

ORDINANCE NO. 2026

**AN ORDINANCE AMENDING AND RE-ENACTING CHAPTER 50,
RELATING TO MOBILE FOOD UNIT REGULATIONS AND LICENSING
PROCEDURE**

BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF DICKINSON, NORTH DAKOTA, AS FOLLOWS:

SECTION 1: Section 50-75. – Commercial use of sidewalks, streets and public grounds restricted. of Chapter 50 of the Municipal Code of the City of Dickinson is hereby amended and re-enacted as follows:

Sec. 50-75. – Commercial use of sidewalks, streets and public grounds restricted.

- a) *Prohibition.* Except as authorized by this article for locations within the DC District and the Mobile Food Unit Corridor, no person, firm, or entity shall sell, offer, or expose for sale any food, goods, wares, or merchandise, upon any public street, alley, sidewalk, public right-of-way or other public grounds owned or controlled by the City.
- b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Approved area means an area of public right-of-way or public property specifically set aside or approved by the City for use by mobile vendors and mobile food units. Information on approved areas shall be available from City Code Enforcement.

Adjacent to, as it relates to patio areas, means an area on the public sidewalk defined as the space between two lines, each drawn from the ends of a building or portion of a building housing a business, perpendicular to the right-of-way.

Cooking means the preparation of food through the use of heat by boiling, baking, roasting, microwaving, frying, grilling, smoking or any other method using heat.

~~*Designated area* means an area of public right-of-way or public property specifically set aside or designated by the City for use by mobile vendors. The boundaries and rules for use of each designated area shall be as shown by maps or diagrams produced by the City and available from City Engineering or City Administration.~~

Downtown Commercial District means the area of the zoning district entitled, "Downtown Commercial District," pursuant to Chapter 62, Article IV.

Food includes any food item meant for human consumption and any beverage meant for human consumption.

Grilling means the cooking of raw animal products such as meat, poultry or fish or vegetables on a flat top or charbroil style high-heat surface designed for such purpose, but

does not include smoking, deep-fat frying, wok or skillet-style cooking, rotisserie-style cooking or any other type of cooking.

Ice cream truck means a motor vehicle utilized as the point of retail sales of pre-wrapped or prepackaged ice cream or similar frozen dessert products

Merchandise includes, but is not limited to, plants, flowers, wearing apparel, jewelry, ornaments, artwork, household or office supplies or other goods or wares, and excepting food or beverages of any kind.

Mobile food unit means a trailer which may be moved by towing with a vehicle or a self-contained mobile food truck which is designed and used for displaying, cooking, keeping or storing any food or beverages for sale by a vendor. The mobile food unit must be inspected and approved by the Public Health Department/Environmental Health Division.

Mobile vendor means any person or entity engaged in the business of preparing or serving food or merchandise from a pushcart or a mobile ~~vendor vehicle~~ food unit.

Mobile Food Unit Corridor includes public streets where mobile food units are permitted to operate without special permission.

~~*Mobile vendor vehicle* means a trailer which may be moved by towing with a vehicle or a self-contained mobile food truck which is designed and used for displaying, cooking, keeping or storing any food, beverages, merchandise or other articles for sale by a vendor. To the extent a mobile vendor vehicle is used for preparing, displaying, cooking, keeping or storing food or beverages, the mobile vendor vehicle must be inspected and approved by the Public Health Department/Environmental Health Division.~~

Outdoor merchandise area means an area in front of or adjacent to a retail business where merchandise is located on a public sidewalk for the purpose of displaying, exhibiting, selling or offering merchandise for sale.

Outdoor patio area means an area in front of or adjacent to a business maintaining a liquor license, a restaurant license or limited restaurant license issued by the City and located on a public sidewalk whereon tables, chairs or benches are placed for the purposes of serving food and/or alcoholic beverages.

Pushcart means a wheeled cart which may be moved by hand by one person without the assistance of a motor and which is designed and used for displaying, cooking, keeping or storing any food, beverages or other articles for sale by a vendor. To the extent a pushcart is used for displaying, keeping or storing food or beverages, the pushcart must be inspected and approved by the Public Health Department/Environmental Health Division.

- c) Term and fee. Each permit required by this chapter **unless otherwise stated** shall expire on December 31 of each year, unless revoked by the City, regardless of the date of issuance. There shall be an application fee for permits issued under this chapter as provided in the City fee schedule.

