

ORDINANCE NO: 45,119

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 42, ARTICLE 1-A OF THE CODE OF THE CITY OF NORFOLK, VIRGINIA, 1979, ENTITLED "VENDORS", SO AS TO ACCOMMODATE THE OPERATION OF FOOD TRUCKS AND PUSHCARTS IN DESIGNATED AREAS AND TO UPDATE OTHER REGULATIONS.

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BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That Chapter 42, Article 1-A of the Code of the City of Norfolk, Virginia, 1979 (as amended), entitled "Vendors", is hereby amended and reordained so as to accommodate the operation of food trucks and pushcarts in those areas of the public right-of-way that may be designed to allow such activities, to update other regulations related to the operations of vendors throughout the city, and to incorporate the existing regulations for mobile ice cream vendors previously found in Chapter 18.1, Article III of the Code of the City of Norfolk, Virginia, 1979 (as amended). The amendment shall read as follows:

ARTICLE I-A. VENDORS

Sec. 42-36. Definitions.

The definitions set out in this section shall apply in the interpretation and enforcement of this article.

- (a) *Designated parking location.* A space or series of spaces within the public right-of-way along the edge of a paved, vehicular roadway that is approved by the city manager pursuant to section 42-37, below, as a location where a food truck vendor is permitted to operate in accordance with a vendor license.
- (b) *Designated sidewalk location.* An area or series

of areas within the public right-of-way outside of the paved, vehicular roadway that is approved by the city manager pursuant to section 42-37, below, as a location where a food vendor or merchandise vendor is permitted to operate in accordance with a vendor license.

- (c) *Food.* Any raw, cooked or processed edible substance, beverage, ingredient, ice or water used or intended for use or for sale in whole or in part for human consumption.
- (d) *Food truck vendor.* Any vendor who sells or offers for sale food, other than a vendor who sells or offers for sale only ice cream or ice confectionaries, from a motor vehicle or a trailer licensed to be operated on the highway by the Virginia Department of Motor Vehicles.
- (e) *Food vendor.* Any vendor who sells or offers for sale food from a pushcart but not including a food truck vendor.
- (f) *Ice cream truck vendor.* Any vendor who sells or offers for sale only ice cream or ice confectionaries from a motor vehicle or a trailer licensed to be operated on the highway by the Virginia Department of Motor Vehicles.
- (g) *Merchandise vendor.* Any vendor who sells or offers for sale goods other than food for immediate delivery upon purchase from a pushcart.
- (h) *Person.* Any individual, partner, partnership, corporation, association, municipal corporation, unincorporated association or other legal entity.
- (i) *Pushcart.* Any wheeled vehicle or device used by a vendor for the purpose of displaying, dispensing, or storing any merchandise or food that is offered for sale and which may be moved without the assistance of a motor.
- (j) *Special event.* An activity, such as a show, exhibit of any kind, convention, parade, festival, circus, sporting event, fair, or carnival, held for a limited period of time at a specific location.
- (k) *Stand.* Any structure, table, tent, or device

used by a vendor for the purpose of displaying, dispensing, or storing any merchandise or food that is offered for sale.

- (1) *Vendor.* Any person, mobile or stationary, who sells or offers for sale food, goods, or services for immediate delivery upon purchase from a pushcart, stand, tent, or vehicle. The term "vendor" shall not include a person who exclusively sells or offers for sale farm products from a vehicle, provided that the farm products are produced in an agricultural operation, as defined in section 3.2-300 of the Code of Virginia, located within 50 miles of the corporate limits of the city.

Sec. 42-37. Designated locations.

- (a) *Parking spaces.* The city manager may establish one or more designated parking locations as spaces within the public right-of-way where a food truck vendor may operate. Such designated locations shall:
 - (1) Not be within 10 feet of an intersection, crosswalk, driveway, bus stop, taxi stand, or handicapped parking space; and
 - (2) Not be situated in any part of any designated loading zone or fire lane.
- (b) *Sidewalk locations.* The city manager may establish one or more designated sidewalk locations as areas within the public right-of-way where a food vendor or merchandise vendor may operate. Such designated locations shall:
 - (1) Not be within 10 feet of an intersection, crosswalk, driveway, bus stop or taxi stand; and
 - (2) Not be located on any sidewalk less than nine (9) feet in width.

