

ORDINANCE NO. 1024 (2021/2022)

**AN ORDINANCE AMENDING THE CITY CODE OF NEVADA, IOWA, BY ADDING
CHAPTER 48 (MOBILE FOOD VENDORS)**

WHEREAS, the City of Nevada (the "City") desires to establish minimum regulations regarding the person engaged in the business of selling food and beverages from a mobile food unit (self-contained motorized vehicle, trailer or pushcart); and

WHEREAS, the City establishes Chapter 48 of the Code of Ordinances of the City of Nevada, Iowa, for any person to engage in the sale of food or beverages from a mobile food unit; and

WHEREAS, the City deems it to be in the best interest of the City, in order to promote and protect the public health, safety, morals and general welfare of the citizens of the City of Nevada, to adopt new municipal code chapter 48.

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

SECTION 1. ADD NEW CHAPTER 48 (MOBILE FOOD VENDORS). The Code of Ordinances of the City of Nevada, Iowa, is amended by adding new Chapter 48 Mobile Food Vendors Code, as follows:

CHAPTER 48: MOBILE FOOD VENDORS

48.01 DEFINITION. *"Mobile food vendor" means a person engaged in the business of selling food or beverages from a mobile food unit (self-contained motorized vehicle, trailer or pushcart).*

48.02 MOBILE FOOD UNIT LICENSE 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 establishment license from the State of Iowa in accordance with Iowa Code Chapter 137F. Each mobile food unit shall comply with Story County and State of Iowa inspection requirements and display State license in full view of the public in or on the unit.*

48.03 FIRE DEPARTMENT INSPECTION. *In addition to the State-issued license, it shall be unlawful for any person to engage in the sale of food or beverages from a mobile food unit without first passing an inspection from the City Fire Department, as follows:*

- A. All mobile food units that have cooking facilities shall be inspected by the Fire Department prior to initiation of business operations within the City.*
- B. All mobile food units inspected must comply with the provisions of the International Fire Code, 2021 Edition, Section 319, as amended.*
- C. Each mobile food unit shall have a working fire suppression system, where required.*
- D. Inspections are required annually. It shall be the obligation of the mobile food vendor to schedule the inspection with the Fire Department.*
- E. The cost of the fire department inspection shall be set by resolution of the City Council.*
- F. Upon completion of the annual fire inspection, if the Fire Department determines that the mobile food unit passes the inspection, the Fire Chief shall issue a Certificate of Compliance and identify any conditions for operation as deemed appropriate as a result of said inspection.*

48.04 INSPECTION PROCEDURE

- A. Request. The request for inspection shall be filed with the Fire Department.*
- B. Timely Submitted. Unless otherwise provided herein, requests for inspection 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 requests that have not been timely submitted to the City. The Fire Chief shall have the discretionary right to process any request for an inspection made less than 10 calendar days prior to the desired start date.*

C. *Request Contents. The request for inspection shall be made on a form provided by the City and shall include:*

1. *Full name of the vendor.*
2. *Vendor'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 identified.*
4. *Description of the kitchen facilities, cooking facilities, preparation area, safety features (fire suppression system, etc.) 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; to include length, width, and height.*
8. *Map of location where the vendor will operate the mobile food unit.*
9. *Hours of operation for the mobile food unit, as allowed within the standards set forth in this code section.*
10. *Inspection fees.*

D. *Issuance of Certificate of Compliance. Upon completion of the Fire Department inspection and determination of compliance with the applicable regulations, the Fire Department will issue a Certificate of Compliance. The Certificate of Compliance shall be displayed next to the State license in full view of the public in or on the unit.*

E. *Modification of Certificate of Compliance After Issuance. Should the mobile food vendor change, repair or remodel the kitchen facilities, cooking facilities, preparation area or safety features of the mobile food unit during the term of the Certificate of Compliance, a new fire inspection shall be required.*

Right to Appeal: If the Fire Chief revokes or refuses to issue a Certificate of Compliance, a vendor may appeal to the City Council at its next regularly scheduled meeting by filing with the City Clerk 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 Fire Chief not to issue the Certificate of Compliance.

48.05 **PERFORMANCE STANDARDS.**

- A. *Mobile food unit(s) are allowed to be operated on public property only if approved by the City.*
- B. *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 approval. Any mobile food unit found unattended shall be considered in violation of these regulations and subject to certificate revocation, towing, or any other action legally allowed.*
- C. *Music and Sound Making Devices. The use of music or sound making devices as a part of mobile food unit shall be prohibited, unless expressly allowed as part of an approved event.*
- D. *Persons conducting business from a mobile food unit must do so in compliance with the following standards:*
 1. *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, which consent must include the dates and times of operation as well as contact information for the property owner. 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 impossible regulations.*
 2. *No mobile food unit may be located on a vacant lot or lot with a vacant building.*
 3. *The operator of the mobile food unit shall display their state license and City Certificate of Compliance in full view of the public in or on the unit.*
 4. *Mobile food shall be limited to the hours of operation between eight o'clock (8:00) A.M. and ten o'clock (10:00) P.M., unless otherwise approved by the City.*
 5. *Mobile food units shall serve patrons which are on foot only; no drive-up service to the unit itself shall be provided or allowed.*

