

**ORDINANCE NO. 19-\_\_\_\_\_**

**AN ORDINANCE AMENDING  
TITLE 3 (BUSINESS AND LICENSE REGULATIONS)  
CHAPTER 7 (PEDDLERS AND SOLICITORS)  
OF THE NAPERVILLE MUNICIPAL CODE**

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS**, in exercise of its home rule authority, as follows:

**SECTION 1:** Title 3 (Business and License Regulations) Chapter 7 (Peddlers and Solicitors) of the Naperville Municipal Code is hereby repealed and replaced as follows:

**TITLE 3 (BUSINESS AND LICENSE REGULATIONS) CHAPTER 7 (SOLICITATION IN THE PUBLIC WAY)**

SECTION:

3-7-1: - PURPOSE:

This Chapter is narrowly tailored to the City of Naperville's legitimate interest in the health, safety, and welfare of the public, preventing fraud, the privacy of its residents, the prevention of crime, and conserving the Police Department's resources. This Chapter is intended to apply only to commercial activities and the solicitation of funds. This Chapter is expressly not intended to interfere with the exercise of free speech and free exercise rights protected by the first amendment (e.g., religious proselytizing, anonymous political speech, and the distribution of handbills).

(Ord. 09-041, 4-8-2009; Ord. No. 10-107, § 1, 8-17-2010)

3-7-2: - DEFINITIONS:

For the purpose of this Chapter, the following words as used herein shall be construed to have the following meanings:

DOWNTOWN FOOD VENDOR:	A person stationed at a food vending cart located at one (1) of two (2) eligible vending sites located within the downtown, selling for profit or offering for sale food items, and rendering immediate delivery. The vending cart shall not be a motorized vehicle and shall be prohibited from vending on a public street. Downtown food vendors shall serve as a separate and distinct vending operation from food vendors.
FOOD VENDOR:	Any person who travels within the City, excluding the downtown as

	defined by the City's Comprehensive Plans and not including downtown food vendors, by motorized vehicle as defined by the Illinois Vehicle Code, selling for profit or offering for sale any pre-packaged food items, and rendering immediate delivery.
<b>FOOD TRUCK:</b>	A motorized vehicle, as defined by the Illinois Vehicle Code, where food is prepared and cooked for public consumption at a fixed location.
<b>NONPROFIT PEDDLER/ SOLICITOR:</b>	Anyone engaging in peddling or soliciting on behalf of an entity that operates without a commercial objective or for the financial benefit of its shareholders or trustees and has been formed for charitable or educational reasons to benefit: 1) the public, 2) a specific group of individuals or 3) the membership of the nonprofit. Examples of nonprofit entities include: religious organizations, charitable organizations, political organizations, and membership clubs.
<b>PEDDLER:</b>	Any person who travels within the City of Naperville, by foot, vehicle or by other conveyance, selling or offering for sale any commodity or service, excluding food, and rendering immediate delivery. Nonprofit peddlers/solicitors, as defined in this Section, are excluded.
<b>RESIDENCE:</b>	Includes every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.
<b>SOLICITOR:</b>	Any person who takes orders or subscriptions, while traveling house to house or from place to place or along the streets, alleys, sidewalks within the City of Naperville, for future delivery of tangible personal property or services by a seller, regardless of whether or not such person collects payment for such property or services at the time of such transaction, but who does not make delivery of such property or perform such service at that time. Nonprofit peddlers/solicitors, as defined in this Section, are excluded.
<b>TAG DAYS:</b>	A day on which nonprofit peddlers/solicitors act as collectors for a charitable fund soliciting contributions, in public places, or at permitted intersections of the City of Naperville, giving each contributor a tag or other item as an evidence of having contributed.
<b>CENTRAL BUSINESS DISTRICT:</b>	The central business district is that area bounded by Eagle St. on the west, Benton Ave. on the north, Ellsworth St. on the east and Chicago Ave. on the south (east of Washington St.), and Aurora Ave. on the south (west of Washington St.) (Ord. 92-210, Ord. 09-041, 4-8-2009; Ord. No. 10-107, § 1, 8-17-2010; Ord. No. 10-143, § 1, 11-16-2010; Ord. No. 15-143, § 1, 9-1-2015)

