

**TOWN OF WEST NEW YORK
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE #23/17

**AN ORDINANCE AMENDING CHAPTER 254 OF THE CODE OF THE
TOWN OF WEST NEW YORK ENTITLED “MOBILE OR STREET FOOD
VENDORS”**

WHEREAS, Chapter 254 of the Code (the “Code”) of the Town of West New York (“Town”) regulates mobile and street food vendors in West New York; and

WHEREAS, the location and use of mobile food vending vehicles in West New York and the issuance of permits are matters of public concern; and

WHEREAS, the governing body deems the issuance of such permits to be important enough so as to limit and constrict the areas of location of said vendors; and

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Commissioners of the Town of West New York that Chapter 254 entitled “Mobile or Street Food Vendors” shall be deleted in its entirety and replaced as follows:

SECTION ONE

0.1. Preamble.

WHEREAS, the location and use of mobile food vending vehicles in West New York and the issuance of permits are matters of public concern; and

WHEREAS, the governing body deems the issuance of such permits to be important enough so as to limit and constrict the areas of location of said vendors.

Now, therefore, be it ordained by the Board of Commissioners of the Town of West New York, County of Hudson, State of New Jersey, as follows:

1. Compliance required.

It shall be unlawful for any person to conduct, engage in or carry on any mobile or street food business, trade occupation, employment or activity within the Town of West New York without first having complied with the terms of this chapter.

2. Permit required.

No person shall be allowed to operate, sell or place upon the streets, parks or public lands of the Town of West New York any mobile or street food entity without first having received a permit and approval of the location of such vehicle, and in accordance with the provisions of

this chapter. No more than five (5) permits will be available for mobile or street food entities within the Town. All mobile or street food entities, which currently have a valid permit will be allowed to keep said permit active on a year by year basis through renewal; however, if the permit is not renewed timely (by the last business day of the month of November of each year), it will be necessary for the former permit holder to begin the permit application process anew and the permit shall be subject to the same five (5) available permit limit that is permissible within the Town. Accordingly, if a permit is not renewed in a timely manner, it shall be treated as all other first time applicants. No preference will be given to applicants who held licenses and those licenses have lapsed or become inactive.

No permit shall be given on 60th Street, Kennedy Boulevard and/or Kennedy Boulevard East except for special events which are approved by the Mayor and Board of Commissioners. When the Mayor and Board of Commissioners declare a special event, the Health Officer shall be responsible for issuing the appropriate license to the vendor once the Health Officer is satisfied that the vendor has met the Health regulations of the Town. The fee for this special events license shall be \$50 per day with a security deposit of \$500. No more than 75 special events licenses will be issued at one time.

The provisions of Chapter 207 (Food Handling) shall be applicable to all permits that fall under this Chapter, including the requirement of obtaining a “food handler’s certificate.”

3. **Filing of application.**

All applications for such licenses shall be filed with the Health Officer on forms prepared by the Health Officer. Renewal applications shall be filed no later than the last business day of the month of November of each year.

4. **Investigation of applicant; copies of application; records.**

A. Application investigation.

(1) Upon receipt of the application and payment of the appropriate fees by the applicant, the Health Officer shall send a copy of the application to the Police and Fire Departments and the Zoning Officer or the Construction Official, all of whom shall make an appropriate investigation of both the applicant, the location sought by the street food vendor and any other matter deemed necessary. The Health Officer shall make his own investigation and inspection to determine the appropriateness and compliance with the carrying and handling of food, the preventing of nuisances, the spread of disease for the protection of health and the compliance with the State Sanitary Code and any other applicable health regulation (including obtaining a food handler’s certificate). The Police Department shall make such inspections and reports concerning the placement and location and/or the route of such street food vendors to protect the public's safety, the free flow of both vehicular and street traffic and the use of public facilities.

(2) A copy of the application shall also be served upon the Town Clerk.

B. Each official shall maintain records of each application submitted to his or her department. Said official shall forward to the Town Clerk and to the appropriate Commissioner his or her reports, noting his or her observations, findings and recommendations.

5. **Standards for approval; denial; appeals.**

A. All licenses shall be approved by the Commissioner having jurisdiction over the Department of Health and based upon the qualifications of the applicant and the recommendation and reports of the investigative officials. In determining whether the applicant or licensee (either upon a new application or a renewal) has complied with the general laws and statutes of the State of New Jersey and the ordinances of the Town of West New York, the Commissioner having jurisdiction over the Department of Health shall be guided in making his/her decision by the following standards:

(1) Chapter 414, Zoning.

(2) The provisions of the ordinance adopting the Construction Code and the Property Maintenance Code of the Town.

(3) The provisions of Chapter 322, Sanitation.

(4) Any and all other applicable regulating codes and ordinances of the Town, including public health statutes and codes of the State of New Jersey.

(5) The license history of the applicant (either new or renewal) regarding past violations, revocations or suspensions and the timeliness of past applications for licenses and the applicant's continued compliance with the license requirements and the effect upon the placement of the vending cart upon public access, safety and traffic.

B. The Commissioner shall issue or deny the license within 10 days from the date that all investigative reports as required by this chapter are submitted.

