



ORDINANCE 2024-07

AN ORDINANCE TO AMEND THE MOBILE FOOD VENDOR ORDINANCE OF THE CODE OF THE TOWN OF WILLIAMSTON

- WHEREAS,** the Town of Williamston Code allows mobile food vendors within Williamston;
- WHEREAS,** the Town Board of Commissioners has determined that the current ordinance requires an amendment to bring clarity and promote compliance with the same; and
- WHEREAS,** appropriate standards and limitations will promote mobile food vending as a viable economic development opportunity while protecting public health and safety.

NOW THEREFORE, THE BOARD OF COMMISSIONERS OF THE TOWN OF WILLIAMSTON, NORTH CAROLINA, DOES HEREBY ORDAIN:

That Title XI, Chapter 117, entitled "Mobile Food Vendor Ordinance" shall be amended and replaced in its entirety with the following ordinance:

§ 117.01 INTENT

Allowing food truck businesses to operate in Williamston promotes diversification of the Town's economy and employment opportunities. Food trucks support the incubation and growth of entrepreneurial/start-up businesses. The Town further recognizes that mobile food vendors have the same responsibilities to their customers and the community as do food service establishments with fixed locations and should be required to abide by local permit requirements to ensure the health, safety, and welfare of the public.

§ 117.02 AUTHORITY

North Carolina General Statute § 160A-174 grants the Town the power to define, prohibit, and regulate, acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town through the creation of ordinances.

§ 117.03 DEFINITIONS

- (A) **MOBILE FOOD VENDOR:** Any mobile seller of food whether from a food truck, pushcart, or other wheeled conveyance. A temporary, stationery set up for food vending such as with a tent and table shall be excluded from this ordinance.
- (B) **FOOD TRUCK:** A readily movable, enclosed trailer or motorized-wheeled vehicle, capable of being moved about a public right-of-way, designed and equipped to prepare and/or serve food.
- (C) **PUSHCART:** A non-motorized cart or wheeled vehicle from which to sell food that is prepared elsewhere and ready for consumption at the point of sale.
- (D) **REGULATORY FEE:** A fee assessed to cover the cost of regulating a particular business activity that is assessed to the business being regulated.
- (E) **TOWN SANCTIONED EVENT:** Any event sponsored by the town, or in which official permission or approval has been granted by the town administrator or designee, that is
 - (i) open to the public;
 - (ii) does not impede or block street traffic without Town approval;
 - (iii) for a lawful purpose not prohibited by federal, state, and local law; and
 - (iv) does not require excessive emergency services as determined by prior events sponsored by the same applicant.



§ 117.04 PERMITTING

- (A) A permit shall be required prior to the operation of any form of mobile food vending unless otherwise excepted in this chapter.
- (B) Applicants seeking a permit shall be assessed no regulatory or application fee in connection with making an application for a permit.
- (C) Permits shall be posted in a visible location affixed to the food truck or pushcart at all times while in operation.
- (D) Applicants intending to operate upon private property must attach to their permit application a signed written approval from the owner of each parcel unless approved by the Town Administrator or designee to operate from public or Town-owned property in connection with a Town-sanctioned event.
- (E) Food trucks shall provide documentation of approval from the North Carolina Department of Health. A valid health permit, if required by the Health Department, must be maintained for the duration of the permit period and shall be placed in a conspicuous location for public inspection. If no Health Department Permit is required by law, the mobile food vendor must attach a health permit exemption form to be provided by the Town and signed by a local Health Department official.
- (F) Such permits do not include a license to peddle or solicit as referenced in Chapter 113 of the Town Code. No permit issued shall authorize any mobile food vendor to operate on or from a public street unless for a town-sanctioned event.

§ 117.05 APPLICATION FOR PERMIT

Mobile food vendors shall not operate in Williamston without a valid permit from the Town of Williamston. The following information shall be provided with each application for a mobile food vendor permit.