Sec. 42-38. Locations limited.

No vendor shall operate in any area of the city

other than the following:

- (a) On property where the applicable zoning regulations allow vending activity;
- (b) Within the boundaries of any area designated for a special event pursuant to section 42-48, below; and
- (c) Within the public right-of-way, subject to the following restrictions:
 - (1) All food vendors and merchandise vendors shall only operate in a designated sidewalk location;
 - (2) All food truck vendors shall only operate in a designated parking location; and
 - (3) All ice cream truck vendors shall only operate in either a designated parking location or in other areas of the right-of-way such that the truck is not parked for more than five (5) minutes, but never in a parking space with an active meter.

Sec. 42-39. Vendor license requirements.

- (a) *Types of vendors limited.* No vendors other than ice cream truck vendors, food vendors, merchandise vendors, and food truck vendors shall be permitted to operate within the city.
- (b) *Vendor license.*
 - (1) No vendor shall be permitted to operate in any public right-of-way, including any designated parking location or designated sidewalk location, without a vendor license.
 - (2) When a vendor is operating outside the public right-of-way and on property where the applicable zoning regulations allow such activity, no vendor license shall be required
 - (3) No vendor license shall be leased, sold, or otherwise transferred.
 - (4) In addition to any other applicable fees

required pursuant to this Code or other applicable law, ordinance, rule or regulation, a vendor license fee established by the city manager must be paid at the time each vendor license is issued.

(c) *Business license.*

- (1) No vendor shall be permitted to operate without either a business license or a special event business license obtained from the commissioner of the revenue.
- (2) No business license or special event business license shall be issued or renewed if the applicant has failed to answer a summons, appear at a hearing for violation of a Department of Health regulation, or has failed to pay a fine or penalty assessed by a court or other authority having enforcement powers against the vendor as a result of violations related to a vending operation.

Sec. 42-40. Health and fire safety permits.

- (a) *Health permit.* An ice cream truck vendor, food vendor, or food truck vendor must obtain a health permit from the Department of Health and shall not operate without a valid, current health permit.
- (b) *Fire safety permit.* Wherever the operations of a vendor involve heating, cooking, or preparing food in a manner that involves a fire hazard, the vendor must undergo an annual fire inspection and must obtain a fire safety permit from the fire marshal. The vendor shall not operate without a valid, current fire safety permit.

Sec. 42-41. Display of licenses and permits.

- (a) *Licenses.* Any vendor operating in a designated parking location or designated sidewalk location must conspicuously display the vendor license and appropriate business license at all times while

operating.

- (b) *Permits.* Ice cream truck vendors, food vendors, and food truck vendors shall conspicuously display the health permit and any required fire safety permit on the pushcart, stand, or vehicle at all times while operating.

Sec. 42-42. Compliance with food safety regulations.

In order to promote the safe storage, preparation, and handling of food and safe operation of vehicles and other equipment, every ice cream truck vendor, food vendor, and food truck vendor shall:

- (a) Permit regular inspections of any pushcart, stand or vehicle used in the vending operation by the Department of Health and the fire marshal or any other person authorized by law to enforce the provisions of the Virginia Statewide Fire Prevention Code;
- (b) Possess, retain and make available for inspection satisfactory proof or documentation detailing the source of all foods being held, stored, offered for sale, sold, distributed, or given away; and
- (c) Not use or permit any person to use the pushcart, stand or vehicle for distributing or giving away of any foods other than those persons authorized by the vendor license or approved in writing by the Department of Health.

Sec. 42-43. Hours of operation.

