

TO: City of Peoria Zoning Commission

THRU: Site Plan Review Board

FROM: Leah Allison, Senior Urban Planner, Zoning Commission Staff

DATE: May 3, 2012

SUBJECT: **PUBLIC HEARING ON THE REQUEST OF THE CITY OF PEORIA TO AMEND
APPENDIX C, THE LAND DEVELOPMENT CODE, RELATED TO FEES.
CASE NO. ZC 12-C**

PETITIONER City of Peoria

REQUEST To amend the Land Development Code

Staff respectfully requests withdrawal of this case due to reconsideration and discussion of many other subdivision-related matters.

TO: City of Peoria Zoning Commission

THRU: Site Plan Review Board

FROM: Leah Allison, Senior Urban Planner, Zoning Commission Staff

DATE: May 3, 2012

SUBJECT: **PUBLIC HEARING ON THE REQUEST OF THE CITY OF PEORIA TO AMEND APPENDIX B, THE ZONING ORDINANCE AND APPENDIX C, THE LAND DEVELOPMENT CODE, RELATED TO MOBILE FOOD VEHICLES AND FOOD CART VENDORS.
CASE NO. ZC 12-D**

PETITIONER City of Peoria

REQUEST To amend the Zoning Ordinance and Land Development Code

SUMMARY

The proposed text change is in response to recent interest in placing mobile food operations on private property within the city of Peoria. Current zoning regulations limit such uses on private property to agricultural districts only.

Staff is proposing to amend the zoning regulations to allow mobile food vehicles and food cart vendors in Industrial and Institutional zoning districts as an accessory use to a permitted or specially permitted use. Research of other communities allowing such uses found an increase in economic vitality and diversity as well as positive activity to the street and area.

This text change adds mobile food vehicles and food carts to the Temporary Use section of the Zoning Ordinance and Land Development Code and references Chapter 18, Article XVI, of the City Code, which is titled Mobile Food Vehicles. Article XVI, which is to be added to the City Code in partnership with the changes to the zoning regulations, details the performance standards and licensing requirements. A license is valid January 1 through December 31 upon review of the following:

- Location of proposed food vehicles/carts
- Written consent of the property owner
- Liability Insurance
- \$100 application fee outside of downtown area, up to \$3,400 application fee for downtown area.
- \$1,000 performance bond
- Hours of operation

The following location restrictions shall apply:

- Minimum 100 feet separation between a food vehicle/cart and a licensed food establishment.
- Minimum 500 feet separation between a food vehicle/cart and any fair, carnival, festival, special or civic event unless written consent is granted by the holder of such events.
- Minimum 500 feet separation between a food vehicle/cart and a primary, middle or secondary school or playground when school is in session or during school activities.

Chapter 18, Article XVI of the City Code is administered through the Comptroller (Finance Department). Therefore, a zoning certificate is not required and one fee is paid with the license. This arrangement will allow for a simplified application process and review time for the applicant.

RECOMMENDATION

Staff recommends approval of the proposed ordinance amending Appendix B & C of the Code of the City of Peoria relating to Mobile Food Vehicles and Food Cart Vendors.

**ORDINANCE AMENDING APPENDIX B OF THE CODE OF THE CITY OF PEORIA
RELATING TO MOBILE FOOD VEHICLES AND FOOD CART VENDORS**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS AS FOLLOWS:

Section 1: Appendix B of the Peoria City Code, being Ordinance No. 13,225 as adopted on June 4, 1991 and thereafter amended, is hereby amended by adding the following underlined words:

ARTICLE 3. GENERAL REGULATIONS AND USES PERMITTED WITH ADMINISTRATIVE APPROVAL

3.2.e. Temporary Uses.

- (3) *Permitted Temporary Uses.* Subject to the specific regulations and time limits that follow, all applicable local ordinances and codes, and to the other applicable regulations of the district in which the use is permitted, the following temporary uses, and no others, are permitted in the zoning districts herein specified:

- (l) *Mobile Food Vehicles and Food Cart Vendors.* Mobile food vehicles and food cart vendors shall be a permitted temporary use within any institutional or industrial district as accessory to any permitted or specially permitted use and pursuant to Chapter 18 of the City Code.

ARTICLE 18. DEFINITIONS

For the purposes of this ordinance, the following terms shall have the following definitions and meanings:

Mobile Food Vehicle: a commercially manufactured, motorized mobile food unit in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale or distribution. This term includes trucks and automobiles, which are required to be licensed and registered with the Illinois Secretary of State. The term does not include trailers.

Food Cart Vendor: any person engaged in the selling, or offering for sale, of food that is cooked, wrapped, packaged, processed, or portioned for service, from a stand or from his person.

