

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. 10 - 143

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

WHEREAS, on March 18, 2010, the Downtown Advisory Commission endorsed the concept of free-standing vendor carts in the downtown in select locations and subject to certain conditions, due to the enhancement of the overall ambiance and vitality of the downtown resulting from these vendors; and

WHEREAS, on April 7, 2010, the City Council concurred with the findings of the Downtown Advisory Commission and directed staff to develop a policy pertaining to downtown mobile vending, including number of location of public vending sites, hours of operation, selection process, and fees; and

WHEREAS, on July 20, 2010, the City Council endorsed the policy proposed by staff pertaining to downtown mobile vending and directed staff to amend the code accordingly to include provisions related to downtown vending carts.

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

<u>DOWNTOWN FOOD VENDOR:</u>	<u>A person stationed at a food vending cart located at one of four 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.</u>
<u>FOOD VENDOR:</u>	<u>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, selling for profit or offering for sale any food items, and rendering immediate delivery.</u>

3-7-4: LICENSE FEES:

The fee for a peddler/solicitor, other than a Downtown Food Vendor, shall be:

\$100.00 per year, per company for peddling

20.00 application fee per person (ID badge included, photo supplied by applicant)

10.00 for replacement badges (photo supplied by applicant)

A refundable deposit for the cost of each safety vest in the form of a check or credit card will be required upon issuance of the vest and will be returned when each vest is returned to the City Clerk. The cash deposit will be automatically forfeited to the City of Naperville for any safety vest not returned to the City Clerk's Office within five (5) days of the expiration of the license.

The fee for a Downtown Food Vendor shall be:

\$275 permit fee per year per company of which \$225 shall be payable towards SSA 21/22 and \$50 towards administrative costs, including the issuance of one ID badge (photo supplied by applicant)

\$20 for any additional ID badges requested (photo supplied by applicant)

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. Bid Process: Downtown Food Vendors shall be subject to selection through an annual bidding process; details regarding the bidding process, including eligibility, shall be published in the fall/winter preceding the calendar year in which the downtown food licenses will be awarded. 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 criminal 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.
- 3 Downtown Food Vending License:
 - 3.1 Up to four (4) downtown food vending licenses may be granted per calendar year, subject to the bidding process noted in Section 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 issuance 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 insured's 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.
- 4 Payment of Applicable Taxes:
 - 4.1 Operator shall file and pay 1% food and beverage taxes as required in Section 3-1-9 of the Naperville Municipal Code.
 - 4.2 Operator shall file and pay 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 four (4) 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: 11:00 a.m. to 3:00 p.m. and 10:00 p.m. to 2:00 a.m., Monday through Sunday.
- 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 2: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this 16TH day of NOVEMBER, 2010.

AYES: BOYAJIAN, BRODHEAD, HINTERLONG, KRAUSE, PRADEL

NAYS: FIESELER, FURSTENAU, MILLER, WEHRLI

ABSENT: NONE

APPROVED this 17TH day of NOVEMBER, 2010.

A. George Pradel
Mayor

ATTEST:

Pam LaFeber, Ph.D.
City Clerk