ORDINANCE NO. 2022-12

AN ORDINANCE OF THE VILLAGE OF CLEARWATER, NEBRASKA REGULATING FOOD TRUCKS; TO REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE CHAIRPERSON AND BOARD OF TRUSTEES OF THE VILLAGE OF CLEARWATER, NEBRASKA:

SECTION 1. It shall be unlawful for any person to sell or offer for sale or peddle food from a mobile food truck or mobile food vending unit upon any property within the municipal limits of the Village of Clearwater, including, but not limited to, streets, sidewalks, parking lots, parks, and private property without first having obtained a permit from the Village in accordance with this Ordinance.

SECTION 2. Persons may apply for a permit to operate a mobile food truck or a mobile food vending unit by filing with the Village Clerk a signed application on a form to be furnished by the Village Clerk, which shall contain the following information:

A. The applicant's business name, address, phone number, and email address;

B. If the applicant is a corporation, partnership, or other entity, the names of all officers and managers of such entity;

C. The vehicle license plate numbers and descriptions of all vehicles from which the applicant proposes to sell food;

D. The description of the general type of food items to be sold;

E. The requested term of the permit (e.g., a single event or a recurring license to operate);

F. Documentation from the State of Nebraska showing any and all licenses and permits required for applicant's sale of food;

G. A copy of the State of Nebraska sales tax permit, or proof of an applicable sales tax exemption for the applicant;

H. The address of the location the applicant anticipates selling from, including written permission from any private landowner, as well as adjoining private landowners;

I. A copy of the vehicle registration and proof of insurance;

J. Proof of insurance with a minimum coverage of $1,000,000.00, together with an insurance certificate listing the Village of Clearwater as an additional insured;

K. A signed waiver of liability set forth in Section 6;

L. A nonrefundable application fee

M. A plan for disposal of grease, water, and other waste; and

N. Such other information as the Village Clerk may require and as requested in the application form.

SECTION 3. Upon receipt of a complete application submitted in accordance with Section 2, the Chairperson of the Board of Trustees and the Village Clerk shall either approve or deny the permit. Grounds for denial may include, but are not limited to, the following:

A. A finding that the application is incomplete;

B. Nonpayment of applicable fees;

C. A finding that the application is not in conformity with any applicable laws, including, but not limited to, this Ordinance;

D. A finding that the proposed location of the applicant will impede traffic or cause safety concerns;

E. A finding that statements within the application are materially untrue or incorrect;

F. Previous revocations or suspensions of permits issued under this Ordinance or similar ordinances of other municipalities;

G. Insufficient or unacceptable plans for the disposal of grease, water, or other waste;

H. The requested term of the permit is during the Clearwater Rodeo, or a day before or a day after said rodeo; or

I. Issuance of the permit is not in the best interests of the Village.

The Chairperson and the Village Clerk also may modify any provision of the permit, including, but not limited to, reducing the term of the permit.

SECTION 4. Permits issued under this Ordinance are nontransferable and no such permit shall be used at any time by any person other than the one to whom it was issued.

SECTION 5. The fee for applications submitted under this Ordinance shall be $10.00.

SECTION 6. Before a permit under this Ordinance is granted, the applicant shall sign a waiver of liability holding harmless the Village of Clearwater and indemnifying the Village, its officials, and employees, for any claims for damages to property or injury to persons, which may occur in connection with mobile food vending.

SECTION 7. Permitholders shall conduct their activities in strict conformity with this permit, including, but not limited to, adhering to their plan for disposal of grease, water, and other waste.

SECTION 8. It shall be unlawful for any person to violate the provisions of this Ordinance. Any person found guilty of violating any of the provisions of this Ordinance shall, upon conviction, be fined a sum of not less than $250.00 nor more than $500.00. Each day that a violation of any of the provisions of this Ordinance continues shall constitute a distinct offense and shall be punishable as such.

SECTION 9. A permit issued under this Ordinance may be revoked or suspended by the Village Clerk for any of the following reasons:

A. Any fraud, misrepresentation, or false statement contained in the application for the permit;

B. Any fraud, misrepresentation, or false statement made in connection with the selling of food;

C. Operating in contravention of the parameters of the permit;

D. Any unlawful activity of the permitholder, including any violation of this Ordinance; or

E. Operating in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

SECTION 10. When the Village Clerk revokes or suspends a permit or a permit application is denied, the Village Clerk shall mail a notice of such revocation, suspension, or denial to the address of the permitholder or applicant, as set forth on the application form. Such permitholder or applicant may file an appeal with the Village Clerk. The request for an appeal shall be in writing to the Village Clerk. Such request for an appeal must be received within 30 days of the date the Village Clerk mailed notice of the revocation,

suspension, or denial. If no timely request for an appeal is made, the initial decision shall be final. If a timely request for appeal is received, the appeal shall be heard by the Village Board of Trustees at a regularly scheduled meeting with notice mailed to the permitholder or applicant at least 14 days prior to the meeting.

SECTION 11. That all ordinances or parts of ordinances in conflict be and the same hereby are repealed.

SECTION 12. That three-fourths of the Board of Trustees voted to suspend the requirement that this ordinance be read by title on three different days.

SECTION 13. That this ordinance shall be effective from and after its passage, approval and publication as provided by law.

SECTION 14. That this ordinance shall be published in pamphlet form and available for public inspection during normal village office business hours.

PASSED AND APPROVED THIS 8 DAY OF August , 2022.

VILLAGE OF CLEARWATER, NEBRASKA

By: _____
Chairperson

ATTEST:

_____
Angie Hupp, Village Clerk

CERTIFICATION

I, Angie Hupp, clerk of the Village of Clearwater, Nebraska, hereby certify that the foregoing is a true and complete copy of Ordinance No. 2022-12 of said village, duly passed and approved according to the law on the 8 day of August, 2022. I certify that said ordinance was published in pamphlet form.

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Angie Hupp, Village Clerk

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