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ORDINANCE NO. XXXX

AN ORDINANCE AMENDING THE CITY OF WATERLOO CODE OF ORDINANCES BY ADDING A NEW ARTICLE F MOBILE FOOD BUSINESS LICENSE TO TITLE 3 BUSINESS AND LICENSE REGULATIONS, CHAPTER 4 BUSINESSES RELATING TO SALES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WATERLOO, IOWA AS FOLLOWS:

Section 1. That the City of Waterloo City Code is hereby amended by adding a new Article F, Mobile Food Business License, to Title 3, Business and License Regulations, Chapter 4, Businesses Relating to Sales, as follows:

CHAPTER 4
ARTICLE F. MOBILE FOOD BUSINESS

- 3-4F-1: DEFINITIONS:
- 3-4F-2: LICENSE REQUIRED:
- 3-4F-3: EXEMPTION FROM LICENSE:
- 3-4F-4: APPLICATION FOR LICENSE:
- 3-4F-5: ISSUANCE OF LICENSE:
- 3-4F-6: CONDITIONS OF LICENSE:
- 3-4F-7: TRANSFERABILITY OF LICENSE:
- 3-4F-8: MOBILE FOOD BUSINESS ON PUBLIC PROPERTY:
- 3-4F-9: MOBILE FOOD BUSINESS ON PRIVATE PROPERTY:
- 3-4F-10: MOBILE FOOD BUSINESS AT SPECIAL EVENTS AND CARNIVALS:
- 3-4F-11: HOURS OF SALE:
- 3-4F-12: INSURANCE:
- 3-4F-13: MUSIC, LIGHT, AND SOUND MAKING DEVICES:
- 3-4F-14: LITTER:
- 3-4F-15: APPEAL:
- 3-4F-16: DENIAL, SUSPENSION, OR REVOCATION OF LICENSE:
- 3-4F-17: PENALTY:

3-4F-1: DEFINITIONS:

A. Mobile Food Vendor: A person or their employee engaged in the business of selling food or beverages from a mobile food unit.

B. Mobile Food Unit: A mobile food unit is defined as one of the following:

1. Food Truck: Any type of movable vehicle (motorized or self-propelled, including bicycles and scooters) driven to a location and used for vending food or beverage items to the public.
2. Food Cart: A non-self-propelled unit, including wagons and trailers, pushed or pulled to a location, and used for vending food or beverage items to the public.

C. Mobile Food Business: Any mobile food vendor, licensed as a food establishment, and engaged in selling food or beverages from a mobile food unit.

D. Catering Business: A business, social, or home catering service providing food and incidental services for a social affair, event, or for a private dwelling, which does not engage in the sale of food or beverage to individually paying patrons.

3-4F-2: LICENSE REQUIRED:

Mobile Food Business License: 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 city without first obtaining a license from the city, in addition to any other state or county permits, certifications, and licenses.

3-4F-3: EXEMPTION FROM LICENSE:

The following shall be exempt from this article:

- A. Catering businesses as defined in Section 3-4F-1.
- B. Concession stands associated with sports or recreational venues.
- C. Persons who offer for sale unprocessed whole food of their own raising, such as farm stands or farmers market vendors.
- D. A stand operated by a minor as defined by Section 137F.1(8)(n) of Iowa Code.
- E. Route delivery persons who make deliveries at least weekly to fulfill customer orders. Route delivery persons who incidentally solicit additional business or make special sales shall be required to obtain a license.
- F. Grilling and food preparation activities of brick and mortar establishments for immediate consumption by patrons or employees on the establishment premises.
- G. Brick and mortar establishments delivering orders to customers.

3-4F-4: APPLICATION FOR LICENSE:

A. Contents of Application: Applicants for a license under this article shall complete and submit to the city clerk an application, fee, and supporting documentation, all of which shall include but not be limited to the following information:

1. The full name, permanent address, and phone number of the applicant, along with at least one form of identification that includes a photograph of the applicant. The name, address, phone number, and identification that includes a photograph of an employee or manager serving as a local contact.
2. The address of all locations where the applicant will operate.
3. If operating a motor vehicle as part of the mobile food business, proof of a current operator's license.
4. If operating from a vehicle, the make, model, year, state of registration and license plate number of the vehicle. Each mobile food unit must be listed on the application.
5. A photograph of the mobile food unit and a diagram showing the mobile food unit in relation to other removable equipment to be used by the mobile food business, including seating and trash receptacles. The diagram should include the square footage of the space the mobile food business would propose to occupy.

