

ORDINANCE 061521-2

ADDING AN ORDINANCE TO THE CITY OF HARTFORD, IOWA

BY ADDING CHAPTER 124 MOBILE FOOD VENDORS

BE IT ENACTED by the City Council of the City of HARTFORD, Iowa:

SECTION 1. The Code of Ordinances of the City of HARTFORD, Iowa, is adding Chapter 124 entitled MOBILE FOOD VENDORS which is hereby adopted and effective on _____, __, 2021 to read as follows:

CHAPTER 124

MOBILE FOOD VENDORS

124.01 Definition

124.02 Mobile Food Units

124.03 Unlawful Acts

124.04 Suspension or Revocation of License

124.05 Penalty

124.06 License / Inspection Fee Schedule

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

124.02 MOBILE FOOD UNITS.

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 temporary or mobile facility within the corporate limits of the city of Hartford, Iowa 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 April 15 each year and must be renewed prior to the first event after that date.
- 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 of Hartford, Iowa 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:
 - (1) Catering businesses.
 - (2) Grilling and food preparation activities of brick and mortar establishments on the establishment's premises for immediate consumption by patrons or employees.
 - (3) 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.

2. License/Inspection Fee(s). At the time of the submittal of a license application, the applicant shall pay to the City Clerk the applicable license fee in addition to any applicable inspection fee(s).

A. The amount of the license and applicable inspections fee(s) shall be as outlined in 124.06, this section 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 Unit Licensing Application.

A. Filing. Application requests shall be filed with the city clerk. 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 appropriate fees.

B. Timely Submittal. Unless otherwise provided herein, applications must be submitted not less than ten (10) calendar days prior to the proposed start date of the mobile food unit activities. The city reserves the right to reject any applications that have not been timely submitted to the city.

C. Applicant's Responsibility. Receiving approval of a mobile food unit license from the City 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.

D. Application Contents: Application shall be made on a form provided by the city and shall include:

(1) Full name of the applicant.

(2) Applicant's contact information including mailing address, phone numbers and e-mail address.

(3) State health inspection certificate with the classification level of the state license.

(4) Description of the kitchen facilities, cooking facilities, preparation area, safety features (such as, but not limited to, suppression system) of the mobile food unit.

(5) Photographs of the mobile food unit from the front, side and back.

(6) Make, model and year of vehicle to be used and the license plate number.

(7) Overall size of the vehicle; length and width.

(8) Copy of City of Hartford fire department inspection certificate or Polk County Iowa fire department inspection certificate.

(9) Fee.

E. Applications Deemed Withdrawn. Any application received shall be deemed withdrawn if it has been held in abeyance, awaiting the submittal of additional requested information from the applicant, and if the applicant has not communicated in writing with the City and made reasonable progress within thirty (30) days from the last written notification from the City to the applicant. The application fee is nonrefundable. Any application deemed withdrawn shall require submission of a new application and fees to begin a new review and approval process.

G. Issuance of License. Upon completion of the review process and a determination of compliance with the applicable regulations, the City Clerk will issue a mobile food unit license.

H. 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 fire inspection shall be required.

4. Mobile Food Units on Public Property. No mobile food unit may be operated on public property except as part of an approved event under a public property special event permit issued by the City Clerk's office or as authorized by the Public Works or their designee, within a city park or greenway. Requests for authorization to vend within a city park or greenway (not as part of a City permitted public property special event) may be submitted no less than five (5) days prior to the requested day of vending.

5. 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 (contiguous) day, City permitted, public property 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.

6. Music And Sound Making Devices. The use of music or sound making devices as a part of a mobile food unit shall be prohibited, unless expressly allowed as part of an approved event.

7. 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 imposable 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 that are within three hundred feet (300') of a residential use or residentially zoned property, shall be limited to hours of operation between seven o'clock (7:00) A.M. and ten thirty o'clock (10:30) P.M.

E. A mobile food unit operating on nonresidential property (excluding those operating as part of City permitted "public property special event") may only do so during the usual posted business hours of the consenting business(es) of the property the mobile food unit is utilizing or during the posted hours of the City park being utilized. Mobile food units may enter a nonresidential property in order to set up to conduct business up to one-half (1/2) hour (30 minutes) prior to the usual posted opening time of the corresponding business or City park and must depart from the property no later than one-half (1/2) hour (30 minutes) after the usual posted closing time of the

corresponding business or City park. In the case of operating a mobile food unit on nonresidential property where the corresponding business(es) does not have usual posted business operating hours or operates on a twenty-four (24) hour type basis, the mobile food unit may not remain on the premises for longer than eighteen (18) hours and must depart for at least six (6) hours before reentering unless operating under an approved public property special event permit.