Section 2. This Ordinance shall be in full force immediately and upon passage and approval according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, THIS
_____ DAY OF _____, 2012

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel

**AN ORDINANCE AMENDING CHAPTER 18 OF THE CODE OF THE CITY OF PEORIA
PERTAINING TO LICENSING OF MOBILE FOOD VEHICLES**

WHEREAS, the City of Peoria, Illinois is a home rule municipality pursuant to Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, the City Council of the City of Peoria, Illinois wishes to provide the alternative of mobile food vehicles to consumers within the City of Peoria upon such terms and conditions as are reasonable; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Peoria, Illinois as follows:

Section 1. Section 18-496 is hereby amended by adding the following underlined words and deleting the following stricken words:

Sec. 496. Definitions.

* * *

Street and sidewalk vendor means any person engaged in the selling, or offering for sale, of food, beverages, goods, wares or merchandise on the public streets, sidewalks or rights of way from a stand, ~~motor vehicle~~ or from his person by locating the same in a fixed location for a period of time rather than by going from place to place within the city; provided, however, that a person licensed pursuant to section 26-12 shall not be considered a street and sidewalk vendor. Street and sidewalk vendor includes those with pushcart stand licenses and those with sidewalk station licenses.

* * *

Section 2. There shall be added to the Code of the City of Peoria the following underlined words in Article XVI to Chapter 18 of the Code of the City of Peoria pertaining to mobile food vehicles:

ARTICLE XVI. MOBILE FOOD VEHICLES

Sec. 640. Definitions.

Mobile food vehicle means a commercially manufactured, motorized mobile food unit in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale or distribution. This term includes trucks and automobiles, which are required to be licensed and registered with the Illinois Secretary of State. The term does not include trailers.

Downtown Business District shall mean the following described territory or district:

Commencing at the intersection of the extended southwest right-of-way line of Kumpf Boulevard and the Illinois River; thence up Kumpf Boulevard along said right-of-way line to its intersection with northwest right-of-way line of Perry Avenue; thence northeast along said right-of-way line of Perry Avenue to its intersection with the southwest right-of-way line of Interstate Highway 74; thence down said right-of-way line of Interstate Highway 74 to its intersection with the Illinois River; thence down the Illinois River to the point of commencing.

Sec. 641. License required; application.

(a) It shall be unlawful for any person to operate within the City a mobile food vehicle, as defined in this chapter, without first having obtained a license for that purpose. This licensing requirement does not apply to a person operating at a festival, farmer's market, or other event permitted by the City when the operator has the permission of the organizer of the event to be present at the event.

(b) Any person desiring to operate a mobile food vehicle shall make a written application for such license to the Comptroller or his/her designee. The application for such license shall be on forms provided by the Comptroller or his/her designee and shall include the following:

1. The name of the individual applying for the license.
2. The applicant's telephone number and driver's license number.
3. The address of the principal place of business of the applicant.
4. If the applicant is employed by another person or entity, the name of that employer, its address and telephone number.
5. The type of food to be sold or offered for sale.
6. The location or locations where the applicant plans to sell his goods.
7. Whether the applicant has ever been convicted of a criminal offense or ordinance violation (other than traffic or parking) in any jurisdiction and, if so, a list of such convictions with date and prosecuting jurisdiction.
8. For proposed sites on private property, written permission of the owner of the property.
9. License plate number and registration of the vehicle proposed to be licensed.

10. A signed statement that the vendor shall hold harmless the City and its officers and employees, and shall indemnify the City, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Vendor shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect vendor, property owners, and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the license or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days' written notice served upon the City of Peoria Finance Department. A license issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the City of Peoria Finance Department.
11. The proposed location(s) and times of operation for conducting business in accordance with this chapter. Vendors shall be required to provide to the City a signed statement that the vendor shall hold harmless the adjacent property owner(s) for any claims for damage to property or injury to persons which may be occasioned by any activity carried on or under the permit. If the proposed location is private property, the applicant shall provide to the City written consent from the property owner.

Licensee shall notify the Comptroller or his/her designee within thirty (30) days of any change to application information.

(c) *License fees:* To operate within the Downtown Business District, all vendors licensed under this chapter shall pay an annual license fee of \$3,400.00 per year, from January 1 through December 31. If the licensee operates a licensed restaurant within the City of Peoria, the fee shall be \$2,400.00 per year. Should the license be issued after July 1 of any year, the fee shall be \$1,700.00 or \$1,200.00, respectively, for the remainder of the year. Should the applicant only seek to operate from locations outside of the Downtown Business District, the annual fee shall be \$100. Payment of either annual fee shall include the approval of up to and including twenty-five (25) locations on public property or right-of-way. Additional requests for location approval shall be charged \$20 each.