- d) Indemnity. Each application and permit required by this chapter shall clearly state that the applicant agrees to indemnify and hold the City harmless from any and all claims, demands or causes of action which may result from placement of outdoor patio areas, mobile vendors, sale of merchandise or sign on public property. The applicant shall, at the time of making application for the permit, provide proof of insurance to cover the risk of injury to person or property, including, but not limited to, public streets, alleys, sidewalks, public rights-of-way or other public grounds or property owned or controlled by the City, caused by the presence of items on public property. Said insurance shall provide minimum coverage for bodily injury of \$1,000,000.00 per occurrence and in the aggregate. Such insurance shall be issued by an insurance company authorized to conduct business in the State, and the City shall be listed as a certificate holder on each such policy of insurance. Any license issued under this chapter shall immediately and automatically expire upon lapse or termination of said policy.

SECTION 2: Section 50-76. – Permitted uses of sidewalks, streets, or other public grounds. of Chapter 50 of the Municipal Code of the City of Dickinson is hereby amended and re-enacted as follows:

Sec. 50-76. – Permitted uses of sidewalks, streets, or other public grounds.

Except as allowed under the provisions of this chapter or as part of a permitted community event or festival within the DC District, it shall be unlawful for any person to sell, offer for sale or order, any food, goods, wares, merchandise, mechanical devices, animals or any other article of any kind whatsoever, by whatever name called, upon any public street, alley, sidewalk, public right-of-way or other City-owned or -controlled public grounds without a permit issued by the City.

- 1) *Outdoor patio areas.* No person may own, set up or operate an outdoor patio area on any public sidewalk without first obtaining a permit from the City. An application for an outdoor patio area and minimum rules for sidewalk clearances and border heights is available from the Building and Codes Department. Food and beverages may be sold in outdoor patio areas on the public sidewalks only pursuant to a permit issued by the City. An outdoor patio area must be adjacent to the business that has received the permit to operate the outdoor patio area. This section shall not apply to an outdoor patio area that is part of a permitted community event or festival. Permit holders for outdoor patio areas and their employees shall meet the following:
 - a. The permit holder shall set up the outdoor patio area, including, but not limited to, the furniture, canopies, fencing and/or other accessories used for the outdoor patio area, only in the area designated by the City in the permit. An outdoor patio area may not include a roadway or alley. The outdoor patio area shall not impede, endanger or interfere with pedestrian or vehicular traffic. The City shall set minimum sidewalk standards with regard to obstructions located in the clear space required by this section.
 - b. Furniture, canopies, fencing and/or other accessories used for the outdoor patio area shall be located so that a minimum of 48 consecutive inches of unobstructed

clear space for pedestrian travel within the pedestrian way, or the minimum required by the Americans with Disabilities Act, if greater, is maintained at all times.

- c. The permit holder shall provide proper containers or some other means for the collection of waste and trash within the outdoor dining area permitted. The permit holder shall keep the immediate area around the outdoor dining area and the outdoor patio area clean of garbage, trash, paper, cups, cans, litter, or other spillage associated with the operation of the outdoor dining area. All waste and trash shall be properly disposed of by the permit holder.
- d. The permit holder shall comply with all City health and other applicable regulatory agency requirements, including, but not limited to, the requirements for food service. The permit holder shall display in a conspicuous location all such required permits and/or licenses and shall provide copies of those permits and/or licenses to the City prior to issuance of a permit for an outdoor patio area by the City. The permit holder shall renew the permit annually. The permit holder shall continuously maintain the required approvals, permits and/or licenses and provide evidence to the City upon request.
- e. The permit holder shall be responsible for the maintenance, upkeep, security, and safe condition of the furniture and accessories of the outdoor patio area and the City shall not be responsible for the same.
- f. The permit holder shall not have on the premises any bell, siren, horn, loudspeaker or any similar device to attract the attention of possible customers nor shall the permit holder use any such device to attract attention.
- g. Employees of the permit holder for the outdoor dining area shall not consume alcoholic beverages while working in the outdoor patio area.
- h. For any outdoor patio area where alcoholic beverages are served, the permit holder shall comply with all State and local regulations for the sale, possession and/or consumption of alcoholic beverages and shall provide the City with a diagram and/or plans showing the location of the outdoor patio area where alcoholic beverages will be served. In addition, the area where alcoholic beverages are sold, possessed and/or consumed must be effectively bordered by a partition, temporary fence or other rigid device designed and intended to separate the outdoor patio area from passersby.
- i. The permit holder shall not post any signs or other advertisements on any partitions, fences or other device designed and intended to separate the outdoor patio area from passersby.
- j. The permit holder shall comply with the prohibitions on disturbing, annoying and unnecessary noises set forth in Chapter 38, Article IV.
- k. The design of the furniture, canopies, fencing and/or other accessories, including a border required for an outdoor patio area by Subsection (1)h of this section, must be approved by the City prior to a permit being issued. The applicant must provide a scaled site plan including dimensions of the design of the furniture and

accessories to be used for the outdoor patio area as part of the application for a permit.