3-7-3: - APPLICATION AND FEES:

Monthly Peddler/Solicitor	\$100	Expires every 30 days, per person including the issuance of one (1) ID badge (photo supplied by applicant).
Quarterly Peddler/Solicitor	\$300	Expires every 90 days, per person including the issuance of one (1) ID badge (photo supplied by applicant);
Food Vendor (Non-Downtown)	\$100	Annual permit fee per company including the issuance of one (1) ID badge (photo supplied by applicant).
Downtown Food Vendor	\$275	Annual permit fee per company of which two hundred and twenty-five dollars (\$225) shall be payable towards SSA 21/22 and fifty dollars (\$50) towards administrative costs, including the issuance of one (1) ID badge (photo supplied by applicant).
Food Vendor Additional ID Badge	\$50	For any additional food vendor application/background investigation ID badge (photo supplied by applicant).
Replacement Badge	\$20	Broken or lost badge fee.

(Ord. 09-041, 4-8-2009; Ord. No. 10-107, § 1, 8-17-2010; Ord. No. 10-143, § 1, 11-16-2010; Ord. No. 15-143, § 2, 9-1-2015)

3-7-4: - PEDDLER/SOLICITOR REGULATIONS:

It shall be unlawful for any person to engage in the business of peddler/solicitor in the City of Naperville without first making application to the City Clerk. No peddling/soliciting shall occur without the approval of the Naperville Police Department and the City Clerk and payment of the fees.

1. The Naperville Police Department will conduct a background investigation on all applicants.
2. No peddler/solicitor approval shall be issued to a person who is a registered sex offender as defined in the Sex Offender License Act.
3. Peddler/solicitor approval shall expire thirty (30) days from date of issue (excluding Sunday, state and federal holidays). Applicants may renew on a quarterly basis, expiring every ninety (90) days (excluding Sunday, state and federal holidays), provided they have had three (3) consecutive months in full compliance with the provisions of this section.

4. A photo ID badge issued by the City Clerk's office shall be worn on the outer layer of clothing at all times of the peddling/soliciting.
5. Any peddler/solicitor who has gained entrance to or who is on any premises, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.
6. It shall be unlawful and shall constitute a nuisance for any person whether licensed under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant and engage in peddling or soliciting before ten o'clock (10:00) a.m. or after seven o'clock (7:00) p.m. Monday through Saturday, and at any time on a Sunday or on a state or federal holiday.

3-7-5: - NOTICE REGULATING PEDDLING/SOLICITING:

1. Any occupant may restrict peddling/soliciting or limit the hours during which peddlers/solicitors are invited to his or her residence by posting that intention.
2. A weatherproof card, approximately three inches by four inches (3" x 4") in size, may be exhibited upon or near the main entrance door to the residence, indicating the determination of the occupant, as follows:

*NO SOLICITING  
OR PEDDLING PERMITTED  
ON PREMISES*

Such card, or similar sign, so exhibited shall constitute sufficient notice to any peddler/solicitor of the determination by the occupant of the residence.

3. It shall be the duty of every peddler/solicitor upon going onto any premises to first examine whether there is any notice such as provided in the above section. If the peddler/solicitor is approaching during a time when the resident has restricted peddling/soliciting by which such notice states, then the peddler/solicitor, whether approved or not, shall immediately and peacefully depart from the premises.

(Ord. 09-041, 4-8-2009; Ord. No. 10-107, § 1, 8-17-2010)

3-7-6: - EXEMPTIONS:

All nonprofit peddlers/solicitors and any group deemed appropriate by the City Clerk are exempt from the provisions of this Chapter.

