

Date September 13, 2021

An Ordinance entitled, "AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Chapter 78, Article V, Sections 78-201, 78-203, 78-207, and 78-212, relating to mobile food vendors ",

presented.

Moved by _____ that this ordinance be considered and given first vote for passage.

FORM APPROVED:

(First of three required readings)



 Judy K. Parks-Kruse
 Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

_____ City Clerk

ORDINANCE NO. _____

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Chapter 78, Article V, Sections 78-201, 78-203, 78-207, and 78-212, relating to mobile food vendors.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Chapter 78, Article V, Sections 78-201, 78-203, 78-207, and 78-212, relating to mobile food vendors, as follows:

Sec. 78-201. Location of operation.

- (a) Subject to the requirements of this article, a mobile vender license is only valid for the sale of food or beverages for immediate consumption from a mobile vender vehicle lawfully parked within one of the following zones or locations:
- (1) The downtown mobile vender zones identified in subsection (b), below.
 - (2) The neighborhood mobile vender zones identified in subsection (c), below.
 - (3) A specified location, including adjacent streets, outside of the zones referenced in subsections (1) and (2) above, in conjunction with an event held pursuant to a temporary use permit issued by the neighborhood services director in accordance with section 134-3.10.
 - (4) A specified location, including adjacent streets, outside of the zones referenced in subsections (1) and (2) above, in conjunction with events held of a recurring nature pursuant to a conditional use approved by the board of adjustment in accordance with section 134-6.4 of this code.
- (b) The downtown mobile vender zones consist of and are limited to the following street segments:
- (1) *Downtown mobile vender zone A:*
Grand Avenue from 4th Street to 15th Street,
Locust Street from 4th Street to 16th Street,
Walnut Street from 4th Street to 16th Street,
4th Street from Grand Avenue to Locust Street,
5th Street from Grand Avenue to Walnut Street,
6th Street from Grand Avenue to Walnut Street,
7th Street from Grand Avenue to Walnut Street,
8th Street from Grand Avenue to Walnut Street,
9th Street from Grand Avenue to Walnut Street,
10th Street from Grand Avenue to Walnut Street,
12th Street from Grand Avenue to Walnut Street,

- 13th Street from Grand Avenue to Walnut Street,
 15th Street from Grand Avenue to Walnut Street, and
 16th Street from Locust Street to Walnut Street.
- (2) *Downtown mobile vender zone B:*
 Center Street from 5th Avenue to 9th Street,
 Crocker Street from 5th Avenue to 9th Street,
 Park Street from 3rd Street to 7th Street, and
 Watson Powell Jr Way from 3rd Street to 7th Street.
- (3) *Downtown mobile vender zone C:*
 Cherry Street from 5th Avenue to 9th Street,
 Mulberry Street from 5th Avenue to 7th Street, and
 5th Avenue from Vacated Vine Street to Mulberry Street.
- (4) *Downtown mobile vender zone D:*
 East Court Avenue from East 2nd Street to East 6th Street,
 East Grand Avenue from Robert D Ray Drive to East 4th Street,
 Locust Street and East Locust Street from the west end of the Locust Street bridge
 over the Des Moines River to East 4th Street,
 East Walnut Street from East 1st Street to East 7th Street,
 Robert D Ray Drive from East Grand Avenue to East Locust Street,
 East 2nd Street from East Walnut Street to E Court Avenue,
 East 3rd Street from East Walnut Street to E Court Ave,
 East 4th Street from East Walnut Street to East Court Avenue, and
 East 7th Street from East Walnut Street to a point 240 feet south of East Court
 Avenue.
- (c) The neighborhood mobile vender zones consist of and are limited to the following street
 segments during the days of the week and the hours of the day identified for each such zone
 below:
- (1) Neighborhood mobile vender zone 1: *Reserved*
 Location:
 Days and hours of operation:
- (d) Subject to the requirements of this article, a mobile food vendor license is valid for the sale
 of food or beverages for immediate consumption from a mobile food vender vehicle on
 premises for which a transient merchant premises permit has been issued. In addition to
 being subject to the requirements of this article, a mobile vender operating on private
 property is deemed a transient merchant for purposes of Article III during those operations
 and is subject to all requirements contained in Article III except for the requirement that it
 obtain a transient merchant license.

Sec. 78-203. License required.

- (a) Every mobile vender shall, before offering for sale any food or beverages in the city, obtain
 a license for their sale from the city clerk as provided in this article.
- (b) A mobile vender license authorizes the operation of a mobile vender vehicle upon the
 public streets within the mobile vender zones or locations set forth in subsection 78-201(a),
 subject to the regulations set forth in this article and to any applicable conditions set forth
in a temporary use permit or approved conditional use.

