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CITY OF HOBOKEN
ORDINANCE NO. _____

**AN ORDINANCE TO CREATE CHAPTER 147 ENTITLED
“MOBILE RETAIL FOOD VENDORS”**

WHEREAS, there is a need for codification of rules and regulations relating to mobile retail food vendors within the City; and,

WHEREAS, Chapter 147 is hereby created to codify licensing, and rules and regulations relating to mobile retail food vendors; and,

WHEREAS, additional amendments to other Chapters of the Hoboken City Code in order to maintain consistency between Chapters.

NOW, THEREFORE, the City Council of the City of Hoboken does hereby Ordain as follows:

**SECTION ONE: ESTABLISHMENT OF HOBOKEN CODE CHAPTER 147,
ENTITLED “MOBILE RETAIL FOOD VENDORS”**

Chapter 147 is hereby *established* and entitled “Mobile Retail Food Vendors” as follows:

Article I – General Regulations

§147-1.1 Purpose

- a. The City of Hoboken encourages the growth of Mobile Retail Food Vendors within the City of Hoboken while regulating the side effects of this growing industry, such as parking , traffic and waste disposal;
- b. This Chapter seeks to regulate Mobile Retail Food Vendors through the annual issuance of licenses and permits. This Chapter will assist the City with keeping record of Mobile Retail Food Vendor business within the City. License and permit fees will cover the cost of enforcement and administrative duties.
- c. This Chapter limits the proximity of Mobile Food Trucks to brick and mortar restaurants to secure safe and adequately spaced sidewalks in case of a fire, flood, and other natural or manmade disaster;
- d. This Chapter seeks to limit the interaction between uses which are incompatible in character. While serving similar purposes, selling food to residents, mobile food trucks and brick and mortar restaurants function separately and are not complimentary in nature.

- e. This Chapter seeks to protect the character of stable commercial areas and to provide sufficient space in appropriate locations for each use. The City seeks to locate Mobile Food Trucks in areas to better serve mobile populations. The City seeks to promote a desirable visual environment through limiting the interaction of each respective use.

§147-1.2 Scope

The provisions of this section shall apply to mobile food operations engaged in the business of cooking, preparing, and/or distributing food or beverage from Mobile Retail Food Vendors on or in public, private or restricted spaces.

§147-1.3 Definitions

MOBILE RETAIL FOOD VENDOR: any movable restaurant or retail food establishment in or on which food and beverage are transported, stored, or prepared for retail sale or given away at temporary locations. The term mobile retail vendor shall include and incorporate the term mobile retail food vendors, as defined in §115-1. Only the following mobile units shall be allowed within the City limits for use as a mobile retail food vendor, none of which shall exceed 30 feet in length:

MOBILE RETAIL MOTORIZED FOOD VENDOR – A food establishment that is located upon a motorized vehicle where food or beverage is cooked, prepared and served for individual portion service. Such food vendors must comply with this Chapter and all requirements of this Chapter, as well as any other applicable Section of this Code. Shall also be known as Mobile Retail Food Vendors.

MOBILE RETAIL NON-MOTORIZED FOOD VENDOR – Movable non-motorized unit (i.e., pushcart) where food or beverage is transported, stored, or prepared for retail sale or given away at temporary locations.

§147-1.4 Hours of Operation

- a. *Weekdays:* Sunday through Thursday, Mobile Retail Food Vendors shall operate between the hours of 6:00 AM to 9:00 PM.
- b. *Weekends:* Friday and Saturday, Mobile Retail Food Vendors shall operate between the hours of 6:00 AM and 11:00 PM

§147-1.5 Prohibition Against the Transfer of a License and/or Permit

- a. No person holding a Mobile Retail Food Vendor license and/or permit shall sell, lend, lease or in any manner transfer any interest in a Mobile Retail Food Vendor license and/or permit.
- b. A license and/or permit holder may transfer said item as part of the sale of a majority of the stock in a corporation holding such a license and/or permit, as part of the sale of a majority of the membership interests of a limited liability company holding such license and/or permit, or as part of the sale of a business or substantially all of its assets; provided

that there shall be no allocated or actual value for the transfer of the license and/or permit, and provided that:

