

## ORDINANCE NO. 1156

### AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF WASHINGTON, IOWA, BY AMENDING CHAPTER 130 PUBLIC SALE OF FOOD AND BEVERAGES FROM MOBILE FOOD VENDORS IN CITY LIMITS

BE IT ORDAINED, by the City Council that the Code of Ordinances of the City of Washington, Iowa, be amended as follows:

SECTION 1. The Ordinance shall be amended to update the 130.01 Purpose to include “and the cooking of any food emitting smoke or grease laden vapors inside a mobile food unit...”

SECTION 2. The Ordinance shall be amended to add the definition of a Mobile Food Unit as a vehicle that contains cooking equipment that produces smoke or grease laden vapors for the purpose of preparing and serving food to the public.

SECTION 3. The Ordinance shall be amended in 130.03A to state that mobile food unit licenses are available as a daily license or an annual license that is valid for one year from the date of issuance and must be renewed prior to the first sale after that date.

SECTION 3. The Ordinance shall be amended to further outline the Fire Safety Inspection Process, as outlined in 130.03E in attachment Exhibit A.

SECTION 4. The Ordinance shall be amended to add 130.03F(5) Exempt. The following shall be exempt from the licensing and fire department inspection requirement:

1. Seasonal food stands selling only local fresh produce.
2. Vendors participating in the City-approved weekly Farmers Market.
3. Concession stands associated with sports or recreational venues that have been approved as part of a site plan.
4. Mobile Food Vendors part of a special event that has prior approval of the Council or the City Administrator.
5. Vendors participating in events at the Washington County Fairgrounds.
6. The following shall be exempt from fire safety inspections:
  - a. Mobile food units where no cooking will be taking place.
  - b. Mobile food units that do not have any gas appliances and/or piping.

SECTION 5. The Ordinance shall be amended to add 130.05 Performance Standards B.(11): Mobile food units with top mount hood exhaust vents shall not be set up under a tree or electrical lines unless a minimum of eight feet vertical clearance is achieved.

SECTION 6. **Repealer.** All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 7. **Effective Date.** This Ordinance shall be in effect after its final passage approval and publication as provided by law.

Passed and approved this 1<sup>st</sup> day of August, 2023.

  
Millie Youngquist, Mayor Pro Tem

ATTEST:

  
Sally Y. Hart, City Clerk

Approved on First Reading: July 5, 2023  
Approved on Second Reading: July 18, 2023  
Approved on Third & Final Reading: August 1, 2023

I certify that the foregoing was published as Ordinance No. on the 10<sup>th</sup> day of August, 2023.

  
Sally Y. Hart, City Clerk

## EXHIBIT A

### CHAPTER 130 PUBLIC SALE OF FOOD AND BEVERAGES FROM MOBILE FOOD VENDORS IN CITY LIMITS

130.01 Purpose

130.02 Definition

130.03 Mobile Food

License Required

130.04 License Application

130.05 Performance Standards

130.06 Property Owner/Lessee Responsibility

130.07 License Fees

130.08 Compliance with the Law

130.09 Suspension or Revocation of License

130.10 Penalty

#### **130.01 PURPOSE**

The purpose of this chapter is to provide rules, regulations and restrictions concerning the sale of any consumable food and beverage from a Mobile Food Vendor and the cooking of any food emitting smoke or grease laden vapors inside a mobile food unit within the Washington City limits. The provisions of this chapter are enacted for the protection of the health, safety, and welfare of the citizens of the City.

#### **130.02 DEFINITION**

“Mobile food vendor” means a person engaged in the business of selling food or beverages from a mobile food unit. “Mobile food unit” means a vehicle that contains cooking equipment that produces smoke or grease laden vapors for the purpose of preparing and serving food to the public.

#### **130.03 MOBILE FOOD LICENSE REQUIRED**

It shall be unlawful for any person to engage in the sale of food or beverages from a mobile food unit within City limits on private or public property without first obtaining a mobile food unit license. A mobile food unit license is a special license and is required in addition to any other required City business license or state license or permit the person may hold or be required to hold. A mobile food unit license issued by the City Clerk or the City Clerk's designee shall be subject to the following:

- A. A mobile food unit license is available as a daily license or an annual license that is valid for one year from the date of issuance and must be renewed prior to the first sale after that date.
- B. Each mobile food unit shall be licensed separately. No license transfer is

allowed.

