



## CITY of NOVI CITY COUNCIL

**Agenda Item 2**  
**January 8, 2018**

**SUBJECT: Consideration to adopt Ordinance No. 18-191, an ordinance to amend the City of Novi Code of Ordinances, Chapter 24, "Outdoor Gatherings and Filming Permits," in order to amend the title of the Chapter, and to add definitions and regulations relating to mobile food vendors and events, and to clarify penalties for violation of the Chapter. FIRST READING**

**SUBMITTING DEPARTMENT:** City Clerk

**CITY MANAGER APPROVAL:**

### **BACKGROUND INFORMATION:**

This proposed ordinance adds a new section to Chapter 24 of the Code, which currently governs outdoor gatherings and filming permits. All of the new provisions relate to mobile food vendors and mobile food special events. The changes consist primarily of definitions of terms (mobile food stands, trailers, vehicles, and special events), a new permit required, and some conduct standards. Most of the new provisions are found at the new Article IV, relating to permits for mobile food special events, beginning on page 4.

In a nutshell, rather than identifying specific areas where mobile food vendors may set up operations on a regular basis, this ordinance creates a system where the use of a mobile food vehicle (food truck) constitutes a **special event** for which approval by the City must be secured. An owner or occupant of a property can have up to five mobile food vending special events. Specific mobile food vendors can conduct up to five special events per calendar year. No event can last more than three consecutive days, or exceed twelve consecutive hours. Permits are issued through the City Clerk's office.

The ordinance also establishes various conduct-based standards as to where vehicles can be placed, noise and lighting standards, signage, and the like. There are revocation provisions provided in the ordinance as well.

The City currently does not receive a significant number of requests for the use of mobile food vehicles/food trucks. So far the City has tended to process the requests—which have generally been for events that are either larger food truck "rallies" or as part of other bigger events—under the existing outdoor gatherings provisions of the ordinance. The City has no specific regulations aimed at the "one off" food truck placements outside of a local bar or other establishment, which have occasionally occurred without City approval.

The Ordinance Review Committee determined that evaluating these as occasional uses arising typically in connection with some other bricks-and-mortar use of a property is an appropriate initial step into dealing with these occasional requests.

**RECOMMENDED ACTION:** Approve to adopt Ordinance No. 18-191, an ordinance to amend the City of Novi Code of Ordinances, Chapter 24, "Outdoor Gatherings and Filming Permits," in order to amend the title of the Chapter, and to add definitions and regulations relating to mobile food vendors and events, and to clarify penalties for violation of the Chapter

**STATE OF MICHIGAN**  
**COUNTY OF OAKLAND**  
**CITY OF NOVI**  
**ORDINANCE NO. 18-191**

**AN ORDINANCE TO AMEND THE CITY OF NOVI CODE OF ORDINANCES, AT CHAPTER 24, "OUTDOOR GATHERINGS AND FILMING PERMITS," IN ORDER TO AMEND THE TITLE OF THE CHAPTER, TO ADD DEFINITIONS AND REGULATIONS RELATING TO MOBILE FOOD VENDORS AND EVENTS, AND TO CLARIFY PENALTIES FOR VIOLATION OF THE CHAPTER.**

**THE CITY OF NOVI ORDAINS:**

**PART I OF ORDINANCE.** That the title of Chapter 24, "Outdoor Gatherings and Filming Permits," of the City of Novi Code of Ordinances is hereby amended as follows:

**Chapter 24 - OUTDOOR GATHERINGS AND, FILMING PERMITS, AND MOBILE FOOD VENDORS AND MOBILE FOOD SPECIAL EVENTS**

**PART II OF ORDINANCE.** That Chapter 24, "Outdoor Gatherings and Filming Permits," Article I, "In General," of the City of Novi Code of Ordinances is hereby amended as follows

**ARTICLE I. - IN GENERAL**

**Sec. 24-1. - Findings.**

The council finds and declares that the interests of the public health, safety and welfare of the citizens of the city require the regulation, licensing and control of assemblages of people in excess of those normally drawing upon the health, sanitation, fire, police, transportation, utility and other public services regularly provided by the city. In addition, the council believes that it is appropriate to provide for the regulation of mobile food vendors and mobile food vending operations and activities in order to: (i) allow mobile food vendors an opportunity to operate within the City and to offer a variety food for sale to and consumption by the public; (ii) to ensure that mobile food vendors add to the vibrancy, vitality, desirability, and aesthetic appeal of the city; (ii) to balance the interests of existing food establishments and other businesses in the city, residents, and mobile food vendors, and the public.

