

ORDINANCE NO. 20-22

**ORDINANCE ADOPTING A NEW CHAPTER 126 MOBILE FOOD VENDORS AND AMENDING
CHAPTER 177 RATES & FEES**

Sections:

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Section 1. Purpose. The purpose of this ordinance is to adopt a new Chapter 126 Mobile Food Vendors into the City of Norwalk Code of Ordinances which describes the process and criteria for Mobile Food Vendors operating in the City of Norwalk and to amend Chapter 177 Rates & Fees to set license fees for Mobile Food Vendor licenses.

Section 2. Definition of Terms

1. Mobile Food Unit may be defined as, but is not limited to, the below descriptions:
 - a. Food Cart - a non-self-propelled vehicle food establishment which facilitates the preparation, marketing, and sale of food that is whole and unprocessed, prepared, packaged, and/or non-potentially hazardous or commissary wrapped foods maintained at proper temperatures or precooked foods that require limited assembly, such as frankfurters.
 - b. Food Stand - any article, device, fixture or equipment that is used as a place to provide food and includes, but is not limited to, food tents, food shacks, food pods or food booths that are non-motorized, with or without a mobile kitchen, and facilitates the preparation, marketing, and sale of food that is whole and unprocessed, prepared and/or not potentially hazardous. Food stands are not lawfully permitted as a permanent structure.
 - c. Food Truck - a self-propelled or non-self-propelled vehicle or trailer that is operable and currently licensed through the Department of

- Motor Vehicles. A food truck contains a mobile kitchen and facilitates the preparation, marketing, and sale of food that is whole and unprocessed, packaged prepared, and/or not potentially hazardous.
2. Mobile Food Vendor: The person, corporation, entity or group obtaining the license to prepare, market or sell food from a mobile vending unit or food stand.

Section 3. Mobile Food Unit.

1. Mobile Food Unit Licensing. It shall be unlawful for any person to engage in the sale of food or beverages to the public from a Mobile Food Unit within the corporate limits of the City without first obtaining a mobile food unit license from the City, in addition to any other state, federal, or county permits, certifications, and licenses.
 - a. A mobile food unit license is an annual license that expires on December 31 each year and must be renewed prior to the first event after that date. A single-event mobile food unit license may be issued for a duration of no more than three (3) consecutive days.
 - b. Each mobile food unit shall be licensed separately. No license transfer is allowed.
 - c. Although certain activities may be exempt from the licensing requirements of this Chapter, any food service to the public in the City is expected to comply with all other local, county and state requirements for health inspections, licensing, safety, and fire code requirements.
 - d. The following shall be exempt from this requirement:
 - i. Catering businesses.
 - ii. Grilling and food preparation activities of brick and mortar establishments on the establishments premises for immediate consumption by patrons or employees.
 - iii. Concession stands associated with sports or recreational venues that have been approved as part of a site plan or permitted conditional use permit for the venue.
 - iv. City-sponsored events held on City property.
 - v. Participants in local farmer's markets.
2. License/Inspection Fee(s). At the time of submittal of a license application, the application shall pay to the City Clerk's Office the applicable license fee in addition to any applicable inspection fee(s).
 - a. The amount of the license and applicable inspection fee(s) shall be determined in accordance with an established fee schedule in Chapter 177 Rates & Fees, which fee schedule may be modified from time to time with approval of the Council.

- b. Any licensee who surrenders their license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.
3. Mobile Food Units Licensing Application.
- a. Filing. Application requests shall be filed with the City Clerk's Office. No application request shall be accepted for filing and processing unless it conforms to the requirements of this title. This would include a complete and true application, all of the required materials and information prescribed, and is accompanied by the payment of appropriate fees.
 - b. Timely Submittal. Unless otherwise provided herein, complete applications and all supporting documents, including background checks and operation permits (if applicable), must be submitted to the City Clerk's Office not less than ten (10) business days prior to the proposed start date of the mobile food unit activities. The City Clerk's Office reserves the right to reject any applications that have not been timely submitted to the City Clerk's Office.
 - i. An expedited application may be submitted in situations where the 10-day deadline cannot be met. An expedited application fee shall be paid with the accompanying application materials.
 - c. An application is considered withdrawn if the applicant has not submitted the required contents and if the applicant has not communicated in writing with the City Clerk's Office and made reasonable progress within thirty (30) days of the application date. Withdrawn applications shall require submission of a new application and new non-refundable application fee.
 - d. Applicant's Responsibility. Receiving approval of a mobile food unit license from the City Clerk's Office shall not preclude, supersede, circumvent, or waive the applicant's responsibility to obtain any additional permits, licenses, and approvals for other applicable local, state, and federal regulations.
 - e. Application Fee. The application fee shall be paid by the applicant for the permit upon submission of the application. The application fee shall be nonrefundable.
 - f. Applicant Contents. Application shall be made on a form provided by the City Clerk's Office and shall include:
 - i. Full name of the applicant.
 - ii. Applicant's contact information including mailing address, phone numbers, and e-mail address.
 - iii. Location map indicating where sales are proposed to take place.
 - iv. Regulatory authorities, such as State or County, inspection certificates.

