

**ORDINANCE NO. 04-O-2022-2023**

**AN ORDINANCE AMENDING TITLE IV OF THE STORM LAKE, IOWA CITY CODE BY AMENDING SECTION 4-3-2(d) OF CHAPTER 4-3 ON SOLICITORS, WHICH SECTION DEFINES “TRANSIENT MERCHANT,” AND BY ADDING NEW CHAPTER 4-10 REGULATING MOBILE FOOD AND BEVERAGE VENDORS**

WHEREAS, the City of Storm Lake has experienced an increase in the number of mobile food and beverage vendors engaged in business within its city limits; and

WHEREAS, the Storm Lake City Council sees the need to license and regulate such enterprises for the protection of the City’s residents, the preservation of the attractiveness of the City’s public spaces, and the encouragement of fair and orderly growth of the mobile food and beverage segment of the local economy;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Storm Lake, Iowa as follows:

Section 1. Paragraph (d) under Section 2, entitled “Definitions,” in Chapter 4-3 on Solicitors is amended by inserting at the end of the definition of “Transient Merchant” the following sentence:

Notwithstanding the foregoing definition of “Transient Merchant,” the term, “Transient Merchant” shall not include a “Mobile Vendor,” as defined in Chapter 4-10 on Mobile Food and Beverage Vendors.

Section 2. Title IV of the Storm Lake City Code, on Business, is amended by inserting the following new Chapter 4-10, entitled “Mobile Food and Beverage Vendors,” immediately after existing Chapter 4-9:

4-10-1 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition, and unsafe food sources; preserve the attractiveness of the City’s public spaces; and encourage the fair and orderly growth of the mobile food and beverage segment of the local economy by licensing and regulating mobile food and beverage vendors.

4-10-2 DEFINITIONS. The following words, terms and phrases when used in this Chapter shall have the following meanings:

Food Service Establishment shall have the meaning established by Section 481-30.2 of the Iowa Administrative Code.

Mobile Vendor means a person engaged in the business of selling food, beverages, or both, from a Mobile Vendor Vehicle on public property.

Mobile Vendor Vehicle means a licensed motorized vehicle, a licensed trailer, or both, used for the sale of food, beverages, or both, for immediate consumption. The definition of Mobile Vendor Vehicle includes but is not limited to the common term “Food Truck.”

Restaurant means a food service establishment which derives at least fifty percent (50%) of its gross receipts from the sale of food, beverages, or both, for immediate consumption on the premises.

4-10-3 MOBILE VENDOR LICENSE REQUIRED. Before offering for sale any food or beverage in the City, a Mobile Vendor shall obtain a license for their sale from the City Clerk as provided in this Chapter. A separate Mobile Vendor License shall be required for each Mobile Vending Vehicle.

For any community event, the City Clerk may issue a license to the organization hosting the event to allow Mobile Vendors authorized by the hosting organization to operate without an individual Mobile Vendor license for a limited number of days, not to exceed the number of days of the event being hosted. Regulations relating to the allowed location or area of Mobile Vendors' operations may be modified by the City for community events.

4-10-4 APPLICATION FOR LICENSE. A Mobile Vendor shall apply to the City Clerk for a Mobile Vendor license at least three (3) business days prior to its use by providing the following information upon a form to be provided by the City Clerk, providing the required documents specified below, and paying the application fee for the period of the license's duration in the amount set in the Schedule of Fees as adopted by the City Council by resolution:

- A. The full name, age, permanent address, e-mail address, if any, and telephone number of the applicant.
- B. The business name and address.
- C. A description of the licensed motorized vehicle or licensed trailer from which the sale will be conducted, including the license plate number, and the length of the motorized vehicle or the trailer and tow vehicle.
- D. A summary of the food and beverages to be sold.
- E. The period of time the applicant has been engaged in the same or similar business and the jurisdictions in which the applicant has previously conducted business in the last year.
- F. The application must be accompanied by a copy of the Retail Sales Tax Permit issued to the applicant by the Iowa Department of Revenue.
- G. If the Mobile Vendor sells food or beverages other than prepackaged items that do not require hot or cold handling procedures, then the application shall also contain the following:
  1. A copy of the Mobile Food Unit License issued by the Iowa Department of Inspections and Appeals for the Mobile Vendor Vehicle.
  2. The addresses of the businesses or facilities at which any fat, oil or grease generated in the operation of the Mobile Vendor business are disposed of, including the contact information for the individual or business responsible for the operation of each such business or facility.
- H. The location where the Mobile Vendor Vehicle will be regularly parked when not in use.
- I. The precise location or locations in the city where the Mobile Vendor Vehicle will conduct sales.

- J. The requested period of duration for the license which shall be one of the periods specified in Section 4-10-9.

4-10-5 POLICE DEPARTMENT REVIEW. Each application for a Mobile Vendor license may be provided to the Police Chief for review and comment and the applicant's submission of such an application authorizes the police to conduct a background check with respect to the applicant.