- i. Prior to any such transfer, the transferor shall notify the Director of the Department of Health and Human Services's Health Officer and the Director of the Department of Transportation and Parking, in writing, and the transferee shall submit a mobile retail food vendor health license application **and** parking permit for approval. which approval must occur prior to transfer. Licenses and permits which are transferred prior to approval shall be null and void as of the date and time of transfer, if not previously approved pursuant to this Section.
 - ii. Any such transfer shall be subject to the terms and conditions of the original license and/or permit.
 - iii. A transfer fee of twenty five dollars (\$25.00) payable to the City Clerk, and any and all applications fees described in this Chapter, shall be received prior to any transfer being approved.
- c. Any unauthorized transfer or attempt to transfer a license and/or permit shall automatically void such item. Additionally, whoever violates this provision, including both the transferor and transferee, shall be subject to penalties pursuant to Section 147-1.10.

§147-1.6 Operation of Mobile Retail Food Vendors

- a. Any Mobile Retail Food Vendor being operated without a valid Mobile Retail Food Vendor license and/or permit shall be deemed a public safety hazard and may be ticketed and impounded.
- b. Mobile vendor licensees shall be required to display the mobile retail vendor license and/or permit prominently when located in a permitted location. Being the lawful holder of a City of Hoboken mobile vendor license and/or permit shall not be a valid defense to a citation for failure to prominently display the license in violation of this Chapter.
- c. No City of Hoboken employee shall own more than 10% of any Mobile Retail Food Vendor license and/or permit.

§147-1.7 Enforcement

Unless otherwise specified herein, this chapter shall be enforced by any Code Enforcement Officer, Parking Enforcement Officer, the Hoboken Police Department, and/or the Health Officer.

§147-1.8 Mobile Retail Motorized Food Vendor Fees and Regulations

§147-1.8.1 License Fees

- a. Mobile Retail Motorized Food Vendor Business License – The application fee for a license or any renewal of a license granted by the City shall be \$500.

- b. Mobile Retail Motorized Food Vendor Health Certificate - The application fee for a health certificate or a renewal of a health certificate from the Hoboken Division of Health shall be \$15.
- c. Mobile Retail Motorized Food Vendor Parking Permit Application Fee – The application fee for a Mobile Retail Motorized Food Vendor Parking Permit shall be \$1250 per application per year.
- d. Mobile Retail Motorized Food Vendor Parking Permit - The parking permit fee required for the annual issuance or any renewal of a Mobile Retail Food Vendor parking permit shall be \$2500.

§147-1.9 Supplemental Regulations

- a. Mobile Retail Food Vendors shall not exceed 30 feet.
- b. Mobile vendors shall not provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters.
- c. The City reserves the right to temporarily move any Mobile Retail Food Vendor to a nearby location for emergency purposes as determined in the sole discretion of the City.
- d. Any license and/or permit not used for a period of fourteen (14) consecutive days or longer shall be revoked by the City.
- e. All license and/or permit shall comply with all applicable state statutes, all applicable City of Hoboken ordinances, and any other law or regulation which may be applicable under the given circumstances.
- f. Mobile vendors shall comply with all noise ordinances, laws and regulations in effect by the City of Hoboken, County of Hudson and State of New Jersey.
- g. During periods of Special Events, as herein defined, the Director of the Department of Health and Human Services may suspend Sections 147-1.9 and 147-3.4 of this Chapter. At the discretion of the Director of Health and Human Services, said Director may declare any event within the City of Hoboken as a “Special Event” for purposes of this section.
- h. Mobile vendor shall maintain an on-vehicle GPS-based system that transmits standard GPS latitude and longitude coordinates in a format/protocol compatible with the City's GPS tracking systems/maps, and shall make these data openly available to the public and the City of Hoboken for tracking and enforcement purposes. GPS coordinates shall be broadcast no less frequent than once every five minutes and shall transmit these coordinates whenever the vehicle is within City limits. Vendors should be aware that enforcement of overlapping vendor operations will be documented via these data, so non-functioning or delayed data service will significantly impact the decision of which vendor arrived first at a particular location.