**Sec. 24-2. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Attendant* means any person who obtains admission to an outdoor assembly by the payment of money for admission.

*Mobile food stand* means a stand that may, upon approval of a special event permit and conformance with the regulations established by this Article, temporarily park and engage in the service, sale, or distribution of ready-to-eat food for individual portion service to the general public directly from the stand.

*Mobile food trailer* means a vehicle that may, upon approval of a special event permit and conformance with the regulations established by this Article, temporarily park and engage in the service, sale, or distribution of ready-to-eat food for individual portion service to the general public directly from the trailer.

*Mobile food vehicle* means a motorized vehicle that may, upon approval of a special event permit and conformance with the regulations established by this article, temporarily park and engage in the service, sale, or distribution of ready-to-eat food for individual portion service to the general public directly from the vehicle.

*Mobile food vehicle vendor* means the registered owner of a mobile food vehicle or the owner's agent or employee.

*Mobile food vending special events* shall mean events where the primary purpose of the activities is to provide food through the use of a mobile food stand, trailer, or vehicle. Such events may occur in connection with the use of private property or on public property.

*Motion picture, television, radio and photographic production* means all activity attendant to staging or shooting (video-taping or filming or digital recording) commercial motion pictures, television shows, programs or commercials, and to the taking of single or multiple photographs for sale or use for a commercial purpose where the photographer sets up stationary equipment on public or private property or the public right-of-way in any one (1) location for longer than five (5) consecutive minutes.

*Outdoor assembly* means any event, attended by more than two hundred (200) attendants, all or any part of which includes a theatrical exhibition, public show, display, entertainment, festivals of all kinds, amusement or other exhibition or other similar gatherings but does not mean an event:

- (1) Which is conducted or sponsored by a governmental unit or agency on publicly owned land or property;
- (2) Which is conducted or sponsored by any entity qualifying for tax exempt status under Section 501(c)(3), (4), (5), (6), or (8) of the Internal Revenue Code of 1954, being 26 U.S.C. § 501(c) as incorporated by reference in Section 201 of the Michigan Income Tax Act of 1967, Act No. 281 of the Public Acts of Michigan of 1967 (MCL 206.201), as amended;
- (3) Held entirely within the confines of a permanently enclosed covered structure; or

- (4) Conducted or sponsored by city homeowners as subdivision groups or associations for their group benefit.

*Permittee* means any person to whom a permit is issued pursuant to this chapter.

*Sponsor* means any person who organizes, promotes, conducts, or causes to be conducted an outdoor assembly.

**Sec. 24-3. — Specific Prohibited acts.**

Notwithstanding any other provision of this Chapter, it shall be unlawful for any person to:

- (1) Advertise, promote or sell tickets to, conduct or operate an outdoor assembly without first obtaining a permit as required by this chapter;
- (2) Conduct or operate an outdoor assembly in such a manner as to create a public or private nuisance;
- (3) Conduct or permit, within an outdoor assembly, any obscene display, exhibition, show, play, entertainment or amusement as prohibited by Act No. 343 of the Public Acts of Michigan of 1984 (MCL 752.361 et seq.), as amended;
- (4) Permit any person on the premises to cause or create a disturbance in, around, or near an outdoor assembly by disorderly conduct;
- (5) Permit any person to unlawfully consume, sell, or possess alcoholic liquor while on the premises of an outdoor assembly;
- (6) Permit any person to unlawfully use, sell or possess any controlled substances on the premises of an outdoor assembly.

**Sec. 24-4. - Violation of section 24-3 declared public nuisance.**

Any violation of any provision of section 24-3 is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.

**Section 24-5 – Violation of this Chapter**

Any violation of this Chapter 24 shall be a civil infraction, punishable as provided in Section 1-12 of this Code of Ordinances.

