

CITY OF NEWTON
ORDINANCE 2021-11

Sec. 66-17 FOOD TRUCK VENDORS

(a) Definitions.

1. *Food truck* means a licensed, motorized vehicle or mobile food unit licensed by the NC State Division of Motor Vehicles and as authorized by N.C.G.S. 130A-247 et seq., which is temporarily stored in a location where food items are sold to the general public and is a vehicle mounted, vehicle towed or vehicle carried food service establishment, including ice cream trucks, designed to be readily moved.
2. *Permitted parking space* means the location identified by the City as an on-street parking space with markings indicating as being designated for such use.
3. *Vendor* means any person who owns, operates or manages a business that uses and who prepares or serves pre-packaged or cooked food and/or beverages for sale to the public on a recurring basis from a food truck.

(b) Food Truck Standards.

A food truck providing service must meet all of the following standards:

1. The food truck shall not be located within one hundred (100) feet of the main entrance of any restaurant, any outdoor dining space, or any fixed location of a competing nature nor shall food truck block or park in front of any other open business, unless said business owns the food truck, or permission given by property owner. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
2. No food truck may be parked in a location that prohibits or restricts access to a private property. A minimum five (5) foot spacing is required from any driveway, measured from the driveway apron.
3. The food truck must be located at least five (5) feet from any utility box, utility vault, handicapped ramp, or similar feature. The food truck must be located at least fifteen (15) feet from a fire hydrant. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
4. The food truck vendor must dispose of all waste associated with the food truck operation. City receptacles may not be utilized for this purpose. No liquid waste or grease may be poured into any tree pit, storm drain,

street, gutter pan, sidewalk or any other public space. Grease cannot be released into the City's sanitary sewer system. The food truck vendor shall make available hand sanitizer to its customers.

5. A food truck may operate on every day of the week from the hours of 7:00 a.m. to 10:00 p.m. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
 6. Vendor shall comply with all regulations and requirements of the North Carolina official County Health Department as well as any other governmental unit so authorized to issue such rules and regulations and shall provide documentation of compliance upon request.
 7. Food trucks must have the following fire extinguisher on board during hours of operation: minimum Class 2A, 10B and C rated extinguisher. If food preparation involves deep frying, a Class K fire extinguisher must also be on the truck. Fire extinguishers shall be maintained pursuant to National Fire Protection Association (NFPA) standard 10.
 8. A food truck vendor shall not operate the food truck as a drive-through window.
 9. The noise level from the food truck motor and generator must comply with the City's noise ordinance.
 10. No signage shall be allowed other than signs permanently attached to the motor vehicle. The food truck vendor shall not place or use sound equipment on or in the area of the mobile food unit. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
 11. Alcohol may not be sold or served by any food truck vendor.
 12. Vendor or vendor's designee shall be in attendance of the food truck at all times, except in case of emergency.
 13. Vendor will bear all costs associated with the establishment and operation of the food truck, including, but not limited to the provision of water and electrical power. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
- (c) Privately Owned Property Location for Operation of Food Truck
- In addition to the standards enumerated in Section 66-17(b), a food truck providing service from privately owned property must meet the additional following standards:
1. A food truck may conduct business on privately owned, non-residential property subject to the approval of the property owner.

2. The vendor for the food truck must submit proof of approval from the property owner upon request to do so by public official.

(d) Parks Located Within the City of Newton for Operation of Food Truck.

In addition to the standards enumerated in Section 66-17(b), a food truck providing service from a public park must meet the additional following standards:

1. A food truck may utilize City of Newton Parks as enumerated in Section 70.1 as referenced in the Newton City Code.
2. All food trucks must receive prior written approval from the City of Newton to engage in food truck operations.
3. All food trucks must observe park hours and shall not be allowed to operate when said park is closed.

(e) Right-of-way Eligible for Food Truck Service.

In addition to the standards enumerated in Section 66-17(b), a food truck providing service from the right-of-way must meet all of the following additional standards:

1. The food truck may only be parked within the permitted parking space within City of Newton owned rights of way or maintained by the City of Newton but at no time shall be parked on any Department of Transportation right of way as provided for in North Carolina Statute 136-18(9), North Carolina Administrative Code 19A NCAC 02E.0414 and NCDOT Maintenance Operations Manual General Ordinance 14. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
2. All food trucks must be situated on the street right of way to allow at least five (5) feet of unobstructed space for pedestrians on sidewalks, pedestrian paths and other locations intended primarily for pedestrian travel. If any applicable law, including Americans with Disability Act regulations, shall require a greater distance, the greater distance shall apply.
3. All food trucks must be situated such that the service window from which customers place orders are on the sidewalk or other pedestrian walkway side of the food truck and at no time shall customers be allowed to place orders from the motoring public side of said food truck. This requirement shall not apply during festivals or other events when the streets are closed during such festival or event.
4. The food truck may not operate or park within the permitted parking space before 7:00 AM and must cease operation and leave the

permitted parking space by 10:00 PM. The food truck must observe the two-hour parking limit, as well as all other parking restrictions. This requirement shall not apply during festivals and other events when the streets are closed during such festival or event.

(f) Enforcement.

1. Civil Penalties.

- a. Violations of any of the provisions of this section will result in the following civil penalties:
 - i. First offense in any twelve-month period ...\$100.00
 - ii. Second or more offense in any twelve-month period...\$500.00
- b. The City Manager or the Manager's designee may issue a notice of violation assessing civil penalties. The notice shall be issued in writing and shall set forth with reasonable specificity the basis for the civil penalty. The notice of violation shall be served by registered or certified mail, or by personal service. When service is made by registered or certified mail, a copy of the notice may also be sent by first class mail. Service shall be deemed sufficient if the first class mail is not returned by the Post Office within ten (10) days after the mailing. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty.
- c. The notice of violation shall contain a time period by which the violation must be corrected. From and after the date specified in the notice, each subsequent day that the violation continues in existence shall constitute a separate and distinct offense subject to additional civil penalties.
- d. If a person fails to pay any civil penalty within thirty (30) days after the decision becomes final, the City may recover the penalty, together with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt.

2. Administrative Fee.

Any person who violates this article shall pay an administrative fee of one hundred dollars (\$100.00) per violation in addition to civil penalty.

3. Other Remedies.

In addition to civil penalties, a violation of this division is a misdemeanor and may also be enforced through injunctive or other equitable relief, or a combination of remedies.

4. Appeals.

- a. A party aggrieved may appeal any decision under this section to the City Manager within fifteen (15) calendar days after the contested decision. An appeal must be made in writing and shall contain the reasons supporting the appeal and any evidence that supports it. The person appealing may review the evidence that is the basis of any suspension or violation during the City's normal business hours. The City Manager or his designee shall review the information provided and shall issue a written decision determining whether a violation has occurred.
- b. After receiving a determination from the City Manager or his designee, a party aggrieved may appeal to the City Council within twenty-one (21) calendar days after the City Manager's decision (or the decision of his designee) was mailed. The scope of the City Council's review shall be limited to verifying the facts supporting a written decision or Findings of Fact made on a suspension. If the City Council finds that the facts as found are correct, the civil penalty, administrative fee, or suspension shall be upheld.

(g) Termination or Amendment of Streetside Vending.

The City Council may amend, revise or terminate streetside vending by ordinance duly enacted.

Adopted this 16th day of February, 2021.

Eddie Haupt, Mayor

Amy S. Falowski, City Clerk