6. Plans for disposal of liquid and solid waste and other material used in conjunction with the mobile food business.
7. A copy of an Iowa Sales Tax Permit.
8. Proof of valid food service license(s) from the state and/or county health departments if selling/handling food and/or beverages for human consumption.
9. A certificate of insurance and indemnification agreement as required in Section 3-4F-12 of this Article.
10. Application Fee: One hundred dollars (\$100.00) for a thirty (30)-calendar day license or three-hundred fifty (\$350.00) for a one year license.

B. Filing: Applications shall be filed with the city clerk's office. No application shall be accepted for filing and processing unless it conforms to the requirements of this Article. This includes a complete and true application, all of the required materials and information prescribed, and the appropriate application fee. The city clerk may charge an applicant a twenty dollar (\$20.00) fee for filing an incomplete application or for failing to file an application on time.

C. Timely Filing: An application must be filed with the city clerk's office not less than fifteen (15) calendar days prior to the commencement of business or, for license renewals, the expiration date of the mobile food business license. The city reserves the right to reject any application not filed in a timely manner.

D. Investigation: Upon receipt of the complete application as required by this Article, the city clerk shall forward the application to the police department, fire department, and planning and zoning for investigation and either recommend to the city clerk denial or approval of the license. A recommendation for denial shall be delivered in writing to the city clerk explaining reasons for the denial. If the application is denied as a result of an investigation conducted pursuant to this subsection, the applicant may appeal the denial pursuant to Section 3-4F-15.

1. The police chief or a designee shall conduct an investigation of the applicant as deemed necessary for the protection of the public health, safety, welfare, and good. The police chief or designee may require the applicant and employee or manager serving as a local contact to submit a sealed Iowa DCI background check to facilitate the investigation. The police chief or designee shall make a determination as to the applicant's character and business responsibility and whether issuing such license would harm the public good.
2. The fire marshal or designee shall inspect the mobile food unit for conformance to the International Fire Code.
3. Planning and Zoning Department shall review the application for conformance to Ordinance No. 5079, City of Waterloo Zoning Ordinance.

3-4F-5: ISSUANCE OF LICENSE:

A. If the city clerk finds the application is complete, fully executed, and made in conformance with Section 3-3F-4 of this Article, the application fee and all outstanding fees owed to the city are paid, and upon investigation the facts stated therein are correct, the city clerk shall issue the license. If the city clerk denies the application, the applicant may appeal to the city council.

B. Term of License: Licensees may choose to license their mobile food business for an annual or monthly term. An annual mobile food business license shall be valid for a period of one year. A monthly license shall be valid for a period of thirty (30) calendar days. A new application shall

be timely filed prior to the expiration date of any mobile food business license.

3-4F-6: CONDITIONS OF LICENSE:

A. Fire Department inspection required:

1. All mobile food units that have cooking facilities or use products with grease-laden vapors (Class III and class IV state licenses) shall be inspected by the fire department prior to initiation of business operations within the city.
2. Inspections shall be required once annually and occur prior to the issuance of any new or renewed mobile food business license. It shall be the obligation of the mobile food vendor to schedule the inspection with the fire marshal or their designee and make the mobile food unit available for inspection or re-inspection. Class I and II state license classifications are not required to meet this inspection requirement.
3. All Class III and IV mobile food units shall have an appropriate fire suppression system, as determined by the fire marshal.

B. Display of License: Each mobile food business shall display such license issued by the city clerk. The license shall be displayed on the mobile food unit in a location easily viewable by the public. The license shall include a license number, the name and permanent address of the licensee, along with locations approved for conducting business.

C. Change in Application Information: Upon any change in any of the information required to be submitted as part of the application, the licensee shall, within seven (7) days of such change, notify the city clerk in writing and provide the updated information. In the event the mobile food business wishes to conduct business at a location not listed on the license, the license shall be returned to the city clerk's office and, upon site approval, an amended license issued listing the new location. The amended license shall be valid for the length of time remaining on the original license.

D. Fee: The fees listed in section 3-4F-4 shall be paid prior to the issuance of the license. Fees for said license are not refundable.

