

ORDINANCE # 6 - 2023

AN ORDINANCE AMENDING THE CITY CODE TO ADD CHAPTER 225 ENTITLED "LICENSING OF MOBILE FOOD ESTABLISHMENTS AND PUSHCARTS"

Be it ordained by the City Council of the City of Geneva, NY that a new Chapter 225 entitled "Licensing of Mobile Food Establishments and Pushcarts" be added to the City of Geneva Municipal Code as follows:

Chapter 225

Article I

Mobile Food Service Establishments and Pushcarts

§ 225-1. Definitions

As used in this article, and the State Sanitary Code, Environmental Health Regulations subpart 14-4, the following terms shall have the meanings indicated unless the context clearly indicates that a different meaning is intended:

MOBILE FOOD SERVICE ESTABLISHMENTS - a motorized or self-propelled, self-contained food service operation, located in a vehicle, pushcart or a movable stand, self- or otherwise propelled, used to store, prepare, display or serve food intended for individual portion service.

MOBILE FOOD TRUCK – a motorized vehicle registered and able to be operated on the public streets of New York State, in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution.

FOOD TRAILER - a vehicle towed by another vehicle, registered and able to be operated on the public streets of New York State, in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution.

PUSH CART- a cart or barrow, manually propelled, used to vend food intended for individual portion service.

COMMISSARY – an establishment operated under license or permit of an appropriate regulatory authority where food is manufactured, stored, prepared, portioned or packaged, or any combination of these, where such food is intended for consumption at another establishment or place. It is also the place which is used as the base of operations for one or more mobile food service establishments or pushcarts, where such units are serviced, cleaned, supplied, maintained, and where the equipment, utensils and facilities are serviced, cleaned and sanitized.

DESIGNATED LOCATIONS – mobile food service establishment vendors who obtain a license per this section of the code will be assigned a location at the lakefront, on city property where their mobile food truck, food trailer or push cart may be parked during their license period when they are in operation.

VENDOR- An individual, firm, estate, partnership, company, corporation, trustee, association, or any public or private entity operating a mobile food service establishment.

§ 225-2. General Provisions

- A. No mobile food service establishment or push cart shall operate within the public rights-of-way within the city without first having obtained from the City Clerk a valid Mobile Food Service Establishment License as prescribed in this article.
- B. Mobile food trucks shall not be greater than 35 feet in length and shall be registered as a motor vehicle or trailer and able to be operated on the public streets of New York State.
- C. Each mobile food service establishment must at all times carry on the vehicle a fire extinguisher and a measuring device with a measuring capacity of no less than 500 ft as a condition of its licensure. The failure of any mobile food service establishment to carry such fire extinguisher and a measuring device or abide by the proximity distance restrictions included in this article shall constitute a violation of this article.
- D. All mobile food service establishments must abide by all parking and vehicle and traffic laws, ordinances, rules and regulations at all times, including but not limited to any durational requirements in force and effect at that time and location.
- E. No mobile food service establishment shall operate within 100 feet of the closest point of any restaurant or sidewalk café seating area approved by the Department of Public Works.
- F. No mobile food service establishment shall operate within 500 feet of the boundary of any festival or special event that is permitted or sponsored by the city, except when the vendor has obtained a permit to so operate from the City of Geneva Events Coordinator.
- G. No mobile food truck, food trailer or push cart shall operate in a location that has the effect of obstructing access to or egress from any structure or the free flow of vehicular and pedestrian traffic.
- H. All food trucks and food trailers must be equipped with trash receptacles of a sufficient capacity that shall be changed as necessary to prevent overflow or the creation of litter or debris.
- I. Vendors are responsible for cleaning up any fluid, such as grease, gas, oil, etc., which leaks from their trucks, trailers or pushcarts.
- J. No vendor shall cry out or make loud noises for the purpose of selling any food or merchandise.
- K. No vendor shall make, continue, cause, or permit to be made or continued, any excessive noise. It shall be *prima facie* evidence of a violation of this section if noise emanating from any source, including, but not limited to, regular operation of the mobile food establishment or generator, is audible at a distance of 50 feet from the designated operating space from which it emanates during hours of operation.
- L. No vendor shall chain or otherwise attach any signs, goods, merchandise, chairs, stools or food cart or other equipment used in vending to any tree, hydrant, sign or post, light pole, telephone pole or other street appurtenance unless otherwise noted in this article.
- M. No vendor shall dispose of any litter or trash generated from the vending operation in public trash receptacles. Vendors shall store such litter or trash during the day in a trash receptacle firmly attached to the vending unit and carry the same with them at the end of the day. Vendors shall also be responsible for keeping the immediate area of their food truck, trailer or push cart free and clear of any litter, trash or spillage from the unit.