- l. Tables, chairs, fences or dividers and any other structure or item placed on the sidewalk must be removed by November 1 each year and may not be set out until April 1 each year unless different dates are specifically allowed by the City Administrator.
- m. Cooking or food preparation shall not be allowed in outdoor dining areas. Self-service food outdoors is allowed if approved by the Public Health Department/Environmental Health Division.
- n. No outdoor patio area equipment or furniture may be placed in such a manner as to obstruct a building exit.

~~2) *Mobile vendors.* A mobile vendor may not cook, prepare, display, or sell food or merchandise on any public street, public alley or sidewalk or other public grounds except as allowed by this section. Upon application and receipt of a permit to do so issued by the City, a mobile vendor may, cook, prepare, display, or sell food or merchandise in or on any designated area that has been specifically identified by the City for that use. No mobile vendor shall locate or operate in an area of the City not zoned for the sale of prepared food or merchandise. This section shall not apply to a mobile vendor that is part of a permitted community event or festival. Permit holders for mobile vendors and their employees shall meet the following:~~

- ~~a. A mobile vendor may locate a mobile vendor vehicle or pushcart and operate in any designated area between the hours designated by the City for each designated area. Designated areas may be used from May 1 through October 31 each year. Designated areas are available to any permitted mobile vendor on a first come, first served basis. A mobile vendor may not reserve, occupy or otherwise attempt to hold a designated area prior to the time requirements set forth above.~~
- ~~b. A mobile vendor may not grill, barbeque or smoke food within 50 feet from any entrance of any building without first obtaining the written permission of the building owner and tenants served by those entrances.~~
- ~~c. A mobile vendor must provide and deploy portable lighting adequate to illuminate the vicinity of the mobile vendor vehicle or pushcart.~~
- ~~d. A mobile vendor may not set up chairs, tables or other temporary seating in a designated area.~~
- ~~e. A mobile vendor shall be responsible to remove any garbage, spills or stains or to repair any damage to the designated area resulting from its operations, and shall be prohibited from any dumping into the storm sewers.~~
- ~~f. A mobile vendor may not leave a mobile vendor vehicle or pushcart in a designated area unattended or overnight.~~
- ~~g. A mobile vendor wishing to utilize the City's designated areas to sell food or merchandise shall make application for a mobile vendor license on an application which is available from the Building and Codes Department. At a minimum, the information in the application must contain:~~

- ~~1. For the sale of food, a letter from the Public Health Department/Environmental Health Division stating that the mobile vendor vehicle or pushcart has been inspected and approved.~~
- ~~2. A certificate of insurance from a company licensed to do business in the State evidencing that the applicant has general liability insurance policies in effect with limits of at least \$250,000.00 per individual and \$1,000,000.00 per occurrence.~~
- ~~3. A mobile vendor failing to comply with any State law, City ordinance or policy adopted by the City is subject to permit suspension or revocation upon the order of the Board of City Commissioners.~~

- 2) *Mobile vendors.* This section is only applicable to mobile vendors that do not meet the definition of a mobile food unit or ice cream truck. Mobile food units and ice cream trucks are subject to the regulations listed in Section 50-76(3).
 - a. Mobile vendors that do not meet the definition of a mobile food unit or an ice cream truck may not display or sell food or merchandise on any public street, public alley or sidewalk or other public grounds outside of a permitted community event or festival.
 - b. Mobile vendors that do not meet the definition of a mobile food unit or ice cream truck may operate on private property within the following zoning districts without obtaining a license with the City, provided they have the permission of the property owner:
 - i. Limited Commercial
 - ii. Community Commercial
 - iii. General Commercial
 - iv. Limited Industrial
 - v. Public
 1. If property is owned by the Park District, the applicant shall supply the Parks & Recreation division with all documentation as required by this section & acquire written approval proving they have permission to operate at the property
 2. If property is owned by the City of Dickinson, the applicant shall acquire written approval proving they have permission to operate the mobile food unit at the property. This does not apply to community events or festivals where the applicant has received a special event permit
 - c. Mobile vendors must comply with all other applicable federal, state, county, and city regulations and requirements.
- 3) *Mobile food units.* No person may set up or operate a mobile food unit without first obtaining a license from the City of Dickinson and must meet the requirements and conditions laid out in this section.
 - a. This license may only be obtained if the Public Health Department has licensed the mobile food unit. A license shall be acquired even if the mobile food unit is only participating in a special event or festival