§147-1.10 Violations and Penalties

Unless otherwise specified herein, any person violating any provision of this Chapter shall, upon conviction thereof before the Municipal Court, be subject to a fine not exceeding \$1,000, or imprisonment for a period not exceeding ninety (90) days, or both. The amount of such fine and/or imprisonment shall be determined by the sound discretion of the Municipal Judge. In addition to the aforementioned penalties, and as provided for herein, violations of this Chapter may subject the license to suspension or revocation as provided for herein.

Article II – Health Regulations

§147-2.1 Mobile Retail Food Vendor License Required

- a. No person of business entity, including a religious or charitable organization, shall operate as a Mobile Retail Food Vendor in any public, private or restricted space without a license issued by the Department of Health and Human Services' Health Officer.
- b. The Department of Health and Human Services' Health Officer may, from time to time, set a limit on the number of total licenses that may be issued or renewed per year; however, no more than one license may be issued to a single person or business entity or both.
 - i. Mobile Retail Motorized Food Vendor: No more than 25 mobile retail food vendor licenses will be issued by the Department of Health and Human Services' Health Officer annually.
 - ii. Mobile Retail Non-Motorized Food Vendor: No more than 25 mobile retail food vendor licenses will be issued by the Department of Health and Human Services' Health Officer annually.

§147-2.2 Application for a Mobile Retail Food Vendor License

Any person desiring a license shall file with the Hoboken Division of Health an application which shall contain the following information:

- a. The name of the applicant.
- b. If a trade name is used, whether the applicant is an individual, partnership, association or corporation. For any business entity, include names and addresses of all partners, members, officers and shareholders holding greater than 10% interest.
- c. The address of the applicant and telephone number.
- d. The names and addresses of the persons from which goods making up the stock were or are to be purchased.
- e. Three business references.

- f. The place or places of residence of the applicant, and any individual listed in accordance with subsection (b), for the preceding three years.
- g. A description of the food items to be sold.
- h. If the applicant is a corporation, the state in which its Charter is registered and the registered agent's name and address in this state.
- i. The number and nature of any arrests or convictions against the applicant, officers, partners or any salesmen to be employed.
- j. As to the application, there must be appended a letter or, when applicable, a corporate resolution from the firm authorizing the person signing the application to act as its representative and certifying that the information is correct and accurate.
- k. Whether the applicant, in previously operating in this state under a license, has had such license revoked or suspended and, if so, the reasons therefore (Motorized).
- l. The make and model of vehicle, state license plate number, drivers identification number, and copy of state registration (Motorized).

§147-2.3 Enforcement

The Hoboken Health Officer shall have the authority to enforce all sections of this Article.

§147-2.4 Supplemental Regulations

The Department of Health and Human Services' Health Officer is hereby authorized to promulgate additional rules and regulations appropriate for the implementation of this section, and, if necessary, work with other agencies and departments of the City and State to establish a streamlined process for the licensing of Mobile Retail Food Vendors provided that:

- a. Such rules and regulations are in writing and served on all licensees at least seven (7) days prior to enforcement; and,
- b. Mobile food vendors shall provide trash and recycling receptacles on or at their facility, and are responsible for litter within 5 feet of the licensed vehicle. All waste containers shall be emptied by and at the expense of the Mobile Retail Food Vendor operator.
- c. Inspectional Services: Mobile Retail Food Vendors are subject to all applicable regulations found in Hoboken Code Section 115-2.

Article III – Parking Regulations

§147-3.1 Mobile Retail Food Vendor License Required

- a. No person of business entity, including a religious or charitable organization, shall operate as a Mobile Retail Food Vendor in any public, private or restricted space without a parking permit issued by the Department of Transportation and Parking.
- b. The City of Hoboken may, from time to time, set a limit on the number of total parking permits that may be issued and/or renewed per year; however, no more than one permit may be issued to a single person or business entity or both.
 - i. Mobile Retail Motorized Food Vendor: No more than 25 mobile retail food vendor permits will be issued by the City of Hoboken annually.
 - ii. Mobile Retail Non-Motorized Food Vendor: No more than 25 mobile retail food vendor permits will be issued by the City of Hoboken annually.