(d) *Form and conditions of license:* In addition to naming the vendor, the approved operating locations, diagram and other information deemed appropriate by the Comptroller or his/her designee, the mobile food vending license shall contain the following conditions:

1. Each mobile food vehicle vending license shall expire on December 31 of each year.

2. The license shall not be transferrable from person to person or from place to place without the approval of the Comptroller or his/her designee.
3. The approved operational location may be changed, either temporarily or permanently, by written notice from the vendor and consent of the Comptroller or his/her designee.
4. The license is valid for one (1) vehicle only.
5. There shall be issued to each vendor a suitable license that shall be permanently affixed to the vehicle, in a prominent location.

(e) The applicant shall file with the City, along with its application, a bond issued by an insurance company authorized to do business in Illinois in the penal sum of one thousand dollars (\$1,000.00) with the City named as obligee, conditioned on the faithful performance of the provisions of this article.

(f) The applicant shall file with the City, along with the application, proof of general liability insurance in the amount of three hundred thousand dollars (\$300,000.00) per person, five hundred thousand dollars (\$500,000.00) per occurrence, and fifteen thousand dollars (\$15,000.00) for property damage, naming the City as co-insured.

Sec. 642. Location(s) review and restrictions.

Proposed operating locations shall be reviewed as follows:

(a) Upon receipt of a complete application for a license, the license shall be referred to the Director of Public Works for approval or disapproval of locations within the public right-of-way or upon City-owned property. The use of the licensed operating location for mobile food vending must be compatible with the public interest in use of the public right-of-way. In making such determination, the Director of Public Works shall consider the width of the public way, parking issues and traffic congestion, the weight that can be supported by the paving or street surface at the proposed location, the proximity and location of existing street furniture, including, but not limited to, utility poles, parking meters, bus shelters, benches, street trees, news racks, as well as the presence of bus stops, truck loading zones, taxi stands, valet parking zones, or other businesses or approved mobile food vehicles to determine whether the requested location would result in pedestrian or street congestion.

(b) The Director of Public Works shall not approve a location where a mobile food vehicle would substantially obstruct a public way, impair the movement of pedestrians or vehicles, or pose a hazard to public safety. The Director of Public Works shall not approve any location which is adjacent to a bus stop, taxi stand, or handicap loading zone, within thirty (30) feet of an intersection, or directly in front of a property

entryway. Pedestrian walkways of no less than six (6) feet must be maintained on public sidewalks near where the mobile food vehicle is operating.

(c) The Director of Public Works shall not approve any location on public property or within the right-of-way that is within a residentially zoned area.

(d) It shall be unlawful for a mobile food vehicle vendor to park, stand, or operate in a location which is adjacent to or within one hundred (100) feet of a licensed food establishment or within twenty-five (25) feet of a licensed street or sidewalk vendor. There is no distance requirement between mobile food vehicles. Distance is measured from the edge of the parking space to any portion of the establishment's building. Where the establishment is located in a building with other tenants, distance is measured to the closest portion of the establishment's occupied space. This requirement may be waived if the application is submitted with the written consent of the proprietor of the adjacent licensed food establishment. No person or corporation shall either pay or accept payment for the written consent provided herein. This requirement shall not apply to the licensed food establishment affiliated with the mobile food vehicle vendor.

(e) The approved operating location(s) shall be indicated on the license and shall include the area of the mobile food vehicle. The license must be prominently displayed on the vehicle.

(f) If a license for the requested operating location(s) is denied, the applicant may select an alternate location(s), which shall also be referred to the Director of Public Works for review.

(g) The City may approve more than one (1) mobile food vehicle per public parking lot, but reserves the right to deny multiple vehicles at its discretion based on capacity. No vehicle shall not block required drive aisles.

(h) Vendor shall not operate a mobile food vehicle within five hundred (500) feet of any fair, carnival, circus, festival, special event, or civic event that is licensed or sanctioned by the City except when vendor has obtained the written permission of the holder of the event to operate within the event's boundaries. This prohibition shall not apply to indoor events at the Peoria Civic Center.

(i) No location shall be approved that is within five hundred (500) feet of a primary, middle or secondary school or school playground when school is in session or during any time school activities are taking place.

(j) A vendor may operate on private property only where allowed within the Zoning Code. A vendor shall not operate on private property within the corporate limits of the City without first obtaining written consent to operate from the affected private property owner. All operating locations involving private property must be reviewed and approved by the Zoning Administrator, but such approvals shall not count against the twenty-five (25) public property or right-of-way location limit referenced in Sec. 641(c) above.

(k) Operator must follow all traffic and parking laws set forth in Chapter 28 of the Code of the City of Peoria. When issued a license to operate, the licensee shall also be provided with two meter hoods exclusively for use in conjunction with the licensed business and abiding by all rules set forth in Section 28-302).

Sec. 643. License application review.

