

ORDINANCE NO. 793

AN ORDINANCE TO AMEND THE WATERLOO MUNICIPAL CODE CHAPTER IV TO ADD A NEW ARTICLE 9 ENTILED "MOBILE FOOD VENDORS"; TO REGULATE AND REQUIRE LICENSES FOR MOBILE FOOD VENDORS; TO ESTABLISH PENALTIES FOR VIOLATION; TO CONFORM CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE.

WHEREAS, the Village has identified an interest from mobile food vendors who desire to offer food to local citizens and visitors to the Village; and

WHEREAS, the Village Board desires to allow such mobile food vendors; and

WHEREAS, in order to protect the health, safety and welfare of its citizens, the Village Clerk and the Village Board deem it appropriate to provide for regulation of mobile food vendors and to enact certain licensure requirements for such mobile food vendors.

NOW THEREFORE, BE IT ORDAINED BY THE CHAIRPERSON AND VILLAGE BOARD OF THE VILLAGE OF WATERLOO, DOUGLAS COUNTY, NEBRASKA, AS FOLLOWS:

Section 1. That the Village of Waterloo Municipal Code Chapter 5 entitled "Business Regulations" is hereby amended to add a new Article 9 entitled "Mobile Food Vendors" (this "Article"), to read as follows:

ARTICLE 9 - MOBILE FOOD VENDORS

SECTION 5-901: DEFINITIONS

A. For the purposes of this Article, the following terms shall have the meanings respectively ascribed to them:

1. "Food" shall mean any raw, cooked, or processed edible substance, beverage, ingredient, ice, or water used or intended for use or for sale in whole or in part for human consumption.
2. "Mobile Food Vendor" shall mean a person who by traveling from place to place upon the public ways sells or offer for sale food from public or private property to consumers for immediate delivery and consumption upon purchase. The following activities are excluded from such definition, and, alone, do not subject a vendor to being covered by such definition: (a) the sale or offer for sale of farm products produced or raised by such a vendor from land occupied and cultivated by him/her; or (b) the sale or offer for sale of food by a caterer.
3. "Permanent Food Establishment" shall mean a fixed building which a person occupies on a continual basis and from which such person sells or offers to sell food for immediate delivery and consumption upon purchase. Such term shall not include a location where a mobile food vendor sells or offers to sell food.

B. It shall be unlawful for any person to operate as a Mobile Food Vendor within the Village unless such person complies with the requirements and regulations of this Article, including holding a valid and active Mobile Food Vendor License issued by the Village Clerk pursuant to this Article, except that a Mobile Food Vendor may operate at Waterloo Days or other similar Village Events without obtaining a Mobile Food Vendor License if such Mobile Food Vendor has obtained written consent from the Village to operate at such Village Event. Any such Mobile Food Vendor shall be subject to all Regulations contained in this Article.

SECTION 5-902: APPLICATION

A. An applicant for a license pursuant to this Article shall file with the Village Clerk a signed application on a form to be furnished by the Village Clerk, which shall contain the following information:

1. The Applicant's business name, address, telephone number and email address, if any;
2. If the Applicant is a business entity of any kind, the names of all officers and managers of such entity;
3. If food is to be sold from any motor vehicle, the vehicle license numbers and descriptions of such vehicle, and the names of all persons authorized and expected to drive such vehicle, and a copy of a valid and currently existing policy of liability insurance for such motor vehicle;
4. Documentation from the Douglas County Health Department showing its approval of the Applicant's sale of food;
5. A copy of the State of Nebraska sales tax permit, or proof of an applicable sales tax exemption; and
6. A copy of the Applicant's policy or policies of commercial general liability insurance
7. Such other documentation as the Village Clerk may require and as requested in the Application.

B. Upon receipt of a completed Application, the Village Clerk shall make or cause to be made any inquiry or investigation that may be necessary in order to determine whether the Applicant is in compliance with all applicable laws and with this Article. The Village Clerk may request and take into consideration the recommendations of other affected departments of the Village.

C. After receipt of the completed Application and a nonrefundable Application Fee in the amount of \$50.00, the Village Clerk shall either approve or deny the Application.

