

Meeting Held Electronically



**COMMITTEE OF THE WHOLE MEETING
MONDAY, NOVEMBER 1, 2021**
(Immediately following the Village Board Meeting)

AGENDA

CALL TO ORDER

ROLL CALL

AUDIENCE COMMENTS

TRUSTEE COMMENTS

DISCUSSION

1. Mobile Food Vendor Code Updates
2. ARPA Funding and Potential Lead Service Line Replacement Program

EXECUTIVE SESSION

ADJOURN

Initials: *JS*

**VILLAGE OF NORTH AURORA
BOARD REPORT**

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
CC: STEVE BOSCO, VILLAGE ADMINISTRATOR

FROM: MIKE TOTH, COMMUNITY & ECONOMIC DEVELOPMENT DIRECTOR

SUBJECT: MOBILE FOOD VENDORS

AGENDA: NOVEMBER 1, 2021 COMMITTEE OF THE WHOLE MEETING

DISCUSSION

On December 5, 2016, the Village Board approved regulations officially allowing mobile food vendors (food trucks, trailers, etc.) to operate within the Village. The mobile food vendor provisions were later revisited in 2020 in order to address certain trends occurring at that time. One of the changes that resulted from the 2020 amendments was the maximum time a food truck could operate on a property – a limit of two (2) hours at a time on a property unless serving as an approved vendor as part of a special event approved by the Village Board or catering a private event for which food or beverages are provided to guests free of charge.

Staff solicited feedback from the Village Board at the October 18, 2021 Committee of the Whole meeting on an amendment that would allow mobile food vendors to be utilized on a continual basis within the Route 31 corridor under certain restrictions. This topic originated when a business was intending to use their food truck as a means of preparing food while serving the food inside the building. Staff classified the use as a restaurant; however, it was unclear as whether the activity was permissible under the mobile food vendor regulations. The intent of the amendment is to provide clarity on the topic, but also encourage new restaurant activity in the Route 31 corridor by allowing flexibility with the use of a food truck's kitchen equipment while still serving customers inside a brick-and-mortar business that is either owned or being leased by the mobile food vendor.

The Village Board discussed the proposed amendments in detail and did conclude with concerns of the use of food trucks and the potential impact on existing brick and mortar restaurants. The Board also mentioned that mobile food trucks could also have an unfair advantage by serving on site and then selling elsewhere, which could also lead to inconsistent hours of operation at the brick and mortar location. Staff has since updated the amendments to include additional conditions for the Route 31 corridor exemption, which includes the following:

- *The mobile food vendor shall either own or maintain leasehold interest in a building or tenant space on a property where the restaurant use is classified as a permitted use in the applicable zoning district.*
- *Food shall only be served inside the building or tenant space.*
- *The mobile food vendor vehicle shall be parked in a location contiguous to the building and not interfere with customer parking or vehicular or pedestrian traffic.*
- *The mobile food vendor vehicle shall not be located on any portion of a public road, public sidewalk or bike path or similar public way.*

Staff used the outdoor dining provisions as a basis for the location requirements included above. While staff attempted to address the hours of operation, it should be noted that there are no hours of operation restrictions on other restaurants – some restaurants only serve breakfast and lunch, while others only serve lunch and dinner. Restaurants have also had difficulty maintaining normal hours of operation staff due to recent staffing shortages.

ORDINANCE NO.

**AN ORDINANCE AMENDING CHAPTER 5.35 OF THE NORTH AURORA
MUNICIPAL CODE REGULATING MOBILE FOOD VENDING IN THE VILLAGE OF
NORTH AURORA**

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of North Aurora, Kane County, Illinois, as follows:

1. Chapter 5.35 of the North Aurora Municipal Code is hereby amended as follows:

Chapter 5.35 – MOBILE FOOD VENDORS

5.35.010 – Definitions

The following definitions shall apply to this Chapter:

“Catering” to provide food or beverage at a private event or gathering, where guests are served free-of-charge.