6. *The mobile food unit must be located on a paved or rocked surface, unless approved as part of an event permit.*
7. *Mobile food units shall be located on property that is zoned URBAN CORRIDOR (UC), DOWNTOWN COMMERCIAL (DC), GENERAL COMMERCIAL (GC), GENERAL INDUSTRIAL (GI), LIMITED INDUSTRIAL (LI), and LIMITED COMMERCIAL (LC).*
8. *All mobile food units shall maintain a minimum separation from buildings of fifteen feet as measured to the closest building element including awnings or canopies, tents or membrane structures. Location of food unit shall not impede pedestrians entering or exiting a building.*
9. *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.*
10. *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. One temporary freestanding business identification sign of 16 square feet or less is permitted. Such a sign shall only be permitted during the time the mobile unit is operating. Off premises signs directing patrons to the mobile food unit are prohibited.*
11. *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.*
12. *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.*

48.06 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.*

48.07 INSPECTION FEES. *At the time of submittal of the request for inspection, the vendor shall pay to the City the applicable inspection fee. The fee schedule will be set by resolution and may be modified from time to time with approval by resolution of the City Council.*

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

48.09 SUSPENSION OR REVOCATION OF CERTIFICATE OF COMPLIANCE. *Any Certificate of Compliance issued under the provisions of this chapter may be suspended or revoked by the City as follows:*

A. Grounds. The Fire Chief may suspend or revoke any Certificate of Compliance issued under this chapter, for any of, but not limited to, the following reasons:

- 1. The vendor has violated this chapter or any other chapter of this code or has otherwise conducted his/her business in an unlawful manner.*
- 2. The vendor has conducted his/her business in such manner as to endanger the public welfare, safety, order or morals.*
- 3. The Fire Chief has received and investigated three (3) or more found complaints during the certificate term related to the manner in which the vendor is conducting business.*

B. Emergency Revocation. The Fire Chief may suspend or revoke any Certificate of Compliance immediately, upon oral notification to the operator of the mobile food unit, in the event the mobile food unit is creating a danger to the public health or safety. In such event, the vendor shall immediately cease operations. The Fire Chief will cause the notice of revocation to be

served in person by a city official or by mail to the vendor's local address within twenty-four (24) hours.

- C. *Notice of Suspension or Revocation; Right to Appeal. The Fire Chief shall cause notice of the certificate 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 Nevada. The vendor may appeal the revocation of the certificate to the City Council at its next regularly scheduled meeting by filing with the City 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 Fire Chief to revoke such certificate. If a certificate is revoked, no refund of any inspection fee paid shall be made. Upon the revocation of a certificate, the vendor is not eligible for the issuance of a new certificate under this chapter for a period of one year from the date the certificate revocation is served in person or deposited in the U.S. mail.*

48.10 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 \$625.00 or may be punishable as municipal infractions subject to a civil penalty as set forth in this Code of Ordinances. Each day a municipal infraction occurs and/or is permitted to exist constitutes a separate offense. Police officers and code enforcement officers 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.*

SECTION 2. REPEALER. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

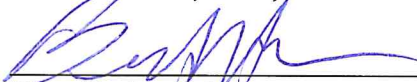
SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be effect from and after its final passage, approval and publication as provided by law.

Passed First Reading by the City Council of Nevada, Iowa, 28th day of March, 2022.

Passed Second Reading by the City Council of Nevada, Iowa, the 11th day of April, 2022.

PASSED AND ENACTED by the City Council of Nevada, Iowa, the 25th day of April, 2022.


Brett Barker, Mayor

ATTEST:


Kerin Wright, City Clerk

1st Reading – March 28, 2022

Motion by Council Member Brian Hanson, seconded by Council Member Steve Skaggs, first reading of Ordinance No. 1023 (2021/2022).

AYES: Hanson, Skaggs, Ehrig, Mittman, Nealson, Sampson

NAYS: None

ABSENT: None

2nd Reading – April 11, 2022

Motion by Council Member Dane Nealson, seconded Council Member Jason Sampson, to approve the second reading of Ordinance No. 1023 (2021/2022).

AYES: Nealson, Sampson, Skaggs, Ehrig, Hanson, Mittman
NAYS: None
ABSENT: None

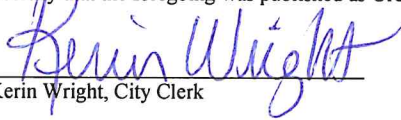
3rd Reading – April 25, 2022

Motion by Council Member Dane Nealson, seconded by Council Member Jason Sampson, to approve the third reading of Ordinance No. 1023 (2021/2022)

AYES: Nealson, Sampson, Skaggs, Ehrig, Hanson, Mittman
NAYS: None
ABSENT: None

The Mayor declared Ordinance No. 1023 (2021/2022) was passed on April 25, 2022.

I certify that the foregoing was published as Ordinance No. 1023 (2021/2022) on the 25th day of April, 2022.


Kerin Wright, City Clerk

Kerin Wright

From: Kerin Wright
Sent: Wednesday, April 27, 2022 12:21 PM
To: Legals to Ames Tribune
Cc: Kerin Wright
Subject: 1024-New, Chapter 48, Mobile Food Vend 5.5.22
Attachments: 1024-New, Chapter 48, Mobile Food Vend 5.5.22.docx

Please publish the attached Ordinance in the Nevada Journal on May 5th.
Thank you.

Kerin Wright
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