

## ORDINANCE 2020-06

### AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF PEOSTA BY THE ADDITION OF TITLE III, CHAPTER 8, MOBILE FOOD VENDORS

Be it enacted by the City Council of the City of Peosta, Iowa that the Peosta Code of Ordinances is amended as follows:

**SECTION 1.** The Code of Ordinances of the City of Peosta, Iowa, is amended by adding a new Chapter 8 to Title III Community Protection, entitled **MOBILE FOOD VENDORS**, which is hereby adopted to read as follows:

#### CHAPTER 8 MOBILE FOOD VENDORS

3-8-1 Definitions	3-8-5 Property Owner/Lessee Responsibility
3-8-2 Mobile Food Unit Permit Required	3-8-6 Permit Fees
3-8-3 Mobile Food Unit Licensing Application	3-8-7 Compliance with the Law
3-8-4 Mobile Food Vendor Locations	3-8-8 Suspension or Revocation of Permit

#### 3-8-1 DEFINITIONS.

1. "Mobile food vendor:" a person engaged in the business of selling food or beverages from a mobile food unit (self-contained motorized vehicle, trailer or pushcart).
2. "Pushcart:" a pushcart is a non-motorized vehicle with dimensions not exceeding 4 feet in width and 8 feet in length and 8 feet in height and being capable of being moved and kept under control by one person traveling on foot.

**3-8-2 MOBILE FOOD UNIT PERMIT REQUIRED.** It shall be unlawful for any person to engage in the sale of food or beverages from a mobile food unit without first obtaining a mobile food unit permit. A mobile food unit permit issued by the City Clerk or the City Clerk's designee shall be subject to the following:

1. A mobile food unit permit is an annual permit that expires on December 31<sup>st</sup> each year.
2. Each mobile food unit shall be permitted separately. No permit transfer is allowed.
3. Each mobile food unit shall comply with State of Iowa inspection requirements and display its state permit in full view of the public in or on the unit.
4. Each mobile food unit shall have working fire suppression capabilities.

5. Exempt. Vendors that are permitted through Peosta Economic Development Corporation or other non-profit, community organization in conjunction with community special events shall be exempt from the requirements of this section.

### 3-8-3 MOBILE FOOD UNIT LICENSING APPLICATION.

1. Filing. Application requests shall be filed with City Hall. No application request shall be accepted for filing and processing unless it conforms to the requirements of this chapter. This would include a complete and true application, all of the required materials and information prescribed, and is accompanied by the required fees.

2. Timely Submittal. Unless otherwise provided herein, applications must be submitted not less than seven (7) 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.

3. Application Contents. Application shall be made on a form provided by the City and shall include:

- A. Full name of the applicant.
- B. Applicant's contact information including mailing address, phone numbers, photo identification and e-mail address.
- C. Photographs of the mobile food unit from the front, side and back.
- D. Make, model, and year of the vehicle to be used and the permit plate number (if required).
- E. Proof of food service permit, safety certificate and inspection reports.
- F. Liability Insurance Certificate
- G. Sales Tax Permit

4. Right to Appeal. Any applicant whose application for permit was disapproved may appeal to the City Council at its next regularly scheduled meeting by filing with the City Clerk or the City Clerk's designee a written request for an appeal to the City Council at least seven (7) days prior to the meeting. As a result of this appeal, the City Council may affirm, modify or reverse the decision of the Clerk not to issue the permit. If the application for permit is denied, the applicant is not eligible for the issuance of a permit under this chapter for a period of one year from the date of notification that the permit application was disapproved.

5. 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 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.

6. Issuance of Permit. Upon completion of the review process and a determination of compliance with the applicable regulations, the City Clerk or the City Clerk's designee will issue a mobile food unit permit.

#### 3-8-4 MOBILE FOOD VENDOR LOCATIONS.

1. Mobile Food Units on Public Property. A mobile food unit (non-pushcart) may be parked on public property or street (on a non-residential side) as approved in the licensing application. Mobile food units may not park within a City park or property without written consent from the City. Mobile units also are prohibited from parking within 100 feet of any façade or outdoor seating of a ground level establishment that sells prepared food or beverages (this only applies from one hour before the establishment's opening to an hour after closing) without approval from the food establishment owner.