4-10-6 ACTION BY CITY CLERK. All references to the City Clerk in this chapter shall be deemed to include the City Clerk's designee.

#### 4-10-7 AREAS OF MOBILE VENDOR VEHICLE OPERATION.

- A. Operation of Mobile Vendor Vehicles shall not be permitted on public road rights-of-way, but shall be permitted on designated public parking areas of City property as permitted by the City, within intended locations to be designated on a map or diagram submitted with the application together with dates and times of operation.
- B. Mobile Vendor Vehicle operation may be permitted in Storm Lake City Parks only upon approval of the City in accordance with Park Department Rules.

#### 4-10-8 LICENSE ISSUANCE.

- A. A Mobile Vendor license may be denied to any applicant who has operated a Mobile Vendor business in material violation of any of the requirements of this article or any other chapter of this Code within the prior one hundred eighty (180) days.
- B. If the City Clerk finds that the information provided in an application for a Mobile Vendor license is true and correct and that the requirements of this Chapter for issuance of the license have been satisfied, the City Clerk shall issue a Mobile Vendor license for the period of duration authorized by Section 4-10-9 that is requested by the applicant. The license shall identify whether the Mobile Vendor is limited to the sale of prepackaged food and beverages that do not require hot or cold handling procedures.
- C. The City Clerk shall deny any application for the operation of a Mobile Vendor business that does not conform with all applicable requirements of this article, the City Code, the Iowa Code and the Iowa Administrative Code.
- D. In the event an application for a Mobile Vendor license is denied, the City Clerk shall cause notice of such denial to be promptly communicated to the applicant or the applicant's representative by telephone at the telephone number provided in the application. Written notice shall also be sent to the applicant at the business address identified in the application informing the applicant of the denial, the reason therefor, and the applicant's right to appeal the denial to the City Council of the City of Storm Lake, Iowa, by filing a written notice of appeal with the City Clerk within ten (10) business days after the date of such notice.

4-10-9 DURATION OF LICENSE. The Mobile Vendor license may be issued for a period of one day, seven consecutive days, or twenty-eight consecutive days. No licensee shall be permitted more than 183 one-day licenses in a calendar year, more than 26 seven-day licenses in a calendar year, or more than 6 twenty-eight day licenses in a calendar year. In

addition, no licensee shall be permitted licenses of any duration whose periods exceed 183 days in the aggregate each calendar year.

4-10-10 BOND REQUIRED. Before a license under this Chapter shall be issued, each proposed licensee shall post with the City Clerk a bond issued by a surety company authorized to engage in the business of insuring the fidelity of others in Iowa, in the amount of one thousand dollars (\$1,000.00), to the effect that the licensee and the surety company shall consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary (1) to indemnify the City of Storm Lake for any penalties or costs occasioned by the enforcement of this Chapter, and (2) to make payment of any judgment rendered against the licensee as a result of a claim or litigation arising out of or in connection with any activities regulated or covered by this Chapter. Said bond shall not be retired until a lapse of one (1) year from the expiration of the license which it covers. Notwithstanding the foregoing requirement to post a bond, a licensee who has posted such a bond for a license previously issued under this Chapter that remains in effect at the time the new such license is to be issued shall not be required to post a new bond provided that the bond that remains in effect, by its original terms or any amendment or extension thereof, will not expire until a lapse of one (1) year from the expiration of the new license. Before issuance of the new license, the City Clerk shall require written evidence from the surety company that the bond previously issued will not expire until a lapse of at least one (1) year from the expiration of the new license.

4-10-11 MOBILE VENDOR LICENSES NOT TRANSFERRABLE. Mobile Vendor licenses issued under this chapter are not transferrable.

#### 4-10-12 GENERAL REGULATIONS.

- A. Hours of Operation. Mobile Food Vendors may operate between the hours of 7:00 a.m. and 11:00 p.m. local time.
- B. Allowed Locations.
  - 1. No Mobile Vendor shall conduct any sale from the Mobile Vendor Vehicle which is not parked as shown or as set out in the Mobile Vendor's license application.
  - 2. No Mobile Vendor shall conduct any sale from a parking space which is designated as an "Accessible Parking Space" or otherwise designated as "Limited Parking."
  - 3. No Mobile Vendor shall conduct any sale from a Mobile Vendor Vehicle located within one hundred (100) feet of any public entrance of any street level restaurant then open for business, unless authorized by the restaurant.
  - 4. No Mobile Vendor shall conduct any sale in a residential neighborhood unless such sales are specifically authorized in the Mobile Vendor's license and then shall only be in the specific areas stated in the license.
  - 5. No Mobile Vendor shall conduct any sale from a Mobile Vendor vehicle unless such sales are specifically authorized in the Mobile Vendor's license.
  - 6. The Mobile Vendor Vehicle must be removed from the location of operation after the hours of operation.