(a) Upon receipt of an application for a license, Comptroller shall cause a copy thereof to be sent to the Department of Public Works, Planning & Growth Management, and the Police Department, who shall report back to the Comptroller within fifteen (15) days concerning whether the application is in accordance with the applicable City codes and whether locations requested are appropriate.

(b) Upon receipt of the report from the City Departments referred to in Section 18-643(a) above, the Comptroller shall issue the license required under this division unless he shall find:

1. The applicant is under the age of 18.
2. The applicant has been convicted within the last five (5) years of any offense related to theft, burglary, fraud, criminal sexual assault or criminal sexual abuse, or offenses involving violence against another person.
3. That the applicant or his employer has had a license issued pursuant to this Article revoked for cause.
4. That the location(s) requested by the applicant is/are not proper for a mobile food vehicle.

Sec. 644. Revocation and suspension of license.

(a) Any license issued under this division may be revoked or suspended for a period not to exceed thirty (30) days by the City Manager if the City Manager shall find after a hearing:

1. That the licensee has violated any of the provisions of this article, the laws of the state, or the ordinances of the city while engaged in the business of a mobile food vendor.
2. That the licensee has been convicted of any offense set forth in subsection 18-643(b).

3. That the licensee has knowingly furnished false or misleading information or withheld relevant information on any application for a license or in an investigation into any such license.

(b) Prior to holding a hearing concerning the question of whether a license issued pursuant to this division shall be revoked or suspended, the city manager shall give at least ten (10) days' written notice to the licensee setting forth the alleged violations specifically. The licensee may present evidence at such hearing and cross-examine witnesses.

Sec. 645. Restrictions.

(a) Hours of operation shall be limited to the hours between 7:00 a.m. and midnight. The hours of operation for mobile food vehicles located within three hundred (300) feet of a residential building or a mixed use building with a residential component shall be limited to the hours between 7:00 a.m. and 10:00 p.m. Within the Downtown Business District and Warehouse District, there shall be no restriction on hours of operation other than within three hundred (300) feet of a residential building or a mixed use building with a residential component, where the hours of operation shall be limited to between 7:00 a.m. and midnight. No approved mobile food vehicle shall be left unattended on a public way, nor remain on a public way outside of these allowed hours of operation.

(b) No mobile food vehicle vendor shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles.

(c) No mobile food vehicle shall use external signs, bollards, seating, or any other equipment not contained within the vehicle while operating on public property or within the right-of-way.

(d) The mobile food vehicle shall not have a drive-through.

(e) Vendor shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of a public way or remove the vehicle entirely from the public way if necessary to avoid such congestion or obstruction.

(f) The mobile food vehicle must prominently display the name of the business owner.

(g) Any power required for the mobile food vehicle located on a public way shall be self-contained and shall not use utilities drawn from the public right-of-way. Mobile food vehicles on private property may use electrical power from an adjacent property only when the owner provides written consent. All other power sources must be self-contained. No power cable or equipment shall be extended at grade across any City street, alley or sidewalk.

(h) All identifying information, logos, advertising, decorations, or other displays on the exterior of a mobile food vehicle shall conform to the purposes set forth in the City's Code regulating commercial signage, to the extent applicable. In particular, exterior displays shall be designed to minimize confusion or distraction that jeopardizes vehicular and pedestrian safety and shall be harmonious with the surroundings and consistent with the character of the community in which the mobile food vehicle operates.

(i) A licensee selling food and beverages from a vendor shall have available for public use their own twenty (20) gallon litter receptacle which is available for their patrons' use.

(j) No licensee shall leave his location without first picking up, removing and disposing of all trash or refuse from the sales made by the licensee. The licensee must clean from surfaces any stains caused by the business prior to leaving the location.

(k) No licensee shall solicit or conduct business with persons in motor vehicles.

(l) No licensee shall sell food or beverages without first obtaining a license to do so from the Peoria City/County Health Department.

(m) Each licensee shall utilize a cash register which is capable of keeping a record of all sales. All sales shall be run through the cash register and receipts shall be available to customers upon request. A cash register record and/or numbered receipts shall be made available to the Comptroller or his/her designee at the request of the Comptroller or his/her designee.

(n) No property interest is created by approving operation in any right-of-way or public property location.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this _____ day of

_____, 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

TO: City of Peoria Zoning Commission

THRU: Site Plan Review Board

FROM: Leah Allison, Senior Urban Planner, Zoning Commission Staff

DATE: May 3, 2012

SUBJECT: **PUBLIC HEARING ON THE REQUEST OF THE CITY OF PEORIA TO AMEND APPENDIX B, THE ZONING ORDINANCE AND APPENDIX C, THE LAND DEVELOPMENT CODE, RELATED TO SPECIAL SALES IN CLASS C-2 (LARGE SCALE COMMERCIAL) DISTRICTS. CASE NO. ZC 12-E**

PETITIONER City of Peoria

REQUEST To amend the Zoning Ordinance and Land Development Code

SUMMARY

The proposed text change is in response to recent discussions with the business community, which desires greater flexibility with special event sales. Current zoning regulations limit such sales to 3 days in length and up 12 times per year. Temporary signage is limited to one banner per street frontage or 20% wall coverage and may be displayed up to 30 days.