**PART III OF ORDINANCE.** That Chapter 24, "Outdoor Gatherings and Filming Permits," Article II, "Permit for Outdoor Assembly," of the City of Novi Code of Ordinances is hereby amended as follows:

**ARTICLE II. - PERMIT FOR OUTDOOR ASSEMBLY**

Sec. 24-5 through Sec 24-25 are re-numbered Sec. 24-6 through Sec 24-26, respectively, but are otherwise unchanged.



**PART IV.** That Chapter 24, "Outdoor Gatherings and Filming Permits," Article III, "Permit for Motion Picture, Television, Radio and Photographic Production (Filming Permit)," of the City of Novi Code of Ordinances is hereby amended as follows:

**ARTICLE III. - PERMIT FOR MOTION PICTURE, TELEVISION, RADIO AND PHOTOGRAPHIC PRODUCTION (FILMING PERMIT)**

Sec. 24-26. – through Section 24-38 -are re-numbered Sec. 24-27 through Sec 24-39, respectively, but are otherwise unchanged.

**PART V OF ORDINANCE.** That Chapter 24, "Outdoor Gatherings and Filming Permits," is hereby amended to add a new Article, Article V, entitled "Permit for Mobile Food Special Event," to read as follows in its entirety:

**ARTICLE IV – PERMIT FOR MOBILE FOOD SPECIAL EVENT**

**Sec. 24-40. Permit Required for Mobile Food Vending**

(a) The provisions of this Article IV apply to mobile food stands, mobile food trailers, and mobile food vehicles. This Article does not apply to vehicles that dispense food and move from place to place and are only stationary for a brief period of time not to exceed ten (10) minutes, such as ice cream trucks. This Article also does not apply to traditional catering trucks that primarily service the occupants of office, industrial, or warehouse uses during lunch hours or other traditional break times from a fixed location on private property for a period of less than an hour.

(b) A special event permit shall be required to operate a mobile food vehicle, mobile food trailer, or mobile food stand. The application for a permit shall be on a form provided by the City Clerk and shall at a minimum include the following information:

- (i) The applicant's full legal name.
- (ii) The applicant's permanent address, business mailing address, e-mail address, and telephone number;
- (iii) A brief description of the nature of the event (e.g., the food and beverages to be offered for sale);
- (iv) Information regarding the vehicle including the year, make, and model (including dimensions);
- (v) The proposed hours of operation; area of operations; and plans for power access, water supply, and waste and wastewater disposal; and
- (vi) Copies of all license and permits issued by the Oakland County health Department related to the sale of food and beverages.

In addition, the applicant shall provide (1) proof of insurance in the amount of \$1,000,000 naming the City as an additional insured; and (2) an additional application fee in an amount to be set by resolution of the City Council from time to time. If mobile food vending is proposed as part of an activity that also requires a special event permit, no additional or separate mobile food vending permit shall be required.

(c) No owner or occupant of property within the City may secure more than five (5) mobile food vending special event permits within a calendar year with respect to events located on private property.

(d) No mobile food vendor may secure more than five (5) special event permits per calendar year for a mobile food vending special event, subject to the following:

(1) The application shall specify the number of days the event is proposed to last, and the permit shall establish the number of days the event is permitted to last.

(2) For purposes of this Section, a "day" shall be a period of time from 9:00 a.m. to 11:59 p.m. of the day for which the permit is issued.

(3) No event shall last more than three (3) consecutive days.

(4) No event shall exceed twelve (12) consecutive hours.

**Sec. 24-41 Additional requirements.**

Mobile food vending activities as a special event, or as part of a special event, shall be subject to the following additional requirements:

(1) Mobile food vending activities shall occur only on improved surfaces within a nonresidential zoning district.

(2) The customer service area for mobile food vehicles, trailers, or stands shall be on the side of the truck that faces a curb, lawn, or sidewalk if allowed on a street or right-of-way. No food service shall be provided on the driving land side of the vehicle, trailer, or stand when parked on a street or right-of-way. No food shall be prepared, sold, or displayed outside of mobile food vehicles, trailers, or stands when located on a city street or right-of-way.