- (A) Name of mobile food vendor;
- (B) Make, model, and license plate number of vending unit;
- (C) Owner's contact information;
- (D) Operator's contact information;
- (E) Type of vendor (food truck or pushcart);
- (F) Copy of the approved permit from the Martin County Health Department (except ice and ice cream vendors which are not regulated by the Health Department), or a health permit exemption form to be provided by the Town;
- (G) List of operating locations;
- (H) Signatures from property owner, indicating consent for the use of private property and agreement to the listed requirements;
- (I) Current NC State Sales and Use Tax Number from the Department of Revenue.
- (J) A current certificate of insurance coverage issued by a valid insurance carrier authorized or eligible to do business in the State of North Carolina, bearing a minimum liability limit of one million dollars (\$1,000,000.00) and listing the Town of Williamston as an additional insured for any property damage or personal injury for which the Town might incur liability arising out of the operations of a food truck.

§ 117.06 PERMIT REVIEW

Permit requests shall be submitted to the Town Planning Department staff and shall be referred to the Tax Department, Police Department, Public Works Department, and/or Fire Marshal for review prior to action.



§ 117.07 REGULATIONS

- (A) Mobile food vendors shall not operate within the Town without a valid permit.
- (B) Mobile food vendors shall be positioned at least three (3) feet away from any fire hydrants, any fire department connection, utility box, or vault and at least ten (10) feet away from the nearest building provided unless a closer location is approved by the Williamston Fire Marshall.
- (C) Mobile food vendors shall be situated to allow at least (5) feet of unobstructed space for pedestrians on sidewalks, pedestrian paths, and other locations intended primarily for pedestrian travel. If any applicable law, including regulations of the Americans with Disability Act, shall require a greater distance, the greater distance shall apply.
- (D) No mobile food vendor otherwise shall be located within any area of a lot, including but not limited to driveway entrances, alleyways, handicapped parking spaces and ramps, building entrances and exits, that may impede, endanger, or interfere with pedestrian or vehicular traffic.
- (E) Mobile food vendors shall be allowed to locate on a property within any zoning district that allows restaurants, including drive-in and fast food except as otherwise provided by this chapter but shall remain at least 50 feet away from the main entrance of any fixed restaurant establishment or outdoor dining space unless a closer distance is permitted in writing by said establishment.
- (F) Mobile food vendors shall provide a trash receptacle for customer use. All associated equipment, including trash receptacles, must be within three feet of the food truck unless they are part of a town-sanctioned event.
- (G) Temporary connections to potable water are prohibited. All plumbing and electrical connections shall be in accordance with the State Building Code.
- (H) Mobile food vendors may operate on any private property with the consent of the owner as provided herein or on public property if approved in connection with a town-sanctioned event as provided by this chapter.
- (I) No mobile food vendor shall conduct business on any public right-of-way, sidewalk, upon any public road in the town, or on any property owned by the town except as allowed by the Town Administrator or designee in connection with a town-sanctioned event.
- (J) No liquid, grease, or solid waste may be discharged from the food truck. Mobile food vendors shall not dispose of waste of any kind in tree pits, storm drains, the sanitary sewer system, or on public streets or rights-of-way and must otherwise comply with all applicable waste regulations under federal, state, or local law.
- (K) Mobile food vendors must comply with all current fire, health, sanitation, public safety, and traffic laws and otherwise must operate in a safe, sanitary manner consistent with all applicable local, state, and federal regulations.
- (L) Mobile food vendors shall only serve walk-up customers and shall not receive vehicular traffic or operate a drive-through window.
- (M) Any lighting installed upon a food truck or pushcart shall be such that minimizes the glare on roadways and surrounding properties.
- (N) No signage shall be allowed other than signs permanently attached to the motor vehicle except one sandwich board sign with a display area no larger than 36 inches in length and 24 inches in length is allowed but must be posted within three (3) feet of the food truck and does not impede vehicle or pedestrian traffic.
- (O) Mobile food vendors must have a current Sales and Use Tax registration number from the Department of Revenue.