2. Pushcarts are permitted to operate within City parks as well as private property (with property owner approval). Request for authorization to vend within a City park shall be submitted no less than five (5) days and no more than fifteen (15) days prior to the requested day of vending.

3. 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 permit revocation, towing, or any other action legally allowed.

4. 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.

5. 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 or from the City if a pushcart on public property. 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 permit in full view of the public in or on the unit.

C. 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 nine o'clock (9:00) p.m.

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

E. The mobile food unit (non-pushcart) must be located on a paved or rocked surface.

F. 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 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.

G. All mobile food units shall maintain a minimum separation from buildings of ten feet 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.

H. 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.

I. 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 projected 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 unless expressly approved through permitting process.

J. During business hours, the mobile food vendor shall provide a trash receptacle for use by customers and shall keep the area around the mobile food unit clear of litter and debris at all times.

K. 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.

**3-8-5 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 a party to any enforcement actions or penalties allowed by law.

**3-8-6 PERMIT FEES.** At the time of the submittal of a permit application, the applicant shall pay to the City the applicable permit fee in addition to any applicable inspection fee(s). The fee schedule will be set by resolution and may be modified from time to time with approval by resolution of the City Council.

Any vendor who surrenders their permit prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

**3-8-7 COMPLIANCE WITH THE LAW.** Each mobile food unit vendor shall comply with all applicable federal, state, and local laws, regulations, and rules.

**3-8-8 SUSPENSION OR REVOCATION OF PERMIT.** Any permit issued under the provisions of this chapter may be suspended or revoked by the City as follows:

1. Grounds. The City Administrator or the City's designee may suspend or revoke any permit issued under this chapter, for any of, but not limited to, the following reasons:
  - A. The vendor has made fraudulent statements in his/her application for the permit or in the conduct of his/her business.
  - B. The vendor has violated this chapter or any other chapter of this Code or has otherwise conducted his/her business in an unlawful manner.
  - C. The vendor has conducted his/her business in such manner as to endanger the public welfare, safety, order, or morals.
  - D. The City Administrator or City's designee has received and investigated three (3) or more found complaints during the vendor period related to the manner in which the vendor is conducting business.
2. Notice of Suspension or Revocation; Right to Appeal: The City shall cause notice of the permit revocation to be served in person by a City official or by mail to the vendor's local address, which notice shall specify the reason(s) for such action, at which time operations of the vendor must cease within the corporate limits of the City of Peosta. The vendor may appeal the revocation of the permit to the City Council at its next regularly scheduled meeting by filing with the City Clerk or the City Clerk's designee 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 City Administrator or the City's designee to revoke such permit. If a permit is revoked, no refund of any permit fee paid shall be made. Upon the revocation of a permit, the vendor is not eligible for the issuance of a new permit under this chapter for a period of one year from the date the permit revocation.

**SECTION 2. SEVERABILITY CLAUSE.** Should any section or provision of this ordinance be declared by the court to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared to be invalid or unconstitutional.

**SECTION 3. REPEAL OF CONFLICTING ORDINANCES.** All ordinances or parts of ordinances in conflict with this ordinance, or inconsistent with the provisions of this ordinance, are hereby repealed to the extent necessary to give this ordinance full force and effect.

**SECTION 4. EFFECTIVE DATE.** This ordinance shall become effective after its final passage, approval and posting as provided by law.

**PASSED, APPROVED AND ADOPTED** by the Council of the City of Peosta, Iowa this 24th day of November, 2020


  
James Merten, Mayor

Attest:

  
Karen Snyder, City Clerk

First Reading:           October 27, 2020  
Second Reading:       November 10, 2020  
Third Reading:         November 24, 2020

I hereby certify that the above Ordinance Number 2020-02 was posted at Peosta City Hall, Peosta Post Office and the Dubuque County Library/NICC-Peosta Branch on November 30, 2020.

  
Karen Snyder, City Clerk