- (a) *Merchandise vendors, food vendors, and food truck vendors.*
 - (1) Hours of operation for merchandise vendors, food vendors, and food truck vendors may be established by the city manager and may vary based on the type of vendor, the location, and whether the vendor is operating in conjunction with a special event.
 - (2) Where applicable to a vendor operating in a designated parking location or designated

sidewalk location, the city manager may also establish minimum days of operation per week, month, or longer period of time and may vary them based on the type of vendor and the location.

(c) *Ice cream trucks.*

- (1) When operating in the public right-of-way, an ice cream truck vendor shall only operate between the hours of 7:00 a.m. and 10:00 p.m. Sunday through Thursday and between the hours of 7:00 a.m. and 11:00 p.m. Friday and Saturday.
- (2) When operating outside the boundaries of any public right-of-way, an ice cream truck vendor shall be limited by the hours established for a food truck vendor.

Sec. 42-44. Operational requirements for all vendors.

The following requirements apply to all vendors while in operation.

- (a) No radio or other sound-amplifying device shall be used with the exception of recorded music used by an ice cream truck vendor.
- (b) No flashing sign or sign that moves or gives the appearance of moving shall be used.
- (c) No portion of the pushcart, stand, or vehicle shall be connected to any water, sewer, or gas utility and any electrical generator or electrical connection must comply with any applicable building code and electrical code requirements.
- (d) Whenever the vendor is operating within the boundaries of a public right-of-way, no sign, menu board, table, waste receptacle or any other object associated with the vendor operation shall be situated on the road, sidewalk, or ground with the exception of one chair and one cooler, which may be placed on the sidewalk immediately adjacent to the pushcart, stand, or vehicle.

Sec. 42-45. Operational requirements for vendors using pushcarts and stands.

The following limitations apply to any merchandise vendor or food vendor using a pushcart or stand.

- (a) If located within the boundaries of any public right-of-way:
 - (1) The entire pushcart or stand shall be situated within the boundaries of a designated sidewalk location;
 - (2) The pushcart shall not exceed four (4) feet in width or seven (7) feet in length. If an umbrella or awning is used, it shall not exceed eight (8) feet in height, nine (9) feet in diameter, and shall be extended a minimum of seven (7) feet above grade; and
 - (3) The vendor must occupy and operate in the designated sidewalk location and shall not be absent more than the maximum number of days allowable under rules established by the city manager.
- (b) If located outside the boundaries of any public right-of-way, the pushcart or stand shall not be situated on any landscaped, unpaved, or unimproved surface.
- (c) A waste receptacle shall be provided for the use of customers and shall be affixed or attached to the pushcart or stand.
- (d) Pushcarts or stands shall not touch, lean against or be affixed to any building or structure including lamp posts, parking meters, mail boxes, or similar structures.
- (e) Pushcarts or stands shall not be located against display windows of fixed-location businesses.

Sec. 42-46. Operational requirements for food truck vendors.

The following restrictions apply to any food truck vendor.

- (a) If located within the boundaries of any public right-of-way:
 - (1) The entire vendor vehicle shall be situated on the paved roadway within the boundaries of a designated parking location;
 - (2) No vending shall be allowed from either the back of the vehicle or the side of the vehicle that faces the roadway. All vending activity must take place toward the curb;
 - (3) The vehicle shall be enclosed and accommodate the performance of all vendor operations by persons who are onboard the vehicle. Only those openings used to service customers through the side of the vehicle are allowed;
 - (4) The vendor shall secure and maintain a policy of automobile liability insurance coverage issued by a company authorized to do business in the state in the amount of at least \$1,000,000 for injury to or death of any person or persons in any one incident and \$100,000 for property damage, and the policy shall list the city as an additional insured; and
 - (5) The vendor must occupy and operate in the designated parking location and shall not be absent more than the maximum number of days allowable under rules established by the city manager.
- (b) If located outside the boundaries of any public right-of-way and on property where the applicable zoning regulations allow such activity, the vendor vehicle shall not be situated on any unpaved or unimproved surface.
- (c) A waste receptacle shall be provided for the use of customers and shall be mounted to the vehicle.

Sec. 42-47. Operational requirements for ice cream truck vendors.

The following restrictions apply to any ice cream

truck vendor.