§ 117.08 SUSPENSION, REVOCATION OF PERMIT

- (A) The Town reserves the right to require any permit holder to cease part or all of its operation or to remove the food truck from a permitted location to allow for construction, maintenance, or repair of any street, gutter, sidewalk, storm drain inlet or any similar municipal utility.
- (B) The Town Administrator or designee reserves the right to temporarily suspend a mobile food vendor permit to maintain the health, safety, and welfare of the public. The Town may temporarily suspend the food truck permit when the street is closed for a special event.
- (C) Any permit issued pursuant to the provisions of this chapter may be suspended or revoked following a determination by the Town Planning and Zoning Officer that the mobile food vendor's operations are in violation of the provisions of this chapter, causing parking, traffic congestion, or litter problems either on or off the property where the use is located, or that such use is otherwise creating a danger to the public health or safety.
- (D) Such suspension or revocation may occur after notice and hearing before the Town Planning and Zoning Officer held upon ten days' notice.
- (E) In emergency situations, including but not limited to the disposal of liquid waste or grease, or other causing or allowing conditions that pose an imminent danger to the health, welfare, and safety of the public, the Town Administrator or designee may summarily revoke a mobile food vendor permit without prior notice and the food truck will be required to cease operation immediately.

§ 117.09 ENFORCEMENT

(A) Civil Penalties.

- a. Violations of any of the provisions of this section will result in the following civil penalties:
 - i. \$50.00 following the first offense in any twelve-month period;
 - ii. \$100.00 following the second offense in any twelve-month period;
 - iii. Permit revocation following the third offense in any twelve-month period.
- b. The Town Planning and Zoning Officer may issue a notice of violation, assessing civil penalties as follows:
 - i. The notice shall be issued in writing and shall set forth with reasonable specificity the basis for the civil penalty.
 - ii. The notice of violation shall be served by registered or certified mail, or by personal service. When service is made by registered or certified mail, a copy of the notice may also be sent by first-class mail. Service shall be deemed sufficient if the first-class mail is not returned by the Post Office within ten (10) days after the mailing.
 - iii. Refusal to accept the notice shall not relieve the violator of the obligation to pay the penalty.
 - iv. The notice of violation shall contain a date or period by which the violation must be corrected. From and after the date specified in the notice, each subsequent day that the violation continues in existence shall constitute a separate and distinct offense subject to additional civil penalties.
 - v. If a person fails to pay any civil penalty within thirty (30) days after the decision becomes final, the Town may recover the penalty, together with all costs allowed by law, by filing a civil action in the General Court of Justice in the nature of a suit to collect a debt.

(B) Other Remedies. In addition to civil penalties and permit suspension and revocation, a violation of the provisions of this chapter may also be enforced through injunctive or other equitable relief, or a combination of remedies, as issued by a court of competent jurisdiction.

(C) Appeals.

- i. A party aggrieved may appeal any decision under this section to the Town Administrator within fifteen (15) calendar days after the contested decision. An appeal must be made in writing and shall contain the reasons supporting the appeal and any evidence that supports it. The Town Administrator or designee other than the person rendering the decision shall review the information provided and shall issue a written decision determining whether a violation has occurred.



- ii. After receiving a determination from the Town Administrator or designee, a party aggrieved may appeal to the Town Board of Commissioners within twenty-one (21) calendar days after the Town Administrator's decision (or the decision of his designee) was mailed. The scope of the Board's review shall be limited to verifying the facts supporting a written decision or Findings of Fact made on a suspension. If the Board finds that the facts as found are correct, the civil penalty, administrative fee, suspension or revocation shall not be disturbed.

§ 117.10 CONFLICT

All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

§117.11 SEVERABILITY.

If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

§117.12 EFFECT. This ordinance shall be effective upon its adoption.

ADOPTED the 5th day of August 2024.

A handwritten signature in blue ink that reads "Dean McCall".

The Honorable Dean McCall, Mayor

ATTEST:

A handwritten signature in blue ink that reads "Jaqueline Escobar".
Jaqueline Escobar, Town Clerk

