such permit. All permits shall be prominently displayed on the mobile food vehicle.

(B) Duration; Non-Transferability. Permits may be issued by the City Clerk for a calendar year from the date of issuance. Any permit issued under this chapter is non-transferable.

(C) Application. Every vendor desiring to engage in mobile food vehicle vending shall make a written application to the City Clerk for a permit under this chapter. The applicant shall truthfully state, in full, all information requested by the City Clerk. Additionally, the applicant shall provide all documentation, such as insurance, as required by the City.

(D) Permit Fees. The mobile food vehicle vending permit fee shall be established by resolution of the City Council. There shall be no proration of fees. Fees are non-refundable once a permit has been issued by the City Clerk. No fee shall be charged to a business which is on the City's tax rolls whose normal business includes the sale of food and/or beverages. No one shall hire or subcontract such vendors in an attempt to evade the provisions of this chapter.

(E) Single Event Permits. An application is also available from the City Clerk for mobile food vehicle vendors wishing to operate a single event on private property for no more than one (1) day. If the single event is sponsored by a religious, charitable or nonprofit organization, the maximum duration may be extended by the City Clerk to include the entire duration of the event. The City Council may establish fees by resolution for single event permits.

§ 117.04 REGULATIONS.

(A) No mobile food vehicle operation shall be conducted, nor shall any person in connection with the operation stand in, upon or otherwise be within a public street or other public property owned, maintained or controlled by any public agency of the United States, the state, the county or the City. An exception may be granted by the City Council only for a single-event permit sponsored by a religious, charitable or nonprofit organization.

(B) A mobile food vehicle vendor shall not operate on private property without the express permission of the owners of such property or any other person lawfully authorized to grant such permission. Operating a mobile food vehicle on private property shall additionally be subject to the following requirements:

- (1) Except for a single-event permit granted under § 117.03, a mobile food vehicle vendor shall only operate on property which is zoned LS, GC, or CBD District.

(2) A plan view drawing shall be submitted which clearly indicates where the mobile food vehicle vendor operation will be located on the site in relation to existing driveways, maneuvering lanes, parking areas, pedestrian walkways and buildings. The City may impose conditions or limitations to ensure that the proposed operation will not interfere with established uses on the site, efficient traffic flow, and pedestrian safety.

(C) No food shall be prepared, sold, or displayed outside of mobile food vehicles.

(D) No mobile food vendor operation shall be conducted in any place or in any manner that may tend to cause or result in motor vehicular traffic stopping, standing or parking within any highway or street right-of-way unless such stopping, standing or parking is otherwise permitted by law in such location.

(E) The customer service area for mobile food vehicle vendor shall not be located within a street, driveway, vehicular maneuvering lane or otherwise located such that it would result in a safety hazard for patrons.

(F) All mobile food vehicle vendors shall offer a waste container for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of mobile food vehicles shall be collected and disposed of off-site by the operators each day. Spills of food or food by-products shall be cleaned up, and no dumping of gray water on the streets is allowed. Barbeque pits shall require coals to be disposed of in a metal container with a securable lid. Coals must be emptied from the barbeque pit at the end of each day.

(G) No mobile food vehicle shall make or cause to be made any unreasonable or excessive noise. No loud music, other high-decibel sounds, horns, or amplified announcements are allowed.

(H) No mobile food vehicle vendor shall operate between the hours of 9:00 p.m. and 8:00 a.m., April through September, and between the hours of 7:00 p.m. and 8:00 a.m., October through March.

(I) A mobile food vehicle shall not be parked on a street overnight or left unattended and unsecured at any time food is in the vehicle. Any mobile food vehicle found to be unattended shall be considered a public safety hazard and may be ticketed and impounded. Unattended mobile food vehicles left on private lots overnight shall be considered a public safety hazard and may be ticketed and impounded.

(J) In addition to signage placed on mobile food vehicles, one (1) A-frame sign may be permitted during operating hours.