Staff is proposing to amend the zoning regulations to extend the time duration for special sales from 3 days to 90 total days within a calendar year. However, no one sale may exceed 30 days in length. More than one temporary banner may be displayed with the special sale if placed at least 150 feet apart. This text change is applicable to Class C-2 (Large Scale Commercial) districts only.

A zoning certificate is not required. However, administrative site plan review is necessary to ensure that parking provisions and traffic access are not compromised and that there is no undue adverse impact on surrounding properties. Note, the requirement for a zoning certificate for plant sales is also being deleted from the regulations.

This text change provides a balance between the needs of the business community and the continued protection of the welfare and safety of the whole city.

RECOMMENDATION

Staff recommends approval of the proposed ordinance amending Appendix B & C of the Code of the City of Peoria relating to Special Sales in Class C-2 (Large Scale Commercial) districts.

**ORDINANCE AMENDING APPENDIX B OF THE CODE OF THE CITY OF PEORIA
RELATING TO SPECIAL SALES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS AS FOLLOWS:

Section 1: Appendix B of the Peoria City Code, being Ordinance No. 13,225 as adopted on June 4, 1991 and thereafter amended, is hereby amended by deleting the following stricken words and adding the following underlined words:

ARTICLE 3. GENERAL REGULATIONS AND USES PERMITTED WITH ADMINISTRATIVE APPROVAL

3.2.e. Temporary Uses.

- (3) *Permitted Temporary Uses.* Subject to the specific regulations and time limits that follow, all applicable local ordinances and codes, and to the other applicable regulations of the district in which the use is permitted, the following temporary uses, and no others, are permitted in the zoning districts herein specified:

- (b) Indoor and Outdoor Festivals, Sidewalk Sales, Art, Craft, and Plant Shows, Exhibits and Sales. In any business, commercial, office, or industrial district; provided, however, that any such use shall require the specific prior site layout approval of the Zoning Administrator on the basis of adequacy of the parcel size, parking provisions and traffic access and the absence of undue adverse impact of other properties and compliance with the following conditions:

- (1) The display area shall not encroach into any required yard area.
- (2) Special sales shall not exceed three days in length and shall be limited to 12 special sales per year. At no other time shall materials, merchandise or inventory be stored outdoors except per the requirements for permanent display areas.

In Class C-2 (Large Scale Commercial) Districts, special sales shall not exceed 90 total days in a calendar year with no one event exceeding 30 days. Each event sale may display temporary banners not to exceed 40 sq. ft. in size and spaced at least 150 feet apart. Zoning approval shall be valid January 1 through December 31 of each year.

- (3) Plant sales located within parking areas shall adhere to the following regulations:

~~(a) The proprietor of the plant sale must obtain a zoning certificate with the property owner's consent.~~

~~(b)~~ (a) Plant sales are allowed in parking areas that exceed the minimum required parking spaces per 8.1.6. For a maximum of 150 consecutive days per calendar year.

~~(c)~~ (b) Plant sales structures must meet the setback requirements of the respective zoning district and must not exceed a maximum height of 14 feet.

~~(d)~~ (c) Any proposed outdoor lighting for the plant sale must obtain the appropriate permit from the inspections department and adhere to outdoor site lighting requirements 8.5.

~~(e)~~ (d) Temporary signage for plant sales must adhere to the temporary signage requirements. With the exception that the frequency of display may be increased to one display period for a length of 150 days and shall not include any prohibited signage.

Section 2. This Ordinance shall be in full force immediately and upon passage and approval according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, THIS
_____ DAY OF _____, 2012

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel

TO: City of Peoria Zoning Commission

THRU: Site Plan Review Board

FROM: Leah Allison, Senior Urban Planner, Zoning Commission Staff

DATE: May 3, 2012

SUBJECT: **PUBLIC HEARING ON THE REQUEST OF THE CITY OF PEORIA TO AMEND APPENDIX B, THE ZONING ORDINANCE AND APPENDIX C, THE LAND DEVELOPMENT CODE, RELATED TO CERTIFICATES OF OCCUPANCY. CASE NO. ZC 12-F**

PETITIONER City of Peoria

REQUEST To amend the Zoning Ordinance and Land Development Code

SUMMARY

The proposed text change provides uniform regulations between the Zoning Ordinance and Chapter 5, Building Regulations of the City Code concerning Certificates of Occupancy.