3-4F-7: TRANSFERABILITY OF LICENSE:

A license issued under the provisions of this Article is not transferable in any situation to any person and is only applicable to the person filing the application. The license is not transferrable to any location and the licensee shall only conduct business at locations listed on the license.

3-4F-8: MOBILE FOOD BUSINESS ON PUBLIC PROPERTY:

A mobile food business operating on public property shall be subject to the following:

- A. Mobile food businesses shall be limited to hard-surfaced areas.
- B. No mobile food business shall operate within a parking lot directly adjacent to, or with direct access to, a concession stand while said concession stand is in operation.
- C. Mobile food businesses may operate on the parking stall of a metered parking lot. The mobile food business shall be limited to obstructing parking stalls of two parking meters and must obtain and pay for parking meter hoods from city parking services.
- D. Mobile food businesses operating on city property shall be limited to hours of operation set by the City of Waterloo.

E. Mobile food units shall only conduct business each day during the hours listed in Section 3-4F-11. The mobile food business must remove the mobile food unit, equipment, and garbage from city property each day.

F. Mobile food businesses shall be prohibited from operating within city right-of-way. Mobile food unit businesses shall be prohibited from operating on or on a portion of the travelled portion of a street or sidewalk. Mobile food businesses shall not operate on a parking stall of a traveled street.

G. Requests to operate on city park or golf course property, Riverloop Amphitheater, Mark's Park, Expo Plaza, Center for the Arts, Waterloo Boat House, or any other city owned property or facilities shall be approved by the appropriate department director or designee. Proposed dates of operation shall be included on the application form and reviewed by the appropriate department.

H. Requests to operate on public property may be denied due to a lack of available or suitable infrastructure, unsuitable ground conditions, conflict with a scheduled event, public health or safety concerns, competition with city or golf course food sales, or any other reasonable cause. An applicant may appeal a denial pursuant to Section 3-4F-16.

3-4F-9: MOBILE FOOD BUSINESS ON PRIVATE PROPERTY:

A. No mobile food business shall operate within or upon private property without a mobile food business license pursuant to this Article.

B. The city reserves the right to require a mobile food business to change its location in the event public safety, congestion, or sanitation so requires.

C. Any mobile food businesses operating on private property shall do so in accordance with the zoning regulations set forth in Ordinance No. 5079, City of Waterloo Zoning Ordinance.

D. No mobile food vendor shall conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant; create or become a public nuisance; create traffic congestion or delay; constitute a hazard to life, health or property; or obstruct adequate access for fire, police, sanitation or emergency vehicles.

E. No mobile food business shall sell or attempt to sell on or within any portion of a street, sidewalk, or right-of-way.

F. **Property Owner/Lessee Responsibility:** By allowing the mobile food business on their property, the property owner and lessee jointly with the mobile food business are responsible for compliance with this Article. The property owner and lessee shall ensure the safety of pedestrians and access of emergency vehicles to and around the site. Failure to do so may result in the property owner or lessee being party to enforcement actions or penalties allowed by state law and city code.

G. Mobile food units shall only conduct business each day during the hours listed in Section 3-4F-11.

3-4F-10: MOBILE FOOD BUSINESS IN ASSOCIATION WITH SPECIAL EVENTS OPEN TO THE PUBLIC:

A. All mobile food vendors conducting business as part of a special event held on city property shall be inspected by the fire department prior to the start of the event. If a mobile food vendor is only conducting business at the special event, the vendor is not required to obtain a mobile food

business license.

B. A mobile food business shall not operate on public or private property within two (2) city blocks of the perimeter of a special event, during the scheduled special event hours of operation, unless specifically included as part of said special event. For the purposes of this section, affected blocks are any city block or portion thereof for which the special event has reasonably designated as its perimeter.

C. A mobile food business shall only conduct business within the hours the special event occurs each day.

3-4F-11: HOURS OF SALE:

Sales each day shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. A mobile food business may vend outside of these hours only if conducting business in conjunction with a special event open to the public.

3-4F-12: INSURANCE:

A. All mobile food businesses shall provide proof of and maintain current commercial general liability insurance having a minimum combined single limit of \$1,000,000.00. Current auto insurance must be listed on the certificate if operating a motor vehicle. If the Licensee employs persons within the City, Workers' Compensation coverage of no less than the statutory requirement. A certificate of insurance shall be delivered to the city clerk prior to the issuance of a license. The certificate of insurance shall list the City of Waterloo and its elected and appointed officials, officers, employees, and agents as named additional insureds on a primary and non-contributory basis, including a waiver of subrogation in favor of City, against any liabilities that may arise in connection with the operation of the mobile food business.

