



AN ORDINANCE: By Public Services & Safety Comm.  
Re: Creating Chapter 4, Article XIII of the Code of Ordinances relating to creating a Mobile Food Vendor License.

ORDINANCE NO. 2013-12

Introduced: May 15, 2013

Committee/Commission Action:

**RECOMMENDED FOR PASSAGE**

## AN ORDINANCE

The Common Council of the City of Neenah, Wisconsin, do ordain as follows:

**Section 1.** Chapter 4, Article 13 of the Code of Ordinances of the City of Neenah, consisting of Sections 4-351 to 4-354, relating to mobile food vendor license is created to read as follows:

### ARTICLE XIII. MOBILE FOOD VENDORS

#### Sec. 4-351 Definitions

The following definitions apply to this article.

*Curbside:* on the sidewalk/pavement adjacent to the street that is bordered by a curb.

*Mobile Food Vending Vehicle:* a self-contained, motorized mobile food vehicle in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale or distribution, including ice cream, custard and other prepackaged frozen treats. Mobile food vehicles do not include vehicles that are used solely to transport or deliver food or a common carrier regulated by the state or federal government.

*Mobile Food Vendor:* the owner of a mobile food vending vehicle or cart, hereinafter referred to as "vendor".

*Mobile Food Vending Cart:* a pushcart or other device which is on wheels and of sufficiently lightweight construction that it can be moved from place to place and from which only food, including ice cream, custard and other prepackaged frozen treats, is sold.

#### Sec. 4-352 License Required; Application

- (a) It shall be unlawful for any person to do any of the following within a public right-of-way, or from private property open to the public, in the City of Neenah without first having obtained a valid mobile food vending license as prescribed in this article:

- (1) Operate a mobile food vending vehicle or cart;
  - (2) Serve, sell or distribute food from a mobile food vending vehicle or cart;
  - (3) Cook, wrap, package, process or portion food in a mobile food vending vehicle or cart for service, sale or distribution.
- (b) Any person desiring to operate a mobile food vending vehicle or cart shall make written application for a mobile food vending License to the City Clerk's office. The application shall be on the form provided by the City Clerk's office and shall include the following:
- (1) The name, signature, and address of each applicant and each member or officer of a corporate applicant.
  - (2) A description of the mobile food vending vehicle or cart, including the make, model, VIN number and license plate for mobile food vending vehicles.
  - (3) A valid copy of all necessary licenses, Licenses or certificates required by Winnebago County, the State of Wisconsin or any subsidiary enforcement agencies or departments thereof. The Winnebago County Health Department may honor food licenses received from a different jurisdiction, however reserves the right to perform its own inspection if warranted.
  - (4) A signed statement that the vendor shall hold harmless the City and its officers and employees, and shall indemnify the City, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the License. Vendor shall furnish and maintain such public liability insurance coverage of not less than \$1 million.
  - (5) Any additional information as deemed necessary by city staff.
  - (6) The City reserves the right to conduct a background check of the applicant.

**Sec. 4-353 License Fees and Conditions**

- (a) All mobile food vendors shall pay an annual license fee as established by the Common Council.
- (b) Licenses shall expire on June 30th of each year.
- (c) The license is not transferable from person to person or mobile vending vehicle or cart to mobile vending vehicle or cart.
- (d) Each mobile vending vehicle or cart shall be separately licensed.
- (e) The license must be permanently and prominently affixed to the mobile food vehicle or cart.
- (f) No more than six (6) licenses for mobile food vending vehicles and no more than three (3) Licenses for mobile food vending carts may be issued by the City in any one year within the Neenah Central City Business Improvement District (BID) boundaries. There is no limit to the number of Licenses that may be granted outside the BID boundaries.

**Sec. 4-354 Location Review and Regulations**

- (a) Mobile food vending vehicles shall be located so as to not: obstruct a public way, impair the movement of pedestrians or vehicles, or pose a hazard to public safety. Patrons may only be served from the curbside of said mobile food vehicle; service in the street is prohibited. For safety reasons, due to a high volume of pedestrian traffic, no person shall park, stop or operate a mobile food vending vehicle within the Neenah Central City BID in a public location other than those designated as 'Mobile Food Vending Vehicles Allowed' on the Mobile Food Vehicle Vendor Parking map on file in the Clerk's Office.