§147-3.2 Application for a Mobile Retail Food Vendor Permit

Any person desiring a permit shall file with the Department of Transportation and Parking an application which shall contain the following information:

- c. A copy of a current Hoboken business license;
- d. A notarized letter from the business owner authorizing an individual as a responsible officer of the business, if the applicant is not the owner;
- e. Verification that there is no off-street parking contractually provided to the business address as determined by the Parking Utility;
- f. The regular working hours of the owner or nonresident employee(s) listed on the application for whom a business permit is sought;
- g. Whether the applicant, in previously operating in this state under a license, has had such license revoked or suspended and, if so, the reasons therefore
- h. The make and model of vehicle, state license plate number, drivers identification number, and copy of state registration
- i. A description of the food items to be sold.
- j. Any other information as required by the Parking Utility.

§147-3.3 License Renewal

Mobile Retail Food Vendors parking permits shall be valid for one year with no right to renewal.

§147-3.3 Enforcement

Hoboken Parking Enforcement Officers and the Hoboken Police Department shall have the authority to enforce all sections of this Article.

§147-3.4 Mobile Retail Motorized Food Vendor Regulations

The Department of Transportation and Parking is hereby authorized to promulgate additional rules and regulations appropriate for the implementation of this Section, and, if necessary, work with other agencies and departments of the City and State to establish a streamlined process for the permitting of Mobile Retail Food Vendors provided that:

- a. Such rules and regulations are in writing and served on all permits at least seven (7) days prior to enforcement; and,
- b. Any rules and regulations promulgated shall not be inconsistent with the following limitations and restrictions:
 - i. Mobile Retail Food Vendors shall be parked and/or conduct business at a minimum 100 foot distance from the business entrance of any menu-serving restaurant.
 - ii. Mobile Retail Food Vendors shall park and/or conduct business at a minimum 50 feet from any other Mobile Retail Food Vendors.
 - iii. There shall be a maximum of two Mobile Retail Food Vendors per block face during the permitted hours of operation.
- c. Parking
 - i. Mobile Retail Food Vendors may not occupy Resident Only parking spaces.
 - ii. Mobile Retail Food Vendors may not occupy any other legal parking space in the City, including but not limited to metered parking spaces, for longer than four (4) consecutive hours.
 - iii. Mobile Retail Food Vendors must pay for their first two (2) hours at a metered parking space and must display receipt of payment verification for these two (2) hours for the entire period of any parking event.
 - iv. No Mobile Retail Food Vendor shall be parked on the street overnight, or left unattended and unsecured at any time food is kept in the Mobile Retail Food Vendor unit.
 - v. Any Mobile Retail Food Vendor unit which is found to be unattended or parked during overnight hours shall be considered a public safety hazard and may be ticketed and impounded.
 - vi. Mobile Retail Food Vendors shall not be eligible for a business parking permit.
 - vii. In accordance with Section §147-1.8.1 in this Chapter, a parking permit fee shall be paid and a permit shall granted by the Department

of Parking and Transportation. This Permit must be visible during all times of operation.

Article IV – Non-Motorized Mobile Retail Food Vendors

§147-4.1 Mobile Retail Non-Motorized Food Vendor Fees and Regulations

§147-4.1.1 License Fees

- a. Mobile Retail Non-Motorized Food Vendor Health Department Certificate – The application fee for a health certificate or a renewal of a health certificate from the Hoboken Division of Health shall be \$15.
- b. Mobile Retail Non-Motorized Food Vendor Annual Business License – The annual fee required for the issuance or renewal of a Mobile Retail Non-Motorized Food Vendor business license shall be \$150.