“Mobile Food Vendor“ means any person that operates a vehicle (including, but not limited to, motorized vehicles, non-motorized vehicles, carts, bicycles, trailers and other similar devices whether self-propelled, propelled by other vehicles or propelled by humans/animals) for the purpose of selling food and beverage items.

“Person” means any individual, firm, co-partnership, partnership, corporation (for profit or not for profit), company, association, church, organization, trust or other entity.

5.35.020 – Mobile Food Vendor Permit Required

No person shall engage in the activities of a mobile food vendor and offer food and/or beverages for sale in the Village of North Aurora without a valid, current, written permit issued by the North Aurora Police Department.

5.35.030 - General Regulations

- A. Each Mobile Food Vendor shall supply a trash receptacle for use by the customers. Prior to leaving each stop, the vendor shall remove any litter left at the stop by consumers.
- B. Sales of items other than food and beverage items are prohibited.
- C. No Mobile Food Vendor shall stop at any time for the purpose of making sales on private property without the prior consent of the property owner.

D. Mobile Food Vendors shall observe all local, county and state traffic codes and parking regulations and observe all other relevant municipal ordinances.

E. Unless serving as an approved vendor as part of a special event approved by the village board:

a. No mobile food vendor shall stop and remain on any property in the Village for the purpose of making sales of food or beverages for more than one (1) day for a maximum of two (2) hours in a calendar week. ~~Mobile food vendors catering to guests at a private event shall be exempt from this provision.~~

b. No more than one (1) mobile food vendor shall stop and remain on any property in the Village in a day or no more than one (1) mobile food vendor shall stop and remain on any property in the Village at a time.

The following shall be exempt from these provisions:

a. Mobile food vendors catering to guests at a private event.

b. Mobile food vendors operating on private, non-residential property along the Route 31 corridor between Sullivan Road and Oak Street and those private, non-residential properties located within one quarter mile east and west of Route 31 corridor that are considered to be part of the corridor, provided the following conditions are all met:

- i. The mobile food vendor shall either own or maintain leasehold interest in a building or tenant space on a property where the restaurant use is classified as a permitted use in the applicable zoning district.
- ii. Food shall only be served inside the building or tenant space.
- iii. The mobile food vendor vehicle shall be parked in a location contiguous to the building and not interfere with customer parking or vehicular or pedestrian traffic.
- iv. The mobile food vendor vehicle shall not be located on any portion of a public road, public sidewalk or bike path or similar public way.

~~F. Unless serving as an approved vendor as part of a special event approved by the village board, no more than one (1) mobile food vendor shall stop and remain on any property in the Village in a day or no more than one (1) mobile food vendor shall stop and remain on any property in the Village at a time.~~

F. No mobile food vendor shall stop and remain for the purpose of making sales on Airport Road, Alder Drive, Banbury Road, Deerpath Road, Hart Road, Ice Cream Drive, Illinois Route 25, Illinois Route 31, Illinois Route 56, Mitchell Road, Mooseheart Road, Oak Street, Orchard Gateway Boulevard, Orchard Road, Sullivan Road, Tanner Road or Randall Road.

G. Signage shall be limited to the surface of the vehicle.

H. The mobile food vending permit shall be kept in the vehicle and be shown to all people who ask to see the permit at all times that the mobile food vendor is engaging in sales.

I. All mobile food vendors shall meet the following minimum insurance requirements:

1. General liability insurance with minimum coverage of \$1,000,000;

2. Business auto insurance on any business vehicle from which the food or beverages are sold directly from the vehicle with minimum coverage of at least \$1,000,000; and
3. Personal auto insurance on any personal vehicle pulling a trailer from which food or beverages are sold with minimum coverage of at least \$500,000.