- (b) No person shall park, stop or operate a mobile food vending cart within the City of Neenah on a public sidewalk other than in those areas that maintain a minimum 6' wide clear area for safe and efficient flow of pedestrian traffic, and that maintain a distance of at least 100' from the nearest edge of any building comprising a licensed food establishment. Carts are not allowed to be located or serve in the street.
- (c) All mobile food vendors shall abide by all parking and traffic laws, ordinances, statutes, rules and regulations at all times. Vendors shall obey any lawful order of a police officer or other designated city official to move to a different permitted location to avoid congestion or obstruction of a public way or remove the vehicle or cart entirely from the public way if necessary to avoid such congestion or obstruction.
- (d) The City shall not regulate mobile food vehicle vending and carts in private parking lots so long as the property owner has granted permission and all required health licenses are valid. However, the host parking lot must remain in compliance with the zoning ordinance including off-street parking requirements for the host lot, and the mobile food vehicle or cart shall not block required drive aisles. Notwithstanding the foregoing, not more than one mobile food vending vehicle or mobile food vending cart shall be permitted per private parking lot.
- (e) A person with a valid driver's license of such a classification to allow the operation of the mobile food vehicle shall be with the vehicle at all times that any activity is taking place in the mobile food vehicle. The mobile food vehicle vendor is liable for any violation of this subsection.
- (f) No person shall park, stop or operate a mobile food vending vehicle or cart in a location within 500' of the boundary line of any property upon which a fair, farmer's market, festival, carnival, circus, parade route, special event or civic event licensed or sanctioned by the City is occurring, except when the vendor has obtained permission from the event sponsor. The mobile food vending vehicle or cart also shall not operate during or within the 2 hours before or after a scheduled, permitted event unless the vendor has obtained permission to do so from the event sponsor. Any individual or business shall be limited to one mobile food vending vehicle and one mobile food vending cart license within the BID boundaries in any one year.
- (g) Any power required for the mobile food vehicle located on a public way shall be self-contained and shall not use utilities drawn from the public right-of-way. No power cable or equipment shall be extended at grade across any city street, alley or sidewalk.
- (h) All signage must be permanently affixed to the mobile food vehicle or cart. No mobile food vehicle shall use external signage, bollards, seating or any other equipment not contained within the vehicle.
- (i) Hours of operation shall be limited to between 7:00 am and 3:00 am. No approved mobile food vehicle or cart shall be left unattended on a public way nor remain on a public way outside of these allowed hours of operation.
- (j) No mobile food vendor shall use or maintain any outside sound amplifying equipment, lights, or noisemakers such as bells, whistles, or horns while stationary.
- (k) Mobile Food Vendors are responsible for providing trash/refuse receptacles on-site and for removing such receptacles at the conclusion of sales from the mobile vending vehicle or cart. Trash or refuse from the mobile vendor's receptacles shall not be placed in any public or private trash receptacles, including dumpsters, unless owned or leased by the mobile vending vehicle or cart owner.
- (l) Mobile food vendors shall take every precaution to ensure that their operation does not materially affect the peace and welfare of the general public nor cause any unreasonably loud, disturbing, and/or unnecessary noise or any noise of such character, intensity and duration as to be detrimental to the life or health of any individual or which is in the disturbance of public peace and welfare.

- (m) Only one mobile vending vehicle or cart may be open for business at any time while in a privately owned parking lot, provided the mobile vending vehicle or cart has permission of the lot owner to locate on the private parking lot.

**Section 2. Severability.** In the event any section, subsection, clause, phrase or portion of this ordinance is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remainder of this ordinance. It is the legislative intent of the Common Council that this ordinance would have been adopted if such illegal provision had not been included or any illegal application had not been made.

**Section 3. Repeal and Effective Date.** All ordinances or parts of ordinances and resolutions in conflict herewith are hereby repealed. This ordinance shall take effect from and after its passage and publication.

Moved by: Ald. Hillstrom/Stevenson  
Adopted: May 15, 2013  
Approved: May 15, 2013  
Published: May 20, 2013

Approved:



George Scherck, Mayor

Attest:



Patricia A. Sturn, City Clerk

THIS INSTRUMENT WAS DRAFTED BY:  
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