§147-4.1.2 Supplemental Regulations

- a. No non-motorized retail food vendor shall remain at the same location on any sidewalk or street for more than thirty (30) minutes without transacting a sale. At the expiration of the thirty (30) minute period, the vendor must move location by at least thirty (30) feet.
 1. For purposes of this Article, “sale” shall mean the transaction of vendor’s goods in return for valuable consideration.
 2. Immediately after any sale, the thirty (30) minute period begins anew.
 3. The vendor may not return to any location from which he has moved in accordance with the requirements of this subsection or to any place within thirty (30) feet of the location for at least two hours two (2) hours.
- b. Any locations upon which a Mobile Retail Non-Motorized Food Vendor parks, stops or remains, pursuant to this Section, shall not violate any City promulgated parking ordinances or regulations, or state or federal statutes and/or regulations.
- c. Non-motorized retail food vendors shall be a minimum of 10 feet from any crosswalk.
- d. Non-motorized retail food vendors shall be a minimum of 10 feet from any fire hydrant.
- e. Non-motorized retail food vendors shall not park any vehicle used for the transportation of non-motorized food vending units in the street in violation of the City’s parking ordinances or state statute.
- f. All non-motorized vending under this Article shall occur on the sidewalk. Non-motorized vending under this Article shall not take place on the street.

- g. Non-motorized retail food vendors units shall not be placed in any location that restricts sidewalk width to less than 5 feet.
- h. Vehicles used to transport such vendor units shall not park in violation of any section of parking codes

SECTION TWO: AMENDMENTS TO CHAPTER 115

The following amendments shall be made to Chapter 115 (additions noted in underline, deletions noted in ~~striketrough~~):

Section 115-1: Definitions

Mobile Retail Food Establishment: ~~The definitions in N.J.A.C. 8:24-1.3 “Definitions.”~~ Shall have the meaning as defined in N.J.A.C. 8:24-1.5, and shall include Mobile Retail Motorized Food Vendor and Mobile Retail Non-Motorized Food Vendor, as defined in Chapter 147 of the Hoboken City Code.

Section 115-10.8: Mobile Retail Vendors

~~A mobile retail vendor shall not park his vehicle or pusheart for a period longer than the time it takes to make a sale to a customer.~~ Mobile retail vendors shall at all times comply with Chapter 147 of the Hoboken City Code.

SECTION THREE: AMENDMENTS TO CHAPTER 128

The following amendments shall be made to Chapter 128 (additions noted in underline, deletions noted in ~~striketrough~~):

Section 128-5: Business Licenses; Fees

A. Food Businesses

Business	Fee
<u>Vendor (Mobile Retail Non-Motorized Food Vendor)</u>	<u>\$150.00</u>
<u>Vendor (Mobile Retail Motorized Food Vendor)</u>	<u>\$500.00</u>
Vendor, hot dog (push cart)	\$175.00
Vendor, mobile vehicle (not to exceed 15 feet) (Mobile vendors and hot dog pushearts not to Exceed a total of 50 feet)	\$500.00

SECTION FOUR: AMENDMENTS TO CHAPTER 146

The following amendments shall be made to Chapter 146 (additions noted in underline, deletions noted in ~~strikethrough~~):

Section 146-2: Nonapplicability

The provisions of this Article shall not affect any nonprofit-making vendor or any person duly licensed by the Commissioner of Banking and Insurance or the Real Estate Commission of the State of New Jersey.

The provisions of the Article shall not affect any business which falls within the meaning of a Mobile Retail Food Vendor, as defined in Chapter 147 of the Hoboken City Code.

SECTION FIVE: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION SIX: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION SEVEN: EFFECTIVE DATE

This Ordinance shall take effect immediately upon passage and publication as provided by law.

SECTION EIGHT: CODIFICATION

This ordinance shall be a part of the Code of the City of Hoboken as though codified and fully set forth therein. The City Clerk shall have this ordinance codified and incorporated in the official copies of the Code.

The City Clerk and the Corporation Counsel are authorized and directed to change any Chapter, Article and/or Section number of the Code of the City of Hoboken in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.