5.35.040 - Permit Requirements

- A. Every person required to obtain a mobile food vendor permit shall make a written application for a mobile food vendor permit, pay the permit fee and obtain a permit prior to engaging in the mobile food vending business within the Village.
- B. No mobile food vendor permit will be issued without a permit issued by the Kane County Department of Health.
- C. A fee of fifty dollars (\$50.00) shall be charged for every mobile food vendor permit application and renewal application to cover the cost of processing the application.
- D. Mobile food vending permits shall be good for one year from the date of issuance and must be renewed as of the anniversary date of the original date of issuance by applying for a renewal permit, paying the annual fee and obtaining a renewal permit.

5.35-050 – Mobile Food Vending Permit Application

Application for a mobile food vendor permit shall be accompanied by the proper documentation necessary to complete the application. The applicant shall truthfully state in full the following information requested on the application:

- A. Full name, date of birth, address and telephone phone number of the business owner as it appears on a driver's license, state ID, social security card or birth certificate, birth date, mailing address;
- B. The names, dates of birth, addresses and telephone phone numbers of the operators of any mobile food vending vehicles or wheeled carts, if different than the owners, as it appears on a driver's license, state ID, social security card or birth certificate, birth date, mailing address;
- C. All addresses of places of residence of the persons identified in Subsections A and B if those persons have resided in other places during the past three years;
- D. Physical description of the owner, including sex, height, weight, hair color and eye color;
- E. A valid vehicle registration, driver's license and proof of required insurance;
- F. Whether the applicant has ever been convicted of the commission of a felony and/or any crime involving moral turpitude under the laws of this state or any other state or federal law of the United States;
- G. Such additional information and any documentation as the chief of police may deem necessary to process the application.

5.35.060 – Penalty and Enforcement

- A. Any person violating or aiding or abetting the violation of any provision of this Chapter is guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than seven hundred fifty dollars (\$750.00). Each day that a violation occurs shall be considered a separate violation. The Police Department and any Code Enforcement Officers shall have concurrent authority to enforce the provisions of this Chapter and may give written notice of any violation and the fine imposed for the violation by serving a citation in person or by certified U.S. mail return receipt requested on any violator. All complaints from citizens regarding violations of this chapter shall be directed to the village code enforcement officer(s).

- B. The acts of any employee, partner other agent (hereinafter "agent") shall be attributed to and considered the acts of the employer, partnership, corporation, limited liability company or other principal on whose behalf, or at whose direction or by whose authority or consent (hereinafter "principal") the agent was engaging in mobile food vending, and any violation of this Chapter by an agent shall be enforceable against the principal and/or the agent jointly or severally. The act of engaging in mobile food vending for another person shall be presumed to create an agency relationship for purposes of this Chapter.

2. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof. The Village Board of Trustees hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that anyone or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

3. This Ordinance shall take immediate full force and effect from and after its passage, approval, publication and such other acts as required by law.

Presented to the Board of Trustees of the Village of North Aurora, Kane County, Illinois this ____ day of _____, 2021 A.D.

Passed by the Board of Trustees of the Village of North Aurora, Kane County, Illinois this ____ day of _____, 2021, A.D.

Mark Carroll _____ Laura Curtis _____

Mark Guethle _____ Michael Lowery _____

Todd Niedzwiedz _____ Carolyn Salazar _____

Approved and signed by me as President of the Board of Trustees of the Village of North Aurora, Kane County, Illinois this ____ day of _____, 2021, A.D.

Mark Gaffino, Village President

ATTEST:

Jessi Watkins, Village Clerk

Village of North Aurora Memorandum



To: President and Board of Trustees

From: Bill Hannah, Finance Director

CC: Steve Bosco, Village Administrator

Date: October 28, 2021

RE: American Rescue Plan Act (ARPA) Funding and Lead Service Lines

As the Board is aware, the Village will be receiving \$2,454,744 in ARPA funding through the Coronavirus State and Local Recovery Funds program. A short presentation on the ARPA funding will be provided for Monday's Committee of the Whole meeting, along with a discussion on the status of the Village's lead service line replacement project which may be a potential vehicle for the planned use of ARPA funds.