(3) No mobile food stand may be larger than ten feet by ten feet nor more than 75 square feet in size. A five-foot clearance must be maintained on all sides of the stand within the maximum space allotted.

(4) Customers shall be provided with single service articles such as plastic utensils and paper plates and a waste container for their disposal. All mobile food vehicle vendors shall offer a waste container for public use which the vendor shall empty at its own expense. All trash and garbage originating from the operation of mobile food vehicles, trailers, or stands shall be collected and disposed of off-site by the operators each day. Spills of food or food by-products shall be cleaned up, and no dumping of gray water on the streets is allowed.

(5) No mobile food vehicle, trailer, or stand shall make or cause to be made any unreasonable or excessive noise. The operation of all mobile food vehicles, trailers, or stands shall meet the city noise ordinance, including generators. No music, high-decibel sounds, horns, or amplified announcements are allowed.



- (6) Signage is only allowed when placed on mobile food vehicles, trailers, or stands. No separate freestanding signs are permitted on city streets, rights-of-way, or city-owned property except as expressly allowed in the permit.
- (7) No flashing or blinking lights, or strobe lights are allowed on mobile food vehicles, trailers, or stands or related signage when the vehicle, trailer, or stand is parked and engaged in serving customers. All exterior lights with over 60 watts shall contain opaque hood shields to direct the illumination downward.
- (8) Mobile food vehicles, trailers, or stands when parked on public streets shall be parked in conformance with all applicable parking restrictions, and shall not hinder the lawful parking or operation of other vehicles.
- (9) A mobile food vehicle, trailer, or stand shall not be left unattended and unsecured at any time. Any mobile food vehicle, trailer, or stand found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.
- (10) A vendor shall not operate on private property within first obtaining written consent to operate from the affected private property owner. The property owner or occupant shall be responsible for securing the special event permit.
- (11) No mobile food vehicle, trailer, or stand shall use external signage, bollards, seating or other equipment not contained within the vehicle when parked on city streets or rights-of-way. When extended, awnings for mobile food vehicles, trailers, or stands shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.
- (12) Any power required for the mobile food vehicle, trailer, or stand located on a public way shall be self-contained and a mobile food vehicle, trailer, or stand shall not use utilities drawn from the public right-of-way. Mobile food vehicles, trailers, or stands on private property may use electrical power from the property being occupied or an adjacent property, but only when the property owner provides written consent to do so. All power sources must be self-contained. No power cable or equipment shall be extended at or across any city street, alley sidewalk, or right-of-way.
- (13) Mobile food vehicles, trailers, or stands shall not be parked within 150 feet of an existing brick and mortar restaurant during the hours when such restaurant is open to the public for business unless the applicant for the special event permit is also an existing brick and mortar business that serves food or alcohol.
- (14) No event shall extend beyond 10:00 p.m. unless authorized by the City Manager.

**Sec. 24-42. – Revocation.**



The city manager may revoke a permit issued pursuant to this Article whenever the permittee, its employee, or agent fails, neglects, or refuses to fully comply with any and all provisions and requirements set forth herein or with any and all applicable provisions of this Code of Ordinances or other applicable laws, statutes, ordinances, or regulations.

**PART VI OF ORDINANCE. Severability.** Should any section, subdivision, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

**PART VII OF ORDINANCE. Savings Clause.** The amendment of the Novi Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the Novi Code of Ordinances set forth in this Ordinance.

**PART VIII OF ORDINANCE. Repealer.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**PART IX OF ORDINANCE. Effective Date.** The provisions of this Ordinance are ordered to take effect following publication in the manner prescribed by the Charter of the City of Novi.

**PART X OF ORDINANCE. Adoption.** This ordinance is hereby declared to have been adopted by the Novi City Council in a meeting thereof duly held and called on the \_\_\_ day of \_\_\_\_\_, 2017, in order to be given publication in the manner prescribed by the Charter of the City of Novi.

Moved by \_\_\_\_\_ and supported by \_\_\_\_\_.

\_\_\_\_\_  
Robert J. Gatt, Mayor

\_\_\_\_\_  
Cortney Hanson, City Clerk

**Certificate of Adoption**

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the Novi City Council held on the \_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Cortney Hanson, City Clerk