

PREPARED BY:

**CITY OF NAPERVILLE
LEGAL DEPARTMENT
630/420-4170**

RETURN TO:

**CITY OF NAPERVILLE
CITY CLERK'S OFFICE
P.O. BOX 3020
400 SOUTH EAGLE STREET
NAPERVILLE, IL 60566-7020**

ORDINANCE NO. 18 -

**ORDINANCE AMENDING CHAPTER 7 (PEDDLERS AND SOLICITORS) OF
TITLE 3 (BUSINESS AND LICENSE REGULATIONS) OF
THE NAPERVILLE MUNICIPAL CODE PERTAINING TO
DOWNTOWN FOOD VENDOR REGULATIONS**

WHEREAS, the City of Naperville, in its authority as a Home Rule community, has enacted Municipal Code Regulations for the purpose of improving and protecting the public health, safety, comfort, convenience and general welfare of the people; and

WHEREAS, the City adopted Downtown Food Vendor Regulations in 2010; and

WHEREAS, since issuance of Downtown Food Vendor Licenses in 2012, the program has generated concerns regarding low/inconsistent vendor participation, difficult vending locations, and vendor preference towards nighttime vending operations; and

WHEREAS, based on the limited success of the program and the significant staff time to administer, on August 21, 2018, City Council directed staff to amend Chapter 7 (Peddlers and Solicitors) of Title 3 (Business and License Regulations) of the Naperville

Municipal Code to eliminate the issuance of any new downtown food vendor licenses, but permit the existing downtown food vendor to renew their license; and

WHEREAS, the City Council concurs that the ordinance should be amended as provided herein.

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

SECTION 1: The recitals set forth above are incorporated herein.

SECTION 2: Chapter 7 (Peddlers and Solicitors) of Title 3 (Business and License Regulations) of the Naperville Municipal Code is hereby amended by adding the underlined language and deleting the stricken language, as follows:

3-7-11: - 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. Applicability: 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-XXX may continue to request renewal of their downtown food vendor license in accordance with the Sections provided below. ~~Bid Process: Downtown food vendors shall be subject to selection through a bidding process conducted every two (2) years; details regarding the bidding process, including eligibility, shall be published by the City. At minimum, qualified bidders must meet the following criteria:~~

~~1.1. Vendor must not be a registered sex offender as defined in the Sex Offender License Act.~~

~~1.2. Vendor must be at least eighteen (18) years of age.~~

~~1.3. Vendor must possess a valid DuPage County Health Department Permit.~~

~~1.4. Vendor must pass a background check.~~

~~1.5. Vendor must enhance, not detract from, the pedestrian and family friendly atmosphere and ambiance of the downtown and should introduce a food element not currently found within the downtown.~~

~~2. License Requirements: No corporation, partnership, sole proprietor or other business entity shall:~~

- ~~2.1. Operate a downtown food vending cart without first having obtained a downtown food vending license.~~
- ~~2.2. Employ a person as a food vendor within the downtown without having first obtained a downtown food vending license.~~
- ~~2.3. Rent, lease or otherwise provide a food vending cart to a downtown food vendor without having first obtained a downtown food vending license.~~

32. 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-XXX. Said license holder shall be eligible for annual renewal. Upon renewal, the license shall be valid for a period of one (1) calendar year. Up to two (2) downtown food vending licenses may be granted per calendar year, subject to the bidding process noted in Subsection 3-7-11-1.

3.2. No cart shall be operated as a downtown food vendor without ~~first having obtained a~~ downtown food vending license. The license shall be affixed to the cart.

3.3. Prior to the renewalissuance 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 permit 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 permit and a copy of the additional insured endorsement form must be submitted prior to issuance of a downtown food vendor permit.

3.5. The photograph identification card 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: 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. Requirements for Conducting Business: 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 ~~two (2)~~ a specific geographic areas 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. 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 downtown food vending.

8. Revocation: Any breach or 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.

SECTION 3: This Ordinance shall be in full force and effect upon its passage and approval as required by law.

PASSED this ____ day of _____, 2018.

AYES:

NAYS:

ABSENT:

APPROVED this ____ day of _____, 2018.

Steve Chirico

Mayor

ATTEST:

Pam Gallahue, Ph.D.

City Clerk