(Ord. 09-041, 4-8-2009; Ord. No. 10-107, § 1, 8-17-2010; Ord. No. 10-143, § 1, 11-16-2010)

3-7-7: - VIOLATION, PENALTIES:

1. It shall be unlawful for any peddler/solicitor engaging in peddling/soliciting to:

- 1.1. Peddle/solicit without prior approval from the Police Department and the City Clerk.
  - 1.2. Make an intentional misrepresentation.
  - 1.3. Otherwise violate the provisions of this Chapter.
2. Any person who commits an offense under this Chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. The City Clerk may revoke approval of any peddler/solicitor for any offense.

(Ord. 09-041, 4-8-2009)

### 3-7-8: - TAG DAYS REGULATIONS:

1. No person shall solicit funds for nonprofit entities in public places or at intersections controlled by traffic signals of the City of Naperville, unless the organization represented has obtained a permit from the City Clerk.
2. Before a permit shall be issued, the person shall first make application to the City Clerk.
3. The nonprofit entity will provide reflective safety vests for solicitors to wear while soliciting in the public ways.
4. Tag day applicant shall provide proof of commercial liability insurance coverage, covering all claims arising out of the tag day activities in the following limits: General aggregate = one million dollars (\$1,000,000.00); per occurrence = one million dollars (\$1,000,000.00); and personal injury = one million dollars (\$1,000,000.00). Coverage may be written on a "claim made" or "occurrence" basis. The City of Naperville and its officers, directors, employees, and agents must be named as additional insureds on all insurance policies, except workers' compensation. Evidence of coverage for the duration of the tag day permit and a copy of the additional insured endorsement form must be submitted prior to issuance of a tag day permit.
5. In the issuance of any permit the City Clerk shall have the authority to limit the number of persons to be active at any one time. The City Clerk shall have the authority to require some means of identification for each person. In case of dispute, the City Clerk will resolve any scheduling or location issues.
6. Any person conducting tag day activity in the roadways shall be sixteen (16) years of age or older.
7. Tag day activity shall be between seven o'clock (7:00) a.m. and seven o'clock (7:00) p.m. only and prohibited on state or federal holidays and on Sundays.
8. There shall be no tag day activity on roadways at the same location for more than three (3) consecutive days.
9. There shall be no tag day activity permitted in the central business district.

(Ord. 09-041, 4-8-2009; Ord. No. 10-107, § 1, 8-17-2010; Ord. No. 11-050, § 1, 4-6-2011; Ord. No. 92-210)

### 3-7-9: - FOOD VENDOR REGULATIONS:

No person shall operate a food vending vehicle or act as a food vendor without having first complied with the provisions of this Section.

1. Any food vendor, also known as the applicant, seeking licensure shall make application to the City Clerk. The City Clerk shall have the authority to confirm the application.
2. The applicant shall submit a copy of their annual permit issued by the DuPage and Will County health departments.
3. The applicant shall provide proof of valid commercial liability insurance coverage, covering all claims arising out of operations of the applicant in the following limits: General aggregate = one million dollars (\$1,000,000.00); per occurrence = one million dollars (\$1,000,000.00); and personal injury = one million dollars (\$1,000,000.00). Coverage may be written on a "claim made" or "occurrence" basis. The City of Naperville and its officers, directors, employees, and agents must be named as additional insureds on all insurance policies, except workers' compensation. Evidence of coverage for the duration of the food vendor license, and a copy of the additional insured endorsement form must be submitted prior to issuance of a food vendor license.
4. No food vendor's license shall be issued to a person who is a registered sex offender as defined in the Sex Offender License Act.
5. The photo ID badge issued by the City Clerk's Office shall be worn on the outer layer of clothing of all vendors at all times while vending.
6. Vending Vehicles: shall be maintained in good working order at all times and display:
  - 6.1. A license issued by the City Clerk's Office affixed to the walk-up window.
  - 6.2. Clearly posted food prices.
  - 6.3. A sign on the side of the vending vehicle which shall consist of letters no less than three (3) inches in height and shall state the name, telephone number of the owner of the vehicle, and an identification number distinguishing the vehicle.
  - 6.4. A sign on the front and back of the vending vehicle which shall consist of reflective letters no less than three (3) inches in height and shall state:

*CAUTION CHILDREN CROSSING*

- 6.5. Have sufficient lighting so that the flashing will be visible at a distance of five hundred (500) feet whenever the vehicle is stopped for the purpose of vending.
- 6.6. A litter or trash container available to customers of the vending vehicle.
7. Prohibitions on Conducting Business: The following shall not be performed from a vending vehicle:
  - 7.1. Vending in a single location for a period exceeding fifteen minutes.
  - 7.2. Selling food other than in sealed packages.
  - 7.3. Vending before ten o'clock (10:00) a.m. or after seven o'clock (7:00) p.m. on any day.
  - 7.4. Vending from the left, or driver's side, of the vehicle.
  - 7.5. Vending from the vehicle directly to another vehicle.
  - 7.6. The emission of any amplified music intended to advertise the presence of the vehicle. Amplified mechanized bells or chimes are permitted only while the vending vehicle is in motion.
  - 7.7. Vending if the vehicle is not parked with the right side thereof to the curb or right side of the roadway.
  - 7.8. Vending in a "no parking" area.
  - 7.9. Vending while in, blocking or obstructing an intersection within the City of Naperville.
  - 7.10. Vending to any customer who is standing on a roadway.
  - 7.11. Vending in a City of Naperville park unless permitted in writing by the Naperville Park District.
  - 7.12. Vending in the downtown.
8. Operator's Restrictions: It shall be unlawful for any person who is afflicted with, or is the carrier of any infectious or contagious disease of being transmitted by contact with food products to conduct food vending.
9. Payment of Applicable Taxes: Operator shall file and pay taxes required by the State of Illinois, including sales tax.

(Ord. 09-041, 4-8-2009; Ord. No. 10-107, § 1, 8-17-2010)

### 3-7-10: - DOWNTOWN FOOD VENDOR REGULATIONS:

No person shall operate a food vending cart within the downtown or act as a downtown food vendor without first having complied with the provisions of this Section.

1. No downtown food vendor license shall be issued after September 4, 2018, except that the one existing vendor who held a valid downtown food vendor license at time

of the adoption of Ordinance 18-108 may continue to request renewal of their downtown food vendor license in accordance with the Sections provided below.

2. Reserved.
3. Renewal of a Downtown Food Vending License:
  - 3.1. A downtown food vending license may be renewed for the one (1) vendor holding a valid downtown food vendor license at the time of the adoption of Ordinance 18-108. Said license holder shall be eligible for annual renewal. Upon renewal, the license shall be valid for a period of one (1) calendar year.
  - 3.2. No cart shall be operated as a downtown food vendor without a downtown food vending license. The license shall be affixed to the cart.
  - 3.3. Prior to the renewal of a downtown food vending license, the applicant shall submit a copy of their annual permit issued by the DuPage and Will County health departments, as applicable.
  - 3.4. Downtown food vendor license applicant shall provide proof of valid commercial liability insurance coverage, covering all claims arising out of operations of the applicant in the following limits: General Aggregate = one million dollars (\$1,000,000.00); Per Occurrence = one million dollars (\$1,000,000.00); and Personal Injury = one million dollars (\$1,000,000.00). Coverage may be written on a "claim made" or "occurrence" basis. The City of Naperville and its officers, directors, employees, and agents must be named as additional insureds on all insurance policies, except workers' compensation. Evidence of coverage for the duration of the downtown food vendor license and a copy of the additional insured endorsement form must be submitted prior to issuance of a downtown food vendor license.
  - 3.5. The ID badge shall be worn on the outer clothing of all vendors at times when vending.
  - 3.6. All applicable City fees, as specified on the downtown food vendor application, shall be paid prior to renewal of the downtown food vendor license.
4. Payment of Applicable Taxes:
  - 4.1. Operator shall file and pay one percent (1%) food and beverage taxes as required in Section 3-1-9 of the Naperville Municipal Code.
  - 4.2. Operator shall file and pay one and one-half percent (1.5%) downtown food and beverage taxes as required by Section 3-1-9 of the Naperville Municipal Code.
  - 4.3. Operator shall file and pay the taxes required by the State of Illinois, including sales tax.
5. Downtown food vending carts shall be equipped with the following equipment which shall be maintained in good working order at all times:
  - 5.1. The downtown food vending cart shall be pre-approved by the City.