- v. Description of the kitchen facilities, cooking facilities, preparation area, and safety features (such as, but not limited to, fire suppression system) of the mobile food unit.
 - vi. Vehicle registration, if applicable.
 - vii. Photographs of the mobile food unit from the front, side, and back.
 - viii. Overall size of the vehicle (length and width).
 - ix. Written consent of the property owner(s) or lessee(s) to use the property on which they propose to operate and acknowledging property owner or lessee is jointly and severally, with the vendor, responsible for compliance with this chapter and to ensure the safety of pedestrians and access of emergency vehicles to and around the site.
 - x. Proof of general liability insurance in the amount of at least \$500,000 per occurrence/\$1M aggregate and \$500,000 for property damage. A certificate of insurance naming the City of Norwalk as a "Certificate Holder" shall be delivered to the City Clerk's Office prior to the issuance of a mobile food vendor license.
 - xi. Permit application fee(s).
- g. Character of Applicant. Upon receipt of the complete application as required by this chapter, the applicant shall obtain and provide to the City a criminal history report, which can be obtained from the Iowa Department of Public Safety. This report will be used to review the applicant and may be justification for the denial of a permit.
- h. Denial of License Application. If the applicant is found to be unsatisfactory, the City Clerk shall provide notification in writing to the applicant denying the application and providing reasons for the denial. Application fees will not be refunded in the event of a denial for any reason.
- i. Issuance of License. Upon completion of the review process and a determination of compliance with the applicable regulations, the City Clerk's Office will issue a mobile food unit license.
- j. Modification of License after Issuance. Should the mobile food vendor change the food or beverage being offered during the term of an issued license that would change the designation of the mobile food unit to a higher state licensing level classification, a new application and review process shall be required. If a mobile food vendor changes locations within the permitted time, it is the vendor's responsibility to submit a new written consent of the property owner or lessee to use the property on which they propose to operate.

- k. **Transferability of License.** Licenses issued under this article are not transferable between individuals and businesses.
4. **Right to Appeal.** Any applicant whose application for license was denied may appeal to the City Council at its next regularly scheduled meeting by filing with the City Clerk's Office a written request for an appeal to the City Council at least seven (7) days prior to the meeting. As a result of this appeal, the City Council may affirm, modify or reverse the decision of the Clerk not to issue the license. If the application for license is denied, the applicant is not eligible for the issuance of a license under this chapter for a period of one year from the date of notification that the license application was disapproved, was served in person or deposited in U.S. mail.
5. **Mobile Food Units on Public Property.** No mobile food unit may be operated on public property except as follows:
 - a. The mobile food unit is part of an approved special event permit issued by the City Clerk's Office.
 - b. The mobile food unit is parked in a legal parking space in the public right of way within a Commercial Zoning District.
6. **Unattended Mobile Food Unit.** No mobile food unit shall be left unattended or stored on any site overnight, unless that property is under the ownership or control of (by way of a lease or other contractual agreement) the operator of the unit and is being done so in compliance with all other City Code requirements or the mobile food unit is a participant in a multiple-day (consecutive) City permitted special event. Any mobile food unit found unattended shall be considered in violation of these regulations and subject to license revocation, municipal infraction, towing, or any other action legally allowed.
7. **Music and Sound-Making Devices.** The use of music or sound-making devices used to attract patrons or to advertise a mobile food unit shall be prohibited, unless expressly allowed as part of an approved event.
8. **Mobile Food Unit Performance Standards.** Persons conducting business from a mobile food unit must do so in compliance with the following standards:
 - a. The mobile food vendor must obtain expressed written consent of the property owner or lessee to use the property on which they propose to operate. The written consent must be kept in the unit at all times that the unit is on the property. Written consent does not excuse or permit the violation of any other regulations.
 - b. The operator of the mobile food unit shall display their City license in full view of the public in or on the unit.