C. In the event that the Commissioner shall have reasonable cause, based on the above standards and investigation reports submitted by the officials designated to undertake the inspections, to believe that the information submitted on the application is not complete or is incorrect, and/or that the nature of the business proposed to be conducted by the applicant and/or the persons to be involved in said business would be detrimental to the health, welfare and/or general safety of the citizens of the Town and/or that the good character and/or fitness of the applicant can reasonably be questioned because of its relationship to the nature of the business or the location of the stand or spot sought by the vendor, the Commissioner shall have the right to deny said license.

D. Upon denial of a license, the applicant shall have the right to appeal said denial. The appeal shall be considered by the Board of Commissioners or the Town of West New York's Special Hearing Officer/Special Counsel. Said appeal shall be filed with the Health Department (and a copy to the Town Clerk) within 10 days of the initial denial.

E. Upon receipt of the above by the Health Department, the appeal shall be forwarded to the Municipal Administrator, who shall forward it for consideration to the Board of Commissioners or Special Hearing Officer/Special Counsel. The Board of Commissioners shall schedule a hearing either at a regular Board of Commissioner meeting or at a special meeting, which hearing shall not be less than 30 days and not more than 45 days from the receipt of the notice of appeal. The Special Hearing Officer/Special Counsel shall schedule a hearing which shall not be less than 30 days and not more than 45 days from the receipt of the notice of appeal

6. **Contents of application.**

The application shall contain the following information:

A. The name under which the business is to be conducted.

B. The name of the applicant and his or her age and date and place of birth. In the event that the applicant is a corporation, then the applicant shall submit a copy of its certificate of incorporation, the names and addresses of each person owning 10% or more of the shares of stock issued by said corporation and the names and addresses of the officers of said corporation, specifying the office held by each person, together with the name and address of the registered agent for said corporation. In the event that the applicant is a partnership, then and in such event, the applicant shall supply the Town with the name and address of each partner, general or limited, having at least a 10% interest in said partnership.

C. The present address of the applicant or applicants.

D. The address and location of the business to be conducted and the proposed manner and use of the premises.

E. The nature of the business and the extent thereof.

F. A statement as to whether the applicant has ever had a license to conduct the business described revoked or denied and the reason therefor.

G. Details of any arrest or conviction for misdemeanors and crimes, including the nature of the offense for which the applicant was arrested or convicted, the date of the conviction and the place where said conviction was obtained.

H. The business telephone number of the applicant.

I. A statement by the applicant that the information supplied in the application is to induce the Town of West New York to issue the license and that the applicant agrees to comply with all the laws and ordinances of the State of New Jersey and the Town.

J. Three locations, in order of preference, in which the applicant intends to conduct his or her business. In the event of a mobile food vending service such as ice cream, fruit or vegetables, the applicant shall state his or her route and time of location at each block in his or her route, along with the amount of circuits the licensee intends to make. Applicant shall ensure at all times that the location of their entity does not obstruct public access, public safety or effect traffic within the Town. License may be revoked by Town if location has a negative effect on public access, safety or traffic.

7. **Insurance.**

No license shall be issued to any vendor selling from a truck unless a certificate is furnished to the Town showing that the vendor is carrying the following minimum amounts of insurance: public liability insurance in the amount of not less than \$500,000 for injuries, including those resulting in death, resulting from any one occurrence and on account of any

one accident; and property damage insurance in the amount of not less than \$25,000 for damages on account of any one accident or occurrence. Said certificate shall contain an agreement signed by the insurance company that, prior to modification, cancellation or termination of the policy, written notice shall be sent to the Township Clerk by said insurance company.

8. **Definitions.**

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

MOBILE OR STREET FOOD VENDOR - Any person engaged in the business of selling food products from a vehicle, self-powered or otherwise, on the public and private streets and sidewalks of the Town.

PERSON - Includes individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, corporations or unincorporated groups of any offices or any office's agents, employees, factors or any kind of personal representatives thereof in any capacity, acting either for himself or for any other person under either personal appointment or pursuant to law.

9. **Fees.**

For each truck or stand in which the licensee seeks to be permitted in the Town, a fee of \$275 shall be filed with the Health Department at the time of the filing of the application. Each additional vehicle or stand added by the licensee shall increase the licensee's fee by \$275.

SECTION TWO

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, 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 THREE

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

SECTION FOUR

When Effective. This ordinance shall take effect upon passage and publication as required by law.

SUMMARY OF ORDINANCE

This Ordinance amends Chapter 254 to set the number of available permits within the Town, as well as additional application requirements with regard to location of licensees, food handler's certificate and the appointment of a Special Hearing Officer/Special Counsel to conduct hearings upon appeal.

Introduced: 9/21/17

Notice

The foregoing Ordinance was adopted for first reading by the Mayor and Board of Commissioners of the Town of West New York, New Jersey, on **September 21, 2017** and ordered published, and will be further considered before final passage at a public hearing on **October 19, 2017 at 6:30 p.m.** at the Commission Chambers, Municipal Building, West New York, NJ. A copy of this Ordinance has been posted on the bulletin board upon which public notices are customarily posted on in the Town Hall of the Town of West New York, and a copy (at no charge) is available up to and including the time of such meeting to the members of the public of the Town who shall request such copies, at the Office of the Town Clerk in said Town Hall in West New York, N.J.

Carmela Riccio, RMC
Town Clerk