F. A mobile food unit operating on nonresidential property as part of a City permitted public property special event may only do so during the granted time period for the event

G. Mobile food units must maintain a minimum separation between units of fifteen feet (15').

H. Mobile food unit operation is not a generally acceptable use of a nonresidential parking lot and may only be allowed if doing so does not diminish the usable number of parking spots within the lot to below the minimum threshold needed as established by the City site plan for the property. It is the joint responsibility of the property owner or lessee and mobile food unit owner to ensure that this provision is not violated.

Exceptions to this rule may be applied for by way of a City approved temporary site plan amendment.

I. Mobile food units shall serve patrons which are on foot only; no drive-up service to the unit itself shall be provided or allowed.

J. The mobile food unit must be located on a paved surface, unless approved as part of a public property special event permit or through a temporary site plan amendment.

K. No mobile food unit may be located on a vacant property or lot with a vacant building. Exceptions to this rule may be granted by City staff after a review of the particular property and the vendor has been able to make arrangements to ensure safe and sanitary conditions. This would include, but is not limited to: employee access to restrooms, adequate access for fire and police personnel/vehicles, and that the site in general is free from hazards or dangerous conditions.

L. No mobile food unit may operate within one hundred feet (100') of a permanent restaurant or business offering food or beverage services unless they receive expressed written consent of the restaurant or business owner.

M. All mobile food units shall maintain a minimum separation from buildings, five feet (5') for State IA class I and II units and fifteen feet (15') for State IA class III and IV units, as measured to the closest building element including awnings or canopies, tents or membrane structures. Location of the food unit shall not impede pedestrians entering or exiting a building.

N. The window or area where a patron orders and receives their purchase shall be located so as to not require a patron to stand, or create a line that may cause pedestrians to be in the public right of way, vehicle travel lane, including parking lot drive aisles, or similar situation that may create a potential safety hazard. Adequate safe space for patrons waiting for their order must be available on the property where the mobile food unit is located.

O. With the exception of pushcarts as allowed herein, no mobile food unit shall be placed on a public or private sidewalk. Pushcarts may locate on or adjacent to a private

sidewalk or public sidewalk only as part of an approved public property special event permit. However, a minimum forty-eight inch (48") open walkway must be maintained for passing pedestrians. The placement of the pushcart shall be in such a manner so as to minimize encroachment into the forty-eight inch (48") walkway by patrons waiting in line for service from the pushcart.

P. 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. No freestanding signs, banners, flags, or similar items are allowed. Off premises signs directing patrons to the mobile food unit are prohibited.

Q. During business hours, the mobile food vendor shall provide a trash receptacle for use by customers.

R. The mobile food vendor shall keep the area around the mobile food unit clear of litter and debris at all times.

S. 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.

8. 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.

124.03 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.

124.04 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 or Clerk's designee may suspend or revoke any license issued under this chapter, for any of, but not limited to, the following reasons:

(1) The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.

(2) The licensee has violated this chapter or any other chapter of this code or has otherwise conducted his/her business in an unlawful manner.

(3) The licensee has conducted his/her business in such manner as to endanger the public welfare, safety, order, or morals.

(4) The City Clerk has received and investigated three (3) or more found complaints during the licensed period related to the manner in which the licensee is conducting business.

B. Notice of Suspension or Revocation; Right to Appeal. The 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 of Huxley. 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. 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.

124.05 PENALTY. Unless another penalty is expressly provided by this chapter for any particular provision or section, violations of this chapter are simple misdemeanors subject to a fine of not more than five hundred dollars (\$500.00) 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 and 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.

124.06 License / Inspection Fee Schedule

Fees for Calendar Year 2021:

Single Day - \$20

Annual Permit - \$100

SECTION 3: 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 4: WHEN EFFECTIVE. This ordinance shall be in effect on ____, ____, 2021 and after its final passage, approval, and publication as provided by law.

Passed and Approved by the Council on the ____ day of, _____.

Kandi S. Petry, Mayor

ATTEST:

City Clerk

1st Reading –

Motion by Council Member _____, seconded Council Member _____, to approve the second reading of Ordinance NO. 061521-2

AYES: -

NAYS: -

ABSENT: -

2nd Reading –

Motion by Council Member _____, seconded Council Member _____, to approve the second reading of Ordinance NO. 061521-2

AYES: -

NAYS: -

ABSENT: -

3rd Reading –

Motion by Council Member _____, seconded Council Member _____, to approve the second reading of Ordinance NO. 061521-2

AYES: -

NAYS: -

ABSENT: -

The Mayor declared Ordinance No. 061521-2 Chapter 124 was passed on _____.

I certify that the foregoing was published as Ordinance No. 061521-2 Chapter 124 on _____ the day of _____, 2021.

City Clerk