(K) No flashing or blinking lights or strobe lights are allowed on mobile food vehicles or related signage when the vehicle is parked and engaged in serving customers.

(L) A mobile food vehicle vendor shall not utilize any electricity or power without the prior written authorization of the power customer; no power cable or similar device shall be extended at or across any city street, alley, or sidewalk except in a safe manner.

(M) Mobile food vehicle vendors shall not operate within five-hundred (500) feet of an existing brick-and-mortar restaurant during the hours when such restaurant is open to the public for business.

§ 117.05 PERMIT SUSPENSION OR REVOCATION.

(A) Once a permit has been issued, it may be revoked, suspended or not renewed by the City Clerk for failure to comply with the provisions of this chapter and any rules or regulations promulgated by the City. Immediately upon such revocation, the City Clerk shall provide written notice to the permit holder by personal service or first class mail at the address listed in the application stating the reasons for the revocation. Immediately upon such revocation, the license shall become null and void.

(B) A permit holder whose mobile food vehicle vending permit is suspended or revoked may appeal to the City Council by filing a written notice of appeal with the City Clerk within fourteen (14) days after the date of the written notice of revocation was issued. The City Council shall hear and determine the appeal and its decision shall be final.

(C) It shall be unlawful for any person to engage in mobile food vehicle vending operation while the permit is suspended or revoked. No permit which has been suspended or revoked shall be reinstated until the required reinstatement fee has been paid.

§ 117.06 VIOLATIONS.

(A) A vendor who violates this chapter is responsible for a civil infraction and subject to penalties as provided in Chapter 33, Municipal Civil Infractions.

Section 2. Effective Date.

This Ordinance shall become effective ten (10) days following publication

At a regular meeting of the Linden City Council held on April ____, 2021, adoption of the foregoing ordinance was moved by _____ and supported by _____.

Voting for:

Voting against:

The Mayor declared the ordinance adopted.

Tessa Wightman
City Clerk

Danielle Cusson
City Mayor

CERTIFICATION

The foregoing is a true copy of Ordinance No. _____ which was enacted by the Linden City Council at a regular meeting held on _____, 2021.

Tessa Wightman, City Clerk

**CITY OF LINDEN
ORDINANCE NO. ____**

An ordinance amending Section 154.067(H) of Chapter 154 of the Code of Ordinances pertaining to Mobile Food Vehicle Vending.

THE CITY OF LINDEN ORDAINS THAT:

Section 1. Amendment of Section 154.067(H) of Chapter 154 of the Code of Ordinances.

The City Council hereby amends Section 154.067(H) of Chapter 154 of the Code of Ordinances to read as follows:

(H) *Temporary outdoor retail sales.* All temporary outdoor retail sales, including **food vendors**, seasonal sales, live plants, and parking lot sales are permitted within the GC and CBD Districts, provided that such use shall not exceed 500 square feet in size, exceed ten consecutive days in duration, nor shall it occur more than four times in a calendar year on a site. Temporary outdoor retail sales shall not be conducted in the required setback area of any lot. Off-street parking shall be provided and no parking shall be permitted in the right-of-way. One parking space for each 125 square feet of floor space devoted to the temporary outdoor retail sales shall be provided. **This subsection shall not apply to mobile food vehicle vending as regulated by Chapter 117 of the Code of Ordinances.**

Section 2. Effective Date.

This Ordinance shall become effective ten (10) days following publication

At a regular meeting of the Linden City Council held on April ____, 2021, adoption of the foregoing ordinance was moved by _____ and supported by _____.

Voting for:

Voting against:

The Mayor declared the ordinance adopted.

Tessa Wightman
City Clerk

Danielle Cusson
City Mayor

CERTIFICATION

The foregoing is a true copy of Ordinance No. _____ which was enacted by the Linden City Council at a regular meeting held on _____, 2021.

Tessa Wightman, City Clerk