Currently, Chapter 5 of the City Code allows the Building Inspections department to issue temporary Certificates of Occupancy prior to completion of a building provided that it can be occupied safely. The Zoning Ordinance and Land Development Code do not allow for temporary certificates of occupancy and require construction to be fully complete prior to occupancy of a building.

Staff is proposing to amend the zoning regulations to allow for temporary certificates of occupancy through a reference to Chapter 5, Building Regulations. Chapter 5 is also being revised concurrently to add clarity and strengthen its regulations regarding temporary certificates of occupancy with the following:

- An escrow deposit, equal to the cost of remaining work, shall be submitted to the City prior to issuance of a temporary certificate.
- The temporary certificate shall expire six months from issuance.
- \$200 inspection fee (deducted from the escrow deposit) for each inspection after the first final Certificate of Occupancy inspection.
- No temporary certificate shall be issued if the owner or contractor owes fine or fees to the City. Therefore construction of the building and other development requirements must be complete prior to occupancy.
- Buildings and development standards which are not completed prior to expiration of the temporary certificate of occupancy will be addressed through the code hearing process.
- The escrow deposit shall be returned upon completion of work and issuance of final Certificate of Occupancy.
- Any fines imposed by an administrative hearing officer shall be deducted from the escrow deposit.

These changes remove discrepancies between regulations, add provisions to encourage successful and timely compliance with development requirements, and shift the enforcement of non-compliant properties from the Planning & Growth Management dept. to an established, effective, an unbiased hearing officer system.

RECOMMENDATION

Staff recommends approval of the proposed ordinance amending Appendix B & C of the Code of the City of Peoria relating to Certificates of Occupancy.

**ORDINANCE AMENDING APPENDIX B OF THE CODE OF THE CITY OF PEORIA
RELATING TO CERTIFICATE OF OCCUPANCY**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS AS FOLLOWS:

Section 1: Appendix B of the Peoria City Code, being Ordinance No. 13,225 as adopted on June 4, 1991 and thereafter amended, is hereby amended by adding the following underlined words:

ARTICLE 2. ADMINISTRATION AND PROCEDURES

2.11. Certificates of Occupancy.

2.11.a. *Purpose Statement.* In reference to this ordinance, the purpose of a Certificate of Occupancy is to provide notice to the occupants of land whether completed improvements to real estate or new land conform to this ordinance. Certificates of Occupancy are issued by the City of Peoria Building Official and must have the approval of the Zoning Administrator.

2.11.b. *Certificate of Occupancy Required After Construction or Change of Use, and Prior to Occupancy.* No buildings, or addition thereto, constructed after the effective date of this ordinance, and no addition to a previously existing building shall be occupied, and no land, vacant on the effective date of this ordinance shall be used for any purpose, including but not limited to vehicle parking, nor shall a new use, not previously covered by such a certificate, be instituted in an existing building or structure, until a Certificate of Occupancy has been approved by the Zoning Administrator.

2.11.c. *Application for Certificate of Occupancy.* Every application for a building permit or zoning certificate shall be deemed to be an application for a Certificate of Occupancy. Every application for a Certificate of Occupancy for a new use of land, where no building permit is required, shall be made directly to the Zoning Administrator.

2.11.d. *Standards for Certificate of Occupancy.* No Certificate of Occupancy for a building, or portion thereof, constructed after the effective date of this ordinance, shall be approved by the Zoning Administrator until construction has been completed and certified by the Zoning Administrator to be in conformity with the documentations upon which the building permit or zoning certificate was based. No Certificate of Occupancy for a building, or addition thereto, constructed after the effective date of this ordinance, shall be issued and no addition to a previously existing building shall be occupied until the premises have been inspected and certified by the Building Official to be in compliance with all applicable City ordinances and regulations covering zoning, building and subdivision matters.

The City of Peoria Building Official may issue a Temporary Certificate of Occupancy pursuant to Chapter 5, Article II of the City Code.

Section 2. This Ordinance shall be in full force immediately and upon passage and approval according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, THIS
_____ DAY OF _____, 2012

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel

**AN ORDINANCE AMENDING CHAPTER 5 OF THE CODE OF THE CITY OF PEORIA RELATING TO BUILDINGS
AND BUILDING REGULATIONS**

WHEREAS, the City of Peoria is a home rule unit of government pursuant to Article VII, Section 6 of the Constitution of the State of Illinois 1970, and may exercise any power and perform any function pertaining to its government and affairs; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, as follows:

Section 1: Chapter 5 of the Code of the City of Peoria is hereby amended by deleting the following stricken words and by adding the following underlined words.

Sec. 5-76. - Issuance; contents.