7. No Mobile Vendor Vehicle shall be operated within 10 feet of any building or other structure, and shall not be operated within 50 feet of any other Mobile Vendor Vehicle, unless specifically approved for a special event by the City Clerk.
- C. Mobile Vendor Vehicle.
1. Any vehicle used as a Mobile Vendor Vehicle shall be no larger than thirty-seven (37) feet long and eight and a half (8 ½) feet wide. Any trailer used as a Mobile Vendor Vehicle, together with the tow vehicle, shall be no longer than thirty-seven (37) feet long and eight and a half (8 ½) feet wide.
  2. A Mobile Vendor Vehicle shall not have a second story or any interior space used for customer service or seating.
  3. Any generator used by the Mobile Vendor must be as quiet as possible to avoid being a disruption to the area in which it is located. The generator should have a decibel rating of 60dB or less. If necessary, sound proofing can be used to reach the desired rating.
- D. Display of License. License required by this Chapter and a valid Sales Tax Permit for such business shall be displayed within the Mobile Vendor Vehicle in a manner such that it is readily visible to all persons seeking to conduct business with the Mobile Vendor.
- E. Sale of Merchandise. No Mobile Vendor shall offer any merchandise or wares for sale other than food and beverages for immediate consumption.
- F. Food Safety. Any Mobile Vendor who offers food or beverages for sale, other than prepackaged items that do not require hot or cold handling procedures, shall be subject to the following additional requirements:
1. A valid Mobile Vendor license for the Mobile Vendor Vehicle shall be displayed within the Mobile Vendor Vehicle in a location that is readily visible to all customers.
  2. No Mobile Vendor shall operate the business in a manner that violates any applicable food or sanitation laws.
- G. Use of Street and Sidewalk. No Mobile Vendor shall place any tables, chairs, furniture, equipment, signage or other material on the ground, streets or sidewalks. No Mobile Vendor shall place any food, materials or equipment on the ground or on tables, chairs, or shelves that are not incorporated into the Mobile Vendor Vehicle, or immediately adjacent to the Mobile Vendor Vehicle.
- H. Trash Receptacles. A Mobile Vendor shall provide one or more trash receptacles readily accessible to its customers either in or attached to the Mobile Vendor Vehicle. All accumulations of trash and litter shall be removed from the site by the Mobile Vendor before departing.
- I. All Sales from Safe Locations. No Mobile Food Vendor shall conduct any sales from outside the Mobile Vendor Vehicle. All sales, activities and transfer of food and beverages to the customer shall occur only from a safe location such that the customer is not exposed to traffic on the street. No Mobile Vendor shall sell to any persons situated in a motor vehicle. The requirements of this paragraph do not apply to Mobile Vendors operating on private property.

#### 4-10-13 SUSPENSION OR REVOCATION OF LICENSE.

- A. Upon complaint or a reasonable suspicion that a licensee or the licensee's employees have furnished any false information required under this chapter or has violated or

failed to comply with any of the requirements of this chapter or any other provisions of the City Code, the City Clerk may cause the matter to be investigated. If the City Clerk finds that a violation has occurred, the City Clerk shall give notice to the licensee of intent to suspend or revoke the license, or to deny its renewal.

- B. Notice of the City's intent to suspend, revoke, or deny renewal of a license shall be served upon the licensee by personal service or by certified mail, return receipt requested. The suspension, revocation, or denial of renewal shall become effective seven (7) days after notice is served or mailed.

4-10-14 APPEAL. Any applicant or licensee aggrieved by the refusal of the City Clerk to issue a license or by suspension, revocation, or non-renewal of a license under this chapter has the right to appeal the City Clerk's decision to the City Council of the City of Storm Lake, Iowa. Such appeal shall be requested by submitting a written request to the City Clerk within ten (10) days of the action of the City Clerk which is appealed. The City Council shall consider the appeal at the first regularly scheduled meeting following the filing of the appeal before which meeting sufficient time exists to give the public the required notice of the existence of the appeal hearing on the agenda. At the appeal hearing, the appellant shall be entitled to present his or her appeal orally or in writing. The City Council shall act on the appeal within twenty-one (21) days of the hearing and shall either uphold the action of the City Clerk or shall direct the issuance of a license.

4-10-15 MUNICIPAL INFRACTION. A violation of any provision of this Chapter shall constitute a Municipal Infraction subject to the penalties and alternative relief authorized by Title I, Chapter 20 of this Code and by Section 364.22 of the Code of Iowa.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4. 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 5. This ordinance shall be in effect following its final passage, approval and publication as provided by law.

PASSED AND APPROVED this 17th day of April, 2023.

  
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Michael Porsch, Mayor

ATTEST:

  
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Mayra A. Martinez, City Clerk

1st Reading: March 20, 2023  
2nd Reading: April 3, 2023  
3rd Reading: April 17, 2023  
Passed & Approved: April 17, 2023  
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