- (a) If located within the boundaries of any public right-of-way:
 - (1) When stopping to vend to a customer, the vehicle shall be pulled to the curb or shoulder of the road and the engine shall be turned off except when the operation of the engine is necessary for producing the product;
 - (2) The vendor shall not stop within 100 feet of any intersection;
 - (3) The vendor shall not stop on any street having a speed limit higher than twenty-five (25) miles per hour;
 - (4) The vendor vehicle shall not be parked in the public right-of-way unless actively operating and shall not remain parked in any location for more than five (5) minutes; and
 - (5) The vendor shall secure and maintain a policy of automobile liability insurance coverage issued by a company authorized to do business in the state in the amount of at least \$1,000,000 for injury to or death of any person or persons in any one incident and \$100,000 for property damage, and the policy shall list the city as an additional insured.
- (b) If located outside the boundaries of any public right-of-way, the vendor vehicle shall not be situated on any unpaved or unimproved surface.

Sec. 42-48. Special Events.

Notwithstanding any other provision or limitation set forth in this article, the city council or city manager may designate certain portions or segments of any public right-of-way or certain areas of city-owned property for use by vendors for limited periods of time in conjunction with a special event. The following special rules and exemptions apply to such vendors who are operating in conjunction with the

established location and time limits for such a special event.

- (a) The prohibition against the operation of vendors other than ice cream truck vendors, food vendors, merchandise vendors, and food truck vendors in section 42-39(a) shall not apply.
- (b) The requirement of obtaining a vendor license in section 42-39(b) shall not apply.
- (c) The limitation on connections to utilities in section 42-44(d) shall not apply.
- (d) The location requirements and size limitations for food vendors and merchandise vendors in section 42-45 shall not apply.
- (e) The location requirements for food truck vendors in section 42-46 shall not apply.

Sec. 42-49. Enforcement.

- (a) Any city law enforcement officer, duly designated sworn special police officer, the director of the Department of Health or his designee, or the fire marshal or any of his assistants, is authorized and shall have authority to enforce all provisions of this article.
- (b) Any police officer or other person authorized to enforce the provisions of this article may request that a vendor cease operating or cease operating in a particular manner due to a special public safety concern. In such instances the vendor shall promptly adjust, limit, move, or cease the operation in order to fully comply with the request.

Sec. 42-50. Penalties.

- (a) Any vendor operating without a vendor license shall be guilty of a Class 2 misdemeanor.
- (b) Any vendor operating with a vendor license found to be in violation of any limitation of his license or any of the rules authorized by or expressed in this article may have his license

suspended or revoked and may be deemed ineligible for any new vendor license for a period of time determined by the city manager.

- (c) Any business license issued to a vendor may be suspended or revoked by the commissioner of the revenue upon notice and an informal hearing in the event that the vendor fails to comply with the requirements and restrictions of this article.

Sec. 42-51. Seizure.

- (a) *Illegal and unlicensed vending.* Any police officer or other person authorized to enforce the provisions of this article may seize any pushcart or stand which is being used by an unlicensed vendor and may seize any food held or offered for sale by any food vendor who operates in violation of any provision of this article. Any seized pushcart, stand or food shall be subject to forfeiture and disposal as authorized by law.
- (b) *Treatment of seized food.* In the event that a seizure made pursuant to this article shall include any perishable item of food which cannot be retained in custody without such item becoming unwholesome, putrid, decomposed or unfit for human consumption, such item may be ordered to be destroyed or otherwise disposed of provided, however, that written notice of such destruction or other disposal setting forth any itemized description of the property, the reason for its destruction or other disposition, and the date when it was destroyed or otherwise disposed of has been mailed to the vendor from whom it was seized.

Sec. 42-51.1. Reserved.

Section 2:- That Chapter 18.1, Article III of the Code of the City of Norfolk, Virginia, 1979 (as amended), entitled "Mobile Ice Cream Vendors", is hereby repealed.

Section 3:- That this ordinance shall be in effect from the date of its adoption.

ADOPTED: MAY 21, 2013