The code official shall within 20 days after an application has been filed by the owner or general contractor, issue a certificate of occupancy, if after inspection it is found that the building for which the certificate was requested substantially complied with the provisions of this chapter and all other requirements of law or ordinance applicable thereto. Such certificate of occupancy shall show the use group, in accordance with the building code, the type of construction in accordance with the building code, the name of the business, number of off-street parking spaces, and any special conditions of the building permit.

Sec. 5-77. - Issuance of temporary certificates.

(a) Upon written request, the code official may issue a temporary certificate of occupancy for the use of any building or structure prior to the completion and occupancy of the entire building or structure and general development standards of such property, provided that such portion or portions shall be occupied safely prior to full completion of the structure or the general development standards of such property without endangering life or public welfare and upon the following conditions:-

- (1) the owner or general contractor deposits sufficient funds reasonably calculated for the cost of full compliance with all the applicable ordinances or state law payable to the City in an escrow account established by the City;
- (2) said temporary certificate of occupancy may be revoked if conditions are not complied with as determined in writing by the code official;
- (3) such temporary certificate of occupancy shall expire six (6) months from the date of issuance;
- (4) temporary certificates of occupancy issued prior to the passage of this amendment to this section shall expire six (6) months from the passage date of this amendment; and
- (5) no temporary certificate of occupancy shall be issued to an owner or general contractor if the owner, general contractor or any of the principal officers of the owner or general contractor owe any monetary obligation including, but not limited to fines and fees, to the City for any purpose.

(b) The City shall return the above-referenced funds maintained in the escrow account to the owner or general contractor upon the following conditions:

- (1) final certificate of occupancy was granted upon the expiration of the temporary certificate of occupancy;

- (2) upon the final inspection, the building or structure and general development standards of such property are in full compliance with all applicable ordinances or state law;
- (3) no fine has been imposed against the owner or general contractor by an administrative hearing officer or a circuit court for violations of this division or other provisions of this Code including, but not limited to Appendix B of the Code-Zoning Ordinance and Land Development Code related to construction, erection, alteration or repair of the building or structure and land development of such property for which the temporary certificate was issued.

(c) The above-referenced funds maintained in the escrow account shall be applied to any unpaid fees or monetary obligations owed to the City including, but not limited to fines against the owner or general contractor imposed by an administrative hearing officer or a circuit court for violations of this division or other provisions of this Code including, but not limited to Appendix B of the Code-Zoning Ordinance and Land Development Code related to construction, erection, alteration, repair or occupancy of the building or structure or general development standards of such property for which the temporary certificate was issued.

Sec. 5-80. - Notice by code official form; service. Enforcement

Whenever the code official of the city or his/her delegate determines that a building or structure does not comply with the requirements set forth in this division, the code official or his/her delegate shall be authorized and empowered to utilize the code hearing process as prescribed under Sections 5-273 through 5-285 of the Code. Nothing in this section or division shall be construed to prohibit the corporation counsel or any attorney authorized by him or her from instituting proceedings in court of competent jurisdiction to prosecute any violation of this division. issue to any occupant, general contractor, or owner of such building, a notice of violations of this article in the following manner and form:

- ~~(1) The notice shall be in writing.~~
- ~~(2) The notice shall set forth the alleged violation of this article.~~
- ~~(3) The notice shall describe the premises where the violations are alleged to exist or to have been committed by street address or by legal description of record in the records of the recorder of deeds of the county.~~
- ~~(4) The notice shall be served upon the occupant, general contractor, owner or agent of the owner by:~~
 - ~~a. Personal delivery of a copy of the complaint addressed to such occupant, owner, general contractor or agent at his last known address, service thereof certified to have been made by the person making the service; or~~
 - ~~b. By certified or registered mail, return receipt requested, addressed to the last known place of occupancy of the occupant, general contractor, owner or agent of the owner; or~~
 - ~~c. Notice as provided in an act relating to the posting of notices of violations of a county or city, village or incorporated town building code, approved August 6, 1963 (50 ILCS 810/1, 810/2).~~

Sec. 5-81. - Occupation of building without certificate prohibited; penalty.

(a) No building shall be occupied in any part thereof unless or until a certificate of occupancy has been issued by the code official. The use or occupancy of any building without first receiving a certificate of occupancy or temporary certificate of occupancy is prohibited.

(b) Any owner, occupant or general contractor found guilty of violating or failing to comply with this division shall be punished by a fine of not less than ~~\$100.00~~ \$200.00 nor more than as provided in section 1-5

(c) Each day a violation of this section exists shall constitute a separate offense.