- C. Each mobile food unit shall comply with Washington County and State of Iowa inspection requirements and display State license in full view of the public in or on the unit.
- D. Each mobile food unit shall have a working fire suppression system where the cooking of food emitting smoke or grease laden vapors takes place inside the unit, and within units equipped with gas piping and appliances, such mobile food units shall be subject to an annual approved fire department safety inspection.
- E. Fire Department Safety Inspection
  - 1. All mobile food units shall be inspected by the Fire Department prior to initiation of business operations within the City and shall follow this process:
    - a. An application has been submitted to the City Clerk.
    - b. Applicable fees have been paid.
    - c. The Fire Department has been contacted prior to any event and an inspection time and date has been scheduled with the fire inspection.
    - d. The inspection will take place and the Fire Chief or designee will sign inspection report and return to the City Clerk or designee.
    - e. City Clerk will review and approve or deny the full permit application to the vendor.
  - 2. All mobile food units requiring inspection must comply with the provisions of Section 319 of the 2018 International Fire Code or the International Fire Code most recently adopted by the Washington City Council.
  - 3. Inspections are required annually and prior to submittal of a license application by the City. It shall be the obligation of the mobile food vendor to schedule the inspection with the Fire Department. All Fire Safety inspection reports will be kept on file with the Fire Department and City Clerk.
  - 4. The cost of the fire department inspection shall be set by resolution of the City Council.
  - 5. Upon completion of the annual fire inspection, if the Fire Department determines that the mobile food unit passes the inspection, the Fire Chief shall sign the certificate of compliance on the mobile food vendor license application and identify any conditions for operation as deemed appropriate as a result of said inspection.

6. Mobile Food Vendors from outside of Washington County may have the required fire department inspection completed by a fire department other than the Washington Fire Department. The inspection shall be reported on the City of Washington's approved form and reviewed by the Washington Fire Chief or designee for approval or denial.

F. Exempt. The following shall be exempt from the licensing and fire department inspection requirement:

1. Seasonal food stands selling only local fresh produce.
2. Vendors participating in the City-approved weekly Farmers Market.
3. Concession stands associated with sports or recreational venues that have been approved as part of a site plan.
4. Mobile Food Vendors part of a special event that has prior approval of the Council or the City Administrator.
5. Vendors participating in events at the Washington County Fairgrounds.
6. The following shall be exempt from fire safety inspections:
  - a. Mobile food units where no cooking will be taking place.
  - b. Mobile food units that do not have any gas appliances and/or piping.

#### **130.04 LICENSE APPLICATION**

The application shall be on a form furnished by the City Clerk. All food vendors shall comply with the Iowa Department of Public Health rules and regulations governing the sale of food for consumption on the premises.

A. Filing: Applications 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 chapter. This would include a complete and true application, all of the required materials and information prescribed, when applicable, a Fire Safety Inspection Form with the signature of the Fire Chief and is accompanied by any required fees.

B. Timely Submitted: Unless otherwise provided herein, applications must be submitted not less than two (2) business 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. The Clerk shall have the discretionary right to accept an application made less than 2 business days prior to the desired start date.

C. 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 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. When applicable: Fire Chief certificate of compliance with the Fire Department's annual inspection.
9. Application and license fees.
10. Insurance certificate.

D. Issuance of License. Upon completion of the review process and determination of compliance with the applicable regulations, the City Clerk will issue a mobile food unit license. The license shall be placed in the upper left (passenger side) of the front windshield or the left front side of a trailer or cart to aid in the visual verification of the licensing for that year.

E. 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.

F. Right to Appeal: If the City Clerk revokes or refuses to issue a license, an applicant 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 clerk not to issue the license. If the application for license is denied, the applicant is not eligible for the issuance of a license under this chapter for a period of one year from the date of notification that the license application was disapproved, was served in person or deposited in U.S. mail.

G. 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.

#### **130.05 PERFORMANCE STANDARDS**

- A. Mobile food unit(s) are allowed to be operated on public property if approved by the City. Mobile units are prohibited from parking within 100 feet of any permanent building establishment that sells prepared food or beverages, this measure does not apply for mobile food vendors associated with special events

approved by the city council.

- B. 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. 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. The operator of the mobile food unit shall display their city license in full view of the public in or on the unit.
  3. Mobile food units shall serve patrons which are on foot only; no drive-up service to the unit itself shall be provided or allowed.
  4. The mobile food unit must be located on a paved or rocked surface, unless approved as part of an event permit.
  5. Mobile food units shall be located on property that is zoned B-1 Retail Business, B-2 General Business, C-1 Conservation, CCRC – Continuous Care Retirement Community, FG Fairground, I-1 Light Industrial, I-2 Heavy Industrial, or A-1 Agricultural.
  6. 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.
  7. 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.
  8. Off premises signs directing patrons to the mobile food unit are prohibited.
  9. 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.
  10. 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.

11. Mobile food units with top mount hood exhaust vents shall not be set up under a tree or electrical lines unless a minimum of eight feet vertical clearance is achieved.

### **130.06 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.

### **130.07 LICENSE FEES.**

At the time of submittal of a license application, the applicant shall pay to the city the applicable license 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 licensee who surrenders their license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

### **130.08 COMPLIANCE WITH THE LAW.**

Each Mobile Food Unit vendor shall comply with all applicable federal, state, and local laws, regulations and rules.

### **130.09 SUSPENSION OR REVOCATION OF LICENSE.**

Any license issued under the provisions of this chapter may be suspended or revoked by the city as follows:

- A. Grounds: The City Clerk 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 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 or the city clerk's designee 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 City Clerk 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 Washington. The licensee may appeal the revocation of the license 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 City 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.

**130.10 PENALTY.**

Unless another penalty is expressly provided by this chapter for any particular provision or section, violations of this chapter are municipal infractions subject to a fine of not more than \$750.00 for the first offense and \$1,000.00 for each additional offense, 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 a municipal infraction.