- N. No vendor shall conduct any vending activities in violation of any rule or regulation promulgated by the Chief of Police, the Development Services Manager or by the local Health Department with respect to vending of food or food products. See § 225-7 regarding revocation of license.
- O. Mobile food trucks, trailers, pushcarts, tables, chairs and trash containers cannot be left overnight nor left unattended and are the responsibility of the owner, and the City of Geneva cannot be held liable for damage or stolen property.
- P. Designated areas at the lakefront will be chosen along with the designated space in that area to be occupied by each mobile food establishment or pushcart during the hours of operation.
- Q. The City of Geneva reserves the right to relocate mobile food establishments based on city need with 30 days notice.

§ 225-3. License Required for Designated Locations on City Property

- A. Any person desiring to operate a food truck, food trailer or push cart in one of five locations on city property shall make written application for such license to the City Clerk. The application for such license shall be on forms provided by the City Clerk, and shall include the following:
 1. Name and address of each applicant and each corporate officer of the food truck, food trailer or push cart vending corporation, or owner of an unincorporated business.
 2. Address of the commissary used in the supply and preparation of food for this food truck, food trailer or push cart.
 3. A valid copy of all necessary licenses, permits or certificates required by the New York State Department of Health, and vendors must comply with all laws, rules and regulations of said department, including, but not limited to the State Sanitary Code, Environmental Health Regulations subpart 14-4.
 4. A valid New York State Department of Motor Vehicles registration, vehicle insurance and valid driver's licenses of all vehicle operators.
 5. A copy of a valid certificate of authority issued by the New York State Department of Taxation and Finance empowering the vendor to collect both the New York State sales tax and compensating use taxes.
 6. A background check provided by the police department where the applicant resides. A license application may be denied by the Chief of Police if the background check demonstrates that the applicant has been convicted of criminal offenses that have a direct relationship to the license or that would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. Any decision to deny an application for this reason shall be made in compliance with Article 23-A of the Correction Law after considering the factors set forth in that law.
 7. Within 10 days of the issuance of a license, the vendor will make an appointment with the Geneva Fire Chief's Office for an inspection of the mobile food truck, food trailer or push cart to determine that the vehicle meets applicable New York State Fire Codes and rules and regulations required by the Fire Chief. The Fire Chief is hereby authorized to promulgate such additional rules and regulations as may be necessary to assure the fire safety of vending units.

§ 225- 4. Insurance

Before any license authorized herein shall be issued, the applicant shall file with the city proof of insurance, issued by an insurance company licensed to do business in the State of New York and approved by the City Attorney as to form, which insurance must be kept continuously in force during the term of the license. At the time of application, applicants shall provide proof of insurance that extends for the entire license period. The insurance shall not be less than \$1,000,000 comprehensive/general liability insurance. Such insurance shall not expire, nor be canceled, altered or amended except on 10 days written notice to the City Clerk served personally or by certified mail. Municipal operations, employees and property shall not be excluded from coverage. The insurance must list the City of Geneva an additional insured party.

§ 225- 5. Form and Condition of License

Every food truck, food trailer or push cart vending license shall contain the following conditions:

- A. Each license shall be valid from April 1st thru October 31st of the issue year. In the event of unseasonable temperatures, vendors may request an extension of the license period during the remaining five months of the year. License fees shall not be prorated and no refunds given for any reason.
- B. The license shall not be transferable.
- C. The license is valid for one food truck, food trailer or push cart only.
- D. There shall be issued to each vendor a license to be permanently and prominently affixed in the vehicle.

§ 225- 6. Fees

- A. All vendors shall pay an annual fee as agreed upon by the Geneva City Council during the budget process.
- B. Replacement licenses shall cost \$10 for each replacement license requested.

§ 225- 7. Revocation of License

- A. The City of Geneva shall have the power to suspend or revoke a license granted or renewed pursuant to this Code for a violation by the vendor licensee, his or her agents or employees of any law, ordinance, rule or regulation of the State of New York or the City of Geneva relating to the conduct of the business or trade for which the license or permit was issued, for fraud or deceit in such business or trade or for making a material misrepresentation on a license application. The City of Geneva shall also have power to revoke summarily the license or permit of any person who pleads guilty to or is convicted of violating the laws of the State of

New York or ordinances of the City of Geneva relating to the business or trade in which the licensee is engaged.

- B. The City of Geneva shall revoke a license in the event that the bond or insurance policy filed at the time of application is canceled or has expired and the holder of the license or permit has failed to file a new bond or policy within 10 days after cancellation or expiration. No part of any license or permit fee shall be refunded in the event that said license is revoked or suspended for cause.
- C. Failure to comply with the terms of a permit as issued by the City Clerk or with this chapter shall result in the denial of future applications for a Mobile Food Establishment License for one year.

§ 225- 8. Penalties for offenses

Violation of any provision in the code shall be punished by a fine of \$1,000. Each day any such violation shall continue shall constitute a separate violation.

§ 225- 9. Severability

If any provision of this chapter is declared invalid or unconstitutional for any reason, the remaining provisions shall be severable and continue in full force and effect.

This ordinance shall take effect immediately and in accordance with law.

ADOPTED BY THE GENEVA CITY COUNCIL ON July 5, 2023.

ATTEST:

Mayor

City Clerk