- c. Mobile food units shall only be allowed on nonresidential properties, except in the case of an approved residential block party or private catering arrangement so long as it is in compliance with all other City Code requirements related to residential property.
- d. Mobile food units shall be limited to hours of operation between seven o'clock (7:00) A.M. and nine o'clock (9:00) P.M. unless other hours are approved as part of a City sponsored event, special event, or residential block party.
- e. Mobile food units must maintain a minimum separation between other mobile food units of fifteen feet (15') and a minimum separation between mobile food units and buildings on the property of fifteen feet (15').
- f. It is the joint responsibility of the property owner or lessee and mobile food unit owner to ensure that proper parking is maintained for the primary user of the property. The City may order a mobile food unit to relocate or revoke a Mobile Food Unit License if it is determined adequate parking has not been preserved for both the property owner and the vendor or if traffic congestion causes a back up onto public streets.
- g. The mobile food unit must be located on a paved surface, unless approved as part of a special event permit.
- h. No mobile food unit may operate within three hundred feet (300') of a permanent restaurant or business offering food or beverage services unless they receive expressed written consent of the restaurant or business owner. A City approved special event may be exempt from this provision.
- i. No mobile food unit shall be placed on a public or private sidewalk unless approved as part of a City-sponsored special event.
- j. No mobile food unit shall be located in a manner that impedes pedestrian movement, access, or impact access to ADA parking stalls or ramps/entrances.
- k. Signs are limited to those that are attached to the exterior of the mobile unit and must be mounted flat against the unit and not project more than six inches (6") from the exterior of the unit. Signs may be backlit, but electronic message boards and flashing or motive electronic signage shall be prohibited.
- l. During business hours, the mobile food vendor shall provide a trash receptacle for use by customers.
- m. The mobile food vendor shall keep the area around the mobile food unit clear of litter and debris at all times.
- n. All mobile food units shall be located in such a manner as to not create a safety hazard, such as blocking emergency access to buildings and the site, obstructing access to fire hydrants,

impeding entering and exiting from a building, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, or similar movement and access.

9. Property Owner/Lessee Responsibility. By allowing the mobile food unit on their property, the property owner or lessee jointly and severally with the vendor are responsible for compliance with this chapter and to ensure the safety of pedestrians and access of emergency vehicles to and around the site. Failure to do so could result in the property owner or lessee being party to any enforcement actions or penalties allowed by law.

Section 4. Unlawful Acts.

1. Fraudulent Representation/Harassment. No licensee shall falsely or fraudulently misrepresent the quality, character, or quantity of any article, item, or commodity offered for sale, or sell any unwholesome or tainted food or foodstuffs. No licensee shall harass, intimidate, coerce, or threaten any individual to induce a sale.
2. Failure to Maintain Licenses and Permits. Failure of any applicant to maintain the appropriate county, State and Federal licenses and permits during the term of the local license or permits shall be considered an unlawful act and subject to revocation or any other penalties available to the City.

Section 5. Suspension or Revocation of License.

1. Any license issued under the provisions of this chapter may be suspended or revoked by the City as follows:
 - a. Grounds. The City Clerk's Office may suspend or revoke any license issued under this chapter for any of, but not limited to, the following reasons:
 - i. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.
 - ii. The licensee has violated this chapter or any other chapter of this code or has otherwise conducted his/her business in an unlawful manner.
 - iii. The licensee has conducted his/her business in such a manner as to endanger the public welfare, safety, order, or morals.
 - iv. The City has received and investigated three (3) or more found complaints during a 12 month period related to the manner in which the licensee is conducting business.
 - b. Notice of Suspension or Revocation. The City Clerk or Clerk's designee shall cause notice of the license revocation to be served

in person by a City official or by mail to the licensee's local address, which notice shall specify the reason(s) for such action, at which time operations of the licensee must cease within the corporate limits of the City.

- c. **Right to Appeal.** The licensee may appeal the revocation of the license to the City Council at its next regularly scheduled meeting by filing with the Clerk a written request for an appeal to the City Council at least seven (7) days prior to the meeting. The City Council may affirm, modify or reverse the decision of the Clerk to revoke such license.
- d. **Revocation.** If a license is revoked, no refund of any license fee paid shall be made. Upon the revocation of a license, the licensee is not eligible for the issuance of a new license under this chapter for a period of one year from the date the license revocation is served in person or deposited in the U.S. mail.

Section 6. Penalty. Unless another penalty is expressly provided by this chapter for any particular provision or section, violations of this chapter are simple misdemeanors and subject to a fine and may also be punishable as municipal infractions subject to a civil penalty as set forth in this Code. Each day a municipal infraction occurs and/or is permitted to exist constitutes a separate offense. Police officers, code enforcement officers or the Police Chief's designees shall have the authority to issue citations for violations of this chapter and shall have the discretion to enforce this chapter as either a simple misdemeanor or municipal infraction.

Section 7. Chapter 177 Amended. Chapter 177 Rates and Fees is hereby amended to add the following:

Chapter 126 - Mobile Food Vendors

1-3 Day License - \$75.00

1 Year License (starting January 1) - \$250.00

Section 8. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 9. Severability Clause. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 10. Effective Date. This ordinance shall be in full force and effect upon final passage, approval and publication as required by law.

Passed and approved by the City Council of the City of Norwalk, Iowa on the 16th day of July, 2020.

Tom Phillips, Mayor

Attest:

Lindsey Offenburger, City Clerk

First Reading: June 18, 2020

Second Reading: July 2, 2020

Third Reading: July 16, 2020

Clerk's Certificate

I certify that the foregoing was published as Ordinance No. 20-22 on the 23rd day of July, 2020.

City Clerk