- (c) A separate mobile vender license shall be required for each mobile vending vehicle.

Sec. 78-207. Meter hoods or metered parking.

- (a) In order to operate in a downtown mobile vender zone, a mobile vender, is required to obtain a meter hood to be issued by the city clerk for each licensed mobile vender vehicle. If the mobile vender vehicle, or the mobile vender vehicle and tow vehicle if the mobile vender is a trailer, is longer than twenty feet and no longer than twenty-five feet the mobile vender may elect to obtain a second meter hood from the city clerk. If the mobile vender vehicle is a trailer, and the mobile vender vehicle and tow vehicle are longer than twenty-five feet, the mobile vender is required to obtain a second meter hood to be issued by the city clerk
- (b) The annual fee for the use of the first and second meter hoods issued with each mobile vender license shall be in the amount set in the schedule of fees adopted by the city council by resolution.
- (c) To secure the return of each meter hood at the expiration or termination of the mobile vender license, a deposit in the amount set in the schedule of fees adopted by the city council by resolution shall be collected by the city clerk for each meter hood so issued, including replacement hoods. Upon request to the city clerk and return of the meter hood in good condition, excepting ordinary wear, the city clerk shall cause the deposit to be refunded to the mobile vender by mailing payment to the address of record for such vender.
- (d) In the event any meter hood is lost, stolen or damaged, the mobile vender may obtain a replacement meter hood upon payment of the replacement hood fee and deposit in the amounts set in the schedule of fees adopted by the city council by resolution.
- (e) A mobile vender must pay for parking fees at a meter for both the tow vehicle and the mobile vender vehicle for a permitted or approved location outside a mobile vendor zone.

Sec. 78-212. - General regulations.

- (a) *Hours of operation.*
- (1) *Downtown mobile vender zones.* Between 1:30 a.m. and 5:30 a.m., no mobile vender vehicle shall be open for business within the downtown mobile vender zones. Between 1:45 a.m. and 5:30 a.m., no mobile vender vehicle may be parked within the downtown mobile vender zones.
- (2) *Neighborhood mobile vender zones.* No mobile vender vehicle shall be open for business within a neighborhood mobile vender zone at any time outside the hours of operation established for that mobile vender zone in section 78-201. No mobile vender vehicle shall be parked within a neighborhood mobile vender zone at any time outside the hours of operation established for that mobile vender zone in section 78-201, except that the mobile vender shall be allowed 15 minutes beyond the end of such hours of operation to prepare the mobile vender vehicle for movement.
- (3) *Permitted or approved locations outside mobile vendor zones.* Between the hours set for the permitted or approved event but in no case longer than five hours at a metered parking space.

(b) *Allowed locations.*

- (1) No mobile vender shall conduct any sale from a mobile vender vehicle which is not lawfully parked in a parallel parking space in a mobile vender zone.
- (2) No mobile vender shall conduct any sale from a parking space which is designated as an accessible parking space with a blue meter, or designated as a 30 minute parking space with a green meter, or designated as restricted for residential permit parking only.
- (3) No mobile vender shall conduct any sale from a mobile vender vehicle located within 100 feet of any public entrance into the waiting or service area of any street level restaurant then open for business.
- (4) During the time that any part of a street is closed for an event for which a street use permit has been issued, and except as allowed within the event area by the party holding the street use permit, no mobile vender shall conduct any sale within the affected blocks or within two blocks of the affected blocks. For purposes of this section:
 - a. A "block" is the entire right-of-way of a public street extending from the centerline of an intersecting street or the lateral centerline of any river bridge, to the centerline of the next intersecting street or the lateral centerline of any river bridge, whichever is closer; and,
 - b. The "affected blocks" are any blocks containing any portion of the street closure for which the street use event has been issued.

(c) *Mobile vender vehicle.*

- (1) Any motorized vehicle used as a mobile vender vehicle shall be no larger than 37 feet long and eight and one-half feet wide. Any trailer used as a mobile vender vehicle together with the tow vehicle shall be no larger than 37 feet long, and eight and one-half feet wide.
- (2) Except for the storage and preparation of food and beverages at a separate kitchen or commissary kitchen, all storage and preparation of food and beverages offered for sale by a mobile vender shall occur within a fully enclosed space within the mobile vender vehicle.
- (3) A trailer used as a mobile vender vehicle may be detached from the tow vehicle for leveling, but the tow vehicle must remain in front of the trailer at all times while the trailer is parked in a mobile vender zone.
- (4) A mobile vender vehicle shall not have a second story or any interior space used for customer service or seating.

(d) *Display of license.* The license required by this article and a valid sales tax permit for such business shall be displayed within the mobile vender vehicle a manner such that it is readily visible to all persons seeking to conduct business with the mobile vender.