B. Apart from and separate from any insurance required under this section, the mobile food businesses shall agree in writing to indemnify, defend, and hold the City of Waterloo and its assignees and employees harmless from all losses, damages, injuries, claims, demands, and expenses in a manner resulting from or arising out of the licensed operation of the mobile food businesses.

3-4F-13: MUSIC, LIGHT, AND SOUND MAKING DEVICES:

The use of music, bright flashing light, or sound making devices, including loud speakers or amplifiers, is prohibited.

3-4F-14: LITTER:

A mobile food business shall be responsible for keeping their area free of trash or litter, and collecting and removing daily all garbage, litter, and other debris in its immediate vicinity. The mobile food business shall provide and maintain adequate trash receptacles.

3-4F-15: APPEAL:

A person may appeal a decision of the city clerk to deny an application by filing a written appeal to the office of the city clerk within fourteen (14) days of the date of the decision. An administrative fee of fifty dollars (\$50.00) shall be paid at the time the appeal is filed. Failure to file the appeal and pay the administrative fee shall constitute a waiver of the right to a hearing, and the denial shall thereupon become final. If the written appeal and administrative fee are filed in conformance with this section, a hearing shall be scheduled and conducted pursuant to 3-4F-16(B).

3-4F-16: DENIAL, SUSPENSION, OR REVOCATION OF LICENSE:

A. Any license issued under the provisions of this chapter may be denied, suspended, or revoked by the city clerk as follows:

1. Violation of any provision of this Article, any other section of this Code, or has otherwise conducted business in an unlawful manner.
2. Fraud, misrepresentation, or false statements made in securing a license and made in the course of the applicant's business.
3. Failure to cooperate with all reasonable requests of any official of the city.
4. A licensee or employee of a licensee selling any unwholesome or tainted food or food products.
5. A licensee or employee of the licensee shall not commit acts of violence, harass, intimidate, coerce, or threaten any individual while conducting business.
6. Failure of any licensee to maintain the appropriate insurance, or county, state, and federal licenses and permits, during the term of the license.
7. Failure to pass a background investigation or inspection listed in Section 3-4F-4.
8. Failure to pay on time any fee owed to the city.
9. Creating a public safety nuisance by generating three police calls or more to the mobile food business during the duration of the license.
10. Operating on city-owned property without permission.

B. Upon receipt of information alleging grounds exist to suspend or revoke a mobile food business license, or a written appeal and administrative fee have been received at the office of the city clerk, the city clerk shall cause a notice to be sent by ordinary mail to the applicant or licensee at the address noted in the application. Said notice shall state that a hearing has been set before the city council not more than thirty (30) days from the date of the notice. The notice shall include the reason and grounds for the hearing, the date and time of the hearing, and the place where the hearing will be conducted. Upon such hearing, if the city council determines that one or more of such grounds do exist, it may suspend or revoke an existing license or uphold a decision to deny a license. A suspension shall constitute a minimum period of fourteen (14) calendar days from the date of the hearing, during which period the licensee may not conduct any business. In the event such license is revoked, no mobile food business license shall be issued to the licensee for a period of one calendar year from the date of the revocation.

3-4F-17: PENALTY:

Any person who violates any of the provisions of this article shall be guilty of a municipal infraction and fined as provided in subsection 1-3-2 of this code. The provisions of this chapter relating to Sections 3-4F-8, 3-4F-9, 3-4F-10, and 3-4F-11 shall apply to all mobile food vendors whether or not they are a licensed mobile food business.

Section 2. That this ordinance shall be in full force and effect on January 3, 2022. Any business that meets the definition of a Mobile Food Businesses may operate within the City of Waterloo without a Mobile Food Business license or a Transient Merchant license until the effective date of this ordinance.

INTRODUCED: _____, 2021
PASSED 1st CONSIDERATION: _____, 2021
PASSED 2nd CONSIDERATION: _____, 2021
PASSED 3rd CONSIDERATION: _____, 2021

PASSED AND ADOPTED this _____ day of _____ 2021.

Quentin Hart, Mayor

ATTEST:

Kelley Felchle
City Clerk