SECTION 5-903: REGULATIONS

Mobile Food Vendors shall comply with the following regulations:

1. A Mobile Food Vendor shall not operate from a location within fifty feet (50') of the main entrance of a Permanent Food Establishment during the hours that food is sold within such Permanent Food Establishment, unless such Permanent Food Establishment has provided written consent.
2. A Mobile Food Vendor may operate from a motor vehicle at a location in a Village right-of-way open to traffic or parking, but only from a motor vehicle parked in a location where a motor vehicle is authorized to park by law, signage or Village permit.
3. A Mobile Food Vendor shall not operate from a location which would involve customers to be waited on or served while standing in a portion of a street being traversed by motor vehicle traffic.
4. A Mobile Food Vendor who operates from a location on property rather than Village right-of-way shall first obtain and possess, and be able to exhibit upon request, each of the following:
 - (a) Written consent of the owner of the property; and
 - (b) Any required temporary use permit to be issued by the Village.
5. A Mobile Food Vendor shall not operate from Village park property unless it possesses the written consent of the Village.
6. A Mobile Food Vendor shall not operate from a school property unless it possesses the written consent of the school district.
7. A Mobile Food Vendor shall not operate from a location authorized for a street show, festival, parade, block party, or similar event, or within 200 feet of any boundary of such authorized area, unless the Mobile Food Vendor possesses the written consent of the event permittee to operate from that location.
8. A Mobile Food Vendor shall possess and be able to exhibit its license under this Article, all required Douglas County Health Department permits, a State of Nebraska sales tax permit or proof of sales tax exemption, and any other written consents or documentation required under this Article, at all times during which the Mobile Food Vendor is operating.
9. Any Village official may order a Mobile Food Vendor to move from or leave a specific location, if the operation of the Mobile Food Vendor at that location causes an obstruction to vehicular or pedestrian traffic or otherwise endangers the health, safety or welfare of the public. If such order is refused, the authorized employee of the Public Works Department or the Police Department may authorize that the vehicle be towed.
10. An individual representative of the Mobile Food Vendor must remain with the motor vehicle, trailer or auxiliary equipment at all times.
11. A Mobile Food Vendor may operate seven days a week but only from 7am to 10pm. It shall be unlawful for a Mobile Food Vendor to operate at any other times.
12. A Mobile Food Vendor shall maintain in operable condition all fire suppression equipment or devices as required by local, state or federal law.
13. It shall be unlawful for a Mobile Food Vendor to sell or offer to sell alcohol in any form.
14. A Mobile Food Vendor shall provide trash receptacles and shall properly dispose of all trash and litter within 20 feet of its location, but such trash shall not be disposed of in public trash containers on Village right-of-way or Village property.

15. A Mobile Food Vendor shall comply with all Village ordinances regarding noise.

SECTION 5-904: LICENSE RENEWAL

A license issued pursuant to this Article shall expire on December 31st of each year, unless renewed for the following year. An Applicant shall renew a license for the following year by filing with the Village Clerk a statement updating or confirming the information provided in the immediately preceding Application. The Statement shall be on a form to be furnished by the Village Clerk. At the time of filing of such Statement, a renewal fee of \$50.00 shall be due to the Village.

SECTION 5-905: LICENSE REVOCATION OR SUSPENSION

A. A license issued under this Article may be revoked or suspended by the Village Clerk for any of the following reasons:

1. Any fraud, misrepresentation, or false statements contained in the Application;
2. Any fraud, misrepresentation, or false statements made in connection with the sale of food;
3. Any violation of this Article or any applicable laws;
4. Conduct of business licensed under this Article in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

B. To revoke or suspend a license issued under this Article, the Village Clerk shall provide written notice to the license holder stating the revocation or suspension action taken, the grounds for such action, and the availability of an appeal. Such notice shall be served personally upon the license holder or sent by regular US mail to the license holder's address as stated in its Application.

C. A license holder aggrieved by the decision of the Village Clerk under this Section may file an appeal with the Village Board.

D. A license holder whose license has been revoked under this Section may not re-apply for a new license for a period of six months after the effective date of the revocation.

Section 2. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

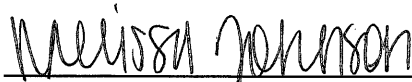
Section 3. Any other ordinance or section passed and approved prior to passage, approval, and publication of this ordinance and in conflict with its provisions shall be subject to the provisions of this Ordinance.

Section 4. This Ordinance shall take effect and be in full force after its passage, approval, and publication as required by law.

PASSED this 14 day of JULY, 2020.

ATTEST:

Village of Waterloo



Melissa Johnson
Village Clerk





Travis Harlow
Chairperson