(e) *Sale of merchandise.* No mobile vender shall offer any merchandise or wares for sale other than food and beverages for immediate consumption. If the license identifies that the mobile vender is limited to the sale of prepackaged food and beverages that do not require hot or cold handling procedures, the vender shall not offer any other items for sale.

(f) *Meter hoods.*

- (1) No mobile vender shall cause or permit any meter hood issued to them to be placed over any parking meter outside the mobile vender zones at any time. No mobile vender shall cause or permit any meter hood issued to them to be placed over any

parking meter inside the mobile vender zones at any time between 1:45 a.m. and 5:30 a.m. Any meter hood found being used in violation of this paragraph may be immediately confiscated by any police officer or community development inspector who shall cause it to be returned to the city clerk. Confiscation of a meter hood may include cutting, ripping or destroying the meter hood if required for its prompt removal.

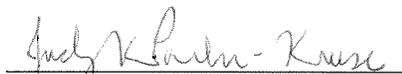
- (2) No person shall place a meter hood over the parking meter for a parking space that is then occupied by any vehicle other than the mobile vender vehicle operated by the mobile vender to whom the meter hood was issued.
 - (3) When a parking meter is covered by a mobile vender bag, no person shall park any vehicle in the corresponding parking space except the mobile vender vehicle operated by the mobile vender to whom the meter hood was issued. Violation of this paragraph shall also constitute illegal parking in violation of a traffic control device.
 - (4) No mobile vender shall conduct any sale from a mobile vender vehicle within the downtown mobile vender zones unless such vehicle, including the tow vehicle if applicable, is lawfully parked in one or two metered parallel parking spaces with the corresponding parking meters covered by a meter hood issued for that mobile vender vehicle.
 - (5) Nothing in this article shall be interpreted as authorizing a mobile vender vehicle to be parked at a location which is not then available for general public use, but for the use of the meter hood, unless the use of such location is specifically limited to use by mobile vender vehicles.
 - (6) Mobile vendors shall cooperate with any person authorized to place a street closure bag or restricted parking bag over a parking meter then covered by a meter hood, including but not limited to promptly and temporarily removing the meter hood to allow a street closure bag to be placed over the meter and under the hood.
- (g) *Food safety.* Any mobile vender 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 food unit license for the mobile vender vehicle shall be displayed within the mobile vender vehicle in a location that is readily visible to all customers.
 - (2) Any such mobile vender who is not a certified food protection manager shall employ at least one certified food protection manager; shall maintain a copy of their certification(s) as a certified food protection manager in the mobile vending vehicle; and shall produce the certification documents for inspection upon request by any police officer or community development department inspector.
 - (3) No mobile vender shall operate the business in a manner that violates any applicable food and sanitation laws.
- (h) *Noise.* No mobile vender shall operate the business in a manner that violates the Noise Control Ordinance of the City of Des Moines set forth in article IV of Chapter 42 of this Code. No person shall offer for sale or sell anything from a mobile vending vehicle by shouting or raised voice.
- (i) *Use of street and sidewalk.* No mobile vender shall place any tables, chairs, furniture, equipment, signage or other material on the ground, streets or sidewalks. No mobile vender

shall place any food, materials or equipment on the ground or on tables, chairs, or shelves that are not incorporated into the mobile vending vehicle.

- (j) *Trash receptacles.* A mobile vender shall provide one or more trash receptacles readily accessible to its customers either in or attached to the mobile vender vehicle. All such trash receptacles and all accumulations of trash and litter shall be removed from the site by the mobile vender before departing.
- (k) *All sales from sidewalk side.* No mobile food vender shall conduct any sales from outside the mobile vender vehicle. All sales activities and the transfer of food and beverages to the customer shall occur only on the sidewalk side of the mobile vender vehicle. No mobile vender shall sell to any person situated in a motor vehicle. However, nothing in this paragraph shall be interpreted to prohibit such reasonable accommodation as may be needed to serve a customer with a disability. This requirement does not apply to mobile vendors operating on private property.
- (l) *Grease disposal.*
 - (1) All fat, oil and grease generated in the operation of a mobile vender business shall be disposed of at the business or facility identified in the mobile vender's application for a license. Any change in the businesses or facilities used for the disposal of such fat, oil and grease shall be reported to the city clerk in writing by the mobile vender within three business days of the first use of a the new business or facility.
 - (2) All fat, oil and grease generated in the operation of a mobile vender business shall be disposed of in compliance with the requirements of division 5, article III of chapter 118 regarding the discharge of fat, oil and grease by food service establishments.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:



Judy K. Parks-Kruse
Assistant City Attorney