- 5.2. Operator shall maintain a clean operation, free of debris and shall provide a litter or trash container available to customers of the vending cart. The trash container shall be emptied and/or removed from the vending location at the end of each business day.
  - 5.3. A sign on the side of the vending cart which shall consist of letters no less than three (3) inches in height and shall state the name and telephone number of the owner of the cart.
6. The following shall be required of downtown food vendors:
- 6.1. Downtown food vending carts shall be restricted to the sales of food only and shall not include other general retail merchandise. Specific food limitations may be provided in conjunction with the license issued.
  - 6.2. The downtown food vending cart shall be limited to a specific geographic area within the downtown, as determined by the City of Naperville.
  - 6.3. The vending area, including the cart, set-up area, and customer pick-up/waiting areas, shall not exceed seventy-five (75) square feet in size.
  - 6.4. All motorized vehicles required to transport the downtown vending cart to its designated vending location shall be parked in compliance with the regulations provided in the Naperville Municipal Code. The downtown vending cart shall not be a motorized vehicle and shall be prohibited from vending on a public street.
  - 6.5. Any loading or unloading operations affiliated with the downtown vending cart shall occur in compliance with the regulations provided in the Naperville Municipal Code.
  - 6.6. All food prices must be clearly posted.
  - 6.7. The downtown food vendor shall display signage only on the downtown vending cart itself. No freestanding signage related to the downtown vending operation shall be allowed.
  - 6.8. Downtown food vending shall be limited to the following hours of operation: Every day: 11:00 a.m. to 3:00 p.m.; Sunday through Thursday 10:00 p.m. to 1:30 a.m.; and Friday and Saturday 10:00 p.m. to 2:30 a.m.
  - 6.9. A minimum clearance of five (5) feet shall be maintained around the downtown food vending cart at all times to allow for appropriate pedestrian circulation. The downtown food vending cart shall not block or obstruct any public sidewalks.
  - 6.10. The emission of any amplified music from the downtown food vending cart shall be prohibited.
  - 6.11. The downtown food vendor shall be subject to any other rules and regulations as established through the bid selection process identified in Section 3-7-1.

7. It shall be unlawful for any person who is afflicted with, or is the carrier of any infectious or contagious disease of being transmitted by contact with food products, to conduct downtown food vending.
8. Revocation: Any violation of the terms and conditions contained herein, as well as any disruption to traffic and pedestrian movement, may result in the revocation of the downtown food vending license, at the sole discretion of the City of Naperville.

(Ord. No. 10-143, § 1, 11-16-2010; Ord. No. 11-137, § 1, 9-21-2011; Ord. No. 13-165, § 2, 12-17-2013; Ord. No. 15-143, § 3, 9-1-2015; Ord. No. 18-108, § 2, 9-4-2018)

3-7-11: - FOOD TRUCKS:

Food trucks, as defined in 3-7-2, are prohibited from vending on public streets in the City of Naperville.

**SECTION 2:** That this ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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Steve Chirico  
Mayor

ATTEST:

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Pam Gallahue, PhD  
City Clerk