

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 78, PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS OF THE CODE OF ORDINANCES OF THE CITY OF ROCHESTER HILLS, OAKLAND COUNTY, MICHIGAN, TO ADD ARTICLE IV, MOBILE FOOD VENDING, TO REQUIRE ANNUAL LICENSING OF, AND TO ESTABLISH OPERATING REQUIREMENTS FOR, MOBILE FOOD VENDING UNITS; TO PRESCRIBE A PENALTY FOR VIOLATIONS; AND TO REPEAL INCONSISTENT ORDINANCES.

THE CITY OF ROCHESTER HILLS ORDAINS:

Section 1. Article IV shall be added to Chapter 78 of the Code of Ordinances of the City of Rochester Hills, as follows:

Article IV. Mobile Food Vending

Sec. 78-209. – Purpose.

The purpose of this article is to protect the public health, safety, and welfare by requiring mobile food vending units operated in the City to be licensed and to meet certain minimum operating standards and conditions set forth in this article.

Sec. 78-210. – Definitions.

- (a) *Mobile Food Vending* means vending, serving, or offering for sale food, beverages, and or related merchandise from a Mobile Food Vending Unit which meets the definition of a “food service establishment” under 2000 PA 92 (MCL 289.1107), and which may include ancillary sales of branded items consistent with the food, such as t-shirts bearing the name of the mobile food vendor, or other similar merchandise.
- (b) *Mobile Food Vending Unit* means any motorized or non-motorized vehicle, cart, stand, trailer, or other device designed to be portable and not permanently attached or affixed to the ground from which food, beverages, or related merchandise is vended, served, or offered for sale.
- (c) *Mobile Food Vendor* means the individual, company, restaurant, organization, or entity operating a mobile food vending unit.

Sec. 78-211. – Mobile Food Vending Unit License.

In addition to obtaining a special event permit under section 79-3 of the City Code, mobile food vendors must obtain an annual license for each mobile food vending unit to be operated in the city. Prior to the issuance of an annual license for a mobile food vending unit, the City’s building department and fire department will inspect each mobile food vending unit to determine roadworthiness and compliance with applicable laws and ordinances. An annual license decal will be affixed to the mobile food vending unit by the city inspector upon successful completion of the

inspection and payment of the annual license fee. The inspector will report the results of the inspection to the city building department. Inspections will be performed during normal business hours by appointment.

Sec. 78-212. - Fees.

Fees charged under this article shall be as prescribed in Chapter 54 of the City Code.

Sec. 78-213. – Application Requirements.

(a) A mobile food vendor must file a written application for an annual mobile food vending unit license(s) with the building department upon a form to be furnished by the building department.

(b) The application must contain all of the following:

- (1) The full name, complete address and telephone number of the applicant and whether the applicant is an individual, partnership, limited liability company, corporation or other form of business entity, and if a corporation, the state of incorporation or organization;
- (2) The name under which the applicant will operate;
- (3) The license plate, make, model and year of manufacture of the mobile food vending unit.

(c) The application must be accompanied by the following:

- (1) The application fee;
- (2) Copy of Oakland County food service license and, if applicable, Michigan Liquor Control Commission license, valid for the current year;
- (4) Certificates of insurance evidencing insurance coverage for the applicant, its agents and employees, for the following coverages:
 - a. Worker's compensation and employer's liability insurance in accordance with state law;
 - b. Commercial general liability insurance on an "Occurrence" basis with limits of liability not less than \$1,000,000.00 per occurrence;
 - c. Motor vehicle liability insurance including Michigan no-fault coverage for all vehicles used with limits of liability not less than \$1,000,000.00 per occurrence and aggregate combined single limit, personal injury, bodily injury and property damage;

- d. Commercial general liability and motor vehicle liability insurance shall include an endorsement stating the city shall be an additional insured. Such insurance shall be primary to the additional insured and not contributing with other insurance available to the city; and
 - e. The certificates shall provide that the city shall receive 60 days advance written notice of cancellation, nonrenewal, reduction or material change in any such insurance coverage for any reason.
- (5) A written declaration duly dated and signed by the applicant and given under oath or affirmation and under penalty of perjury that the information contained in and attached to the application is true and correct.

Sec. 78-214. – License Renewal.

At any time after March 1 of each year, but before the license expires, a mobile food vendor may file an application to renew its license(s) on a form to be furnished by the building department

Sec. 78-215. – Operating Requirements.

A mobile food vendor must comply with all of the following operating requirements:

- (a) Mobile food vending units must be legally parked on a paved or gravel surface, or such other surface approved by the building department, and the mobile food vending unit and its service and dining areas must not obstruct or impede vehicular, pedestrian, or non-motorized travel or movement, nor be located within a fire lane, nor create a visual obstruction for vehicular traffic.
- (b) Mobile food vending units must comply with all applicable noise and parking regulations.
- (c) The area(s) where customers queue to place or pick up an order must not be located on a street, road, or within the road right of way, and, if in a parking lot, must be located a safe distance from the travel lanes of the parking lot.
- (d) The seating area must not be located on a street, road, or within the road right of way, and, if in a parking lot, must be located a safe distance from the travel lanes of the parking lot. No seating may be located within 10 feet of the mobile food vending unit.
- (e) Adequate waste receptacles must be provided.
- (f) Dumping of gray water, grease, or any other fluid on the ground or street or into any storm sewer is prohibited.

- (g) Mobile food vending units may not operate within 200 feet of an existing restaurant offering similar fare during the hours when that restaurant is open for business.

Sec. 78-216. – Exemption from Special Event Permit.

All operating requirements of Sec. 78-215 must be met by, but a special event permit under Sec. 79-3 of the City Code is not required for, a mobile food vending unit operating:

- (a) Not more than 4 hours at the same location within a 24 hour period, and further provided that there is an interval of at least 30 days before the mobile food vending unit operates at the same location,
- (b) In a residential zoned district as part of a neighborhood event,
- (c) On private property for a private event with no sales to the general public, or
- (d) At an event conducted or sponsored by the City on municipal property.

Section 2. Severability. This ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Section 3. Penalty. All violations of this ordinance shall be municipal civil infractions and upon a determination of responsibility therefore shall be punishable by a civil fine of \$500.

Section 4. Repeal, Effective Date, Adoption.

(1) Repeal. All regulatory provisions contained in other City ordinances, which are inconsistent with the provisions of this ordinance, are hereby repealed.

(2) Effective Date. This ordinance shall become effective on _____, the day following its publication in the *Oakland Press* on _____.

(3) Adoption. This ordinance was adopted by the City Council of the City of Rochester Hills at a meeting thereof held on _____, 2023.

Bryan K. Barnett, Mayor
City of Rochester Hills

CERTIFICATE

I, LEANNE SCOTT, ROCHESTER HILLS CITY CLERK, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND COMPLETE COPY OF AN ORDINANCE, THE ORIGINAL OF WHICH IS ON FILE IN MY OFFICE, ADOPTED BY THE CITY COUNCIL OF THE CITY OF ROCHESTER HILLS AT A MEETING THEREOF HELD ON _____, 2023.

Leanne Scott, Clerk
City of Rochester Hills