Section 2. This ordinance shall be in full force and effect 10 days from and after its passage and approval according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this _____ day of _____, 2012.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel

TO: City of Peoria Zoning Commission

THRU: Site Plan Review Board

FROM: Leah Allison, Senior Urban Planner, Zoning Commission Staff

DATE: May 3, 2012

SUBJECT: **PUBLIC HEARING ON THE REQUEST OF THE CITY OF PEORIA TO AMEND APPENDIX B, THE ZONING ORDINANCE AND APPENDIX C, THE LAND DEVELOPMENT CODE, RELATED TO ADMINISTRATIVE REVIEW OF SPECIAL USES. CASE NO. ZC 12-G**

PETITIONER City of Peoria

REQUEST To amend the Zoning Ordinance and Land Development Code

SUMMARY

The intent of the proposed text change is to provide an administrative process for minor revisions to previously approved Special Uses. Staff understands the expense and time required of the petitioner to amend a special uses under the current process. Providing an administrative process will reduce the cost and time for review of certain revisions and better serve the public community. This change is also in keeping with the goals of the City to offer business-friendly services in a responsive and efficient manner.

The proposed text change allows administrative review of revisions under the following circumstances:

- 1) The proposed changes do not include a change of use; or
- 2) The proposed changes do not include an expansion to building height, size or setback, except for expansions or additions of accessory structures; or
- 3) The proposed changes do not include a change to the legal description of the special use; or
- 4) There are no waivers of the Zoning Ordinance requirements.

Applications for administrative review shall follow the Site Plan Review process with an application fee of \$300 and one-week review time.

RECOMMENDATION

Staff recommends approval of the proposed ordinance amending Appendix B & C of the Code of the City of Peoria relating to Administrative Review of Special Uses.

**AN ORDINANCE AMENDING APPENDIX B OF THE CODE OF THE CITY OF PEORIA
RELATING TO SPECIAL USES**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS AS FOLLOWS:

Section 1: Appendix B of the Peoria City Code, being Ordinance No. 13,225 as adopted on June 4, 1991 and thereafter amended, is hereby amended by adding the following underlined words:

ARTICLE 2. ADMINISTRATION AND PROCEDURES

2.15. Special Uses.

2.15.l. Amendments to Existing Special Uses. Changes to previously approved Special Uses may be administratively reviewed and approved under the following circumstances:

- (1) The proposed changes do not include a change of use; or
- (2) The proposed changes do not include an expansion to building height, size or setback, except for expansions or additions of accessory structures; or
- (3) The proposed changes do not include a change to the legal description of the special use; or
- (4) There are no waivers of the Zoning Ordinance requirements.

Applications for administrative amendments shall be submitted to the Zoning Administrator and subject to the site plan review process as set forth in Article 2.3 Site Plan Review Board.

2.15.lm. Planned Unit Development (PUDs).

~~2.15.mn.~~ Standard for Bed and Breakfast Establishments. No bed and breakfast establishment shall be granted unless the following standards are met:

- (1) A minimum of 500 feet shall exist between each bed and breakfast establishment.
- (2) Signage shall not exceed 12 inches by 12 inches.
- (3) If the proposed site is located within a recognized local, state, or national historic district or if the residence has been designated a landmark structure, then the owner shall maintain the structure as required or bring the structure up to historic compliance.
- (4) Parking shall be in accordance with Section 15.2.b.(1). The parking shall be on existing paved surfaces or inside garages, as provided prior to the application for the special use. In addition, the required parking does not have to be independently maneuverable. Parking anywhere other than the provided off-street parking from midnight to 6:00 a.m. is prohibited.
- (5) The bed and breakfast establishments must obtain all necessary permits as required by the health department, historic preservation commission, City of Peoria, and State of Illinois.
- (6) In addition to Section 2.15.k. the special use for a bed and breakfast establishment can be revoked if in violation of the above requirements.

~~2.15.n. Reserved.]~~

~~2.15.o. [Reserved.]~~

Section 2. This Ordinance shall be in full force and effect from and after its passage and approval according to law.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, THIS
_____ DAY OF _____, 2012

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel

TO: City of Peoria Zoning Commission

THRU: Site Plan Review Board

FROM: Leah Allison, Senior Urban Planner, Zoning Commission Staff

DATE: May 3, 2012

SUBJECT: **CASE NO. ZC 12-H**
PUBLIC HEARING on the request of the City of Peoria to amend Appendix B, the Zoning Ordinance, related to Signs.

CASE NO. ZC 12-I
PUBLIC HEARING on the request of the City of Peoria to amend Appendix B, the Zoning Ordinance, related to Beer Gardens.

CASE NO. ZC 12-J
PUBLIC HEARING on the request of the City of Peoria to amend Appendix B, the Zoning Ordinance, and Appendix C, the Land Development Code, related to Home Occupations.

PETITIONER City of Peoria

REQUEST To amend the Zoning Ordinance and Land Development Code

Staff respectfully requests to defer these cases to the June 7, 2012 Zoning Commission meeting.