- b. Each license required by this section shall expire on January 31 of each year, regardless of the date of issuance. Licenses are non-transferable. There shall be a license fee as provided in the City Fee Schedule.
- c. At minimum, the information in the license application must contain:
 - 1. Annual Fire & Safety inspection
 - 2. Mobile Food Unit License from the public health department
 - 3. Waste Management Plan
 - 4. A certificate of insurance from a company licensed to do business in North Dakota evidencing that the applicant has general liability insurance policies in effect with limits of at least \$250,000 per individual and \$1,000,000 per occurrence
 - 5. North Dakota Sales & Use Tax permit
- d. Each application and license required by this Chapter shall clearly state that the applicant agrees to indemnify and hold the city harmless from any and all claims, demands or causes of action which may result from placement of outdoor patio areas, mobile vendors, sale of merchandise or sign on public property. The applicant shall, at the time of making application for the license, provide proof of insurance to cover the risk of injury to person or property, including but not limited to public street, alley, sidewalk, public right-of-way or other public grounds or property owned or controlled by the City, caused by the presence of items on public property. Said insurance shall provide minimum coverage for bodily injury of \$1,000,000 per occurrence and in the aggregate. Such insurance shall be issued by an insurance company authorized to conduct business in the State of North Dakota, and the City of Dickinson shall be listed as a Certificate Holder on each such policy of insurance. Any license issued under this Chapter shall immediately and automatically expire upon lapse or termination of said policy.
- e. A mobile food unit may operate in the following zoning districts, off of the public street, subject to all regulations in this section:
 - 1. Limited Commercial
 - 2. Community Commercial
 - 3. General Commercial
 - 4. Limited Industrial
 - 5. Public
 - i. If property is owned by the Park District, the applicant shall supply the Parks & Recreation division with all documentation as required by this section & acquire written approval proving they have permission to operate the mobile food unit at the property
 - ii. If property is owned by the City of Dickinson, the applicant shall acquire written approval proving they have permission to operate the mobile food unit at the property. This does not apply to community events or festivals where the applicant has received a special event permit or approved areas

- f. Mobile food units looking to operate in public right-of-way adjacent to the Downtown Commercial (DC) zoning district must obtain a temporary use permit prior to operating.
- g. For each license issued in compliance with this Section, Code Enforcement will issue two license decals. License decals shall be affixed to the vehicle in a way that they are visible from both the sidewalk and street when parked. Failure to display the decal shall be a violation of this Section.
- h. A mobile food unit may not grill, barbeque or smoke food within 50 feet from any entrance of any building without first obtaining the written permission of the building owner and tenant(s) served by those entrances
- i. A mobile food unit shall not be parked closer than 50 feet from a restaurant without first obtaining the written permission of the building owner
- j. Exhaust from equipment shall be a minimum of 10 feet from structures
- k. The license holder shall be responsible for the maintenance, upkeep and security of the mobile food unit. Skirting of the mobile food unit is not allowed
- l. The license holder shall comply with all noise regulations set forth in the City of Dickinson Municipal Code
- m. A mobile food unit may not set up chairs, tables or other temporary seating in the public right-of-way. Chairs, tables, or other temporary seating may be set up on private property with written permission from the property owner
- n. A mobile food unit shall be responsible to remove any garbage, spills or stains or repair any damage resulting from its operations.
- o. A mobile food unit may not leave a mobile food unit or pushcart unattended at approved areas of operation
- p. A mobile food unit may not operate within 500 feet of a special event licensed through the City. This does not apply to mobile vendors listed on the Special Event Permit that are taking part in the permitted event
- q. A mobile food unit may not interfere with the required off-street parking for the approved area as required by the City of Dickinson Municipal Code
- r. Parking on streets is permitted within the Mobile Food Unit Corridor provided it is in compliance with all ordinances, regulations, parking zones and posted signage and shall not hinder the lawful parking or operation of other vehicle
 - 1. A mobile food unit must locate the vending window open to the public sidewalk and as close as possible to the curb
- s. Mobile food units must be mobile and must be removed from approved areas when not open for business. in the public right-of-way. Chairs, tables, or other temporary seating may be set up on private property with written permission from the property owner. The mobile food unit shall not function as a permanent structure
- t. Ice cream trucks shall be permitted to operate on streets with a speed limit of 25 mph or less outside of the Downtown District
- u. *Penalty for ordinance violations.* Any license issued pursuant to this section may be suspended or revoked by the Building Official or their designee for violating

any of the provisions of this chapter. Any licensee or agent or employee of a licensee who has violated any provisions of this chapter shall be subject to the following penalties:

1. First offense: \$250 administrative fine
 2. Second Offense: \$500 administrative fine
 3. Third Offense: \$750 administrative fine & license revocation
 - i. If an applicant wishes to contest a revocation, they shall submit a written request to the Building Official or their designee to be brought forward for a public hearing in front of City Commission regarding overturning the revocation or denial. The City Commission may overturn a license denial or revocation with a simple majority vote and resolution.
 - ii. In the event that a license is revoked due to the applicant violating one of the rules outlined above, the applicant may not apply for a new license until at least six (6) months have passed. An applicant having had multiple license revocations in the past may serve as justification to deny a new license application.
 - v. The Police Department may remove or cause to be removed any mobile food unit in violation of this section within the public right-of way after having notified in writing the owner of the mobile food unit of the intention to do so at least 48 hours prior to such removal.
- 4) *Use of the sidewalk by an adjacent business for sale of merchandise.* Merchandise may not be sold on any public street, alley, sidewalk, public right-of-way or other public grounds in the City except as part of a permitted community event or festival or except pursuant to a permit for the temporary use of the sidewalk within the DC District issued by the City. An application for a permit to use the sidewalk to sell merchandise shall be available from the Building and Codes Department.
- a. A permit to sell merchandise shall not be issued unless the proposed location is adjacent to the applicant's business and shall be located so that they do not impede, endanger or interfere with pedestrian or vehicular traffic.
 - b. A minimum of 48 consecutive inches of unobstructed clearance within the pedestrian way, or the minimum required by the Americans with Disabilities Act, if greater, must be maintained at all times.
 - c. Merchandise and the fixtures or devices on which the merchandise is displayed must not block regulatory signs, crosswalks or intersections and shall be sufficiently lit during times of low light in order to provide for safe pedestrian passage alongside the outdoor merchandise area.
 - d. All merchandise located within an outdoor merchandise area shall be placed so that the outdoor merchandise and the fixtures or devices on which the merchandise is displayed are stable and not easily tipped and do not include sharp edges, protrusions, or other features which may be hazardous to the public.
 - e. All displays of merchandise within the outdoor merchandise area must meet a minimum height of 28 inches tall or of sufficient size or height so that safe

pedestrian traffic is not impeded or must comply with the requirements of the Americans with Disabilities Act, whichever requirement is more restrictive.

- f. All merchandise and the fixtures or devices on which the merchandise is displayed shall be moved inside the building or structure wherein the retail business is located during inclement weather, including, but not limited to, heavy rain, wind, ice or snow.
 - g. All merchandise and the fixtures or devices on which the merchandise is displayed must be secured so that it may not be dislodged during windy or stormy weather prior to being moved inside the building or structure wherein the retail business is located.
 - h. Outdoor merchandise areas shall not include merchandising of any live animals.
 - i. Alcoholic beverages may not be displayed or sold from outdoor merchandise areas.
- 5) *Pedestrian signs.* Pedestrian signs may be on a public sidewalk that is at least six feet in width, provided the dimensions and proposed location of the sign meet the following standards and provided a permit is obtained pursuant to Chapter 62, Article II, Division 1:
- a. A sign permit shall not be issued unless the proposed location is adjacent to the applicant's business and shall be located so that it does not impede, endanger or interfere with pedestrian or vehicular traffic.
 - b. A minimum of 48 consecutive inches of unobstructed clearance within the pedestrian way, or the minimum required by the Americans with Disabilities Act, if greater, must be maintained at all times.
 - c. The height of the sign shall not exceed four feet (48 inches) above the surface of the sidewalk. A height of five feet (60 inches) above the surface of the sidewalk is permitted if the sign is mounted on an easel.
 - d. The width of the sign shall not exceed 30 inches, or a width that ensures that at least four feet (48 inches) of unobstructed clearance will exist on the sidewalk after sign placement, whichever results in the lesser sign width.
 - e. No sign shall extend past one foot (12 inches) back from the curb or into any portion of the street surface or parking lane.
 - f. Pedestrian signs shall be self-supporting and freestanding. Sign supports or features shall not protrude into the pedestrian area adjacent to the sign.
 - g. Signs requiring electrical connections shall be prohibited.
 - h. Permitted pedestrian signs may be displayed or located on the sidewalk only during hours the business is open.

SECTION 3: Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

SECTION 4: Severability. In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

SECTION 5: Effective Date: This Ordinance shall be in full force and effect from and after final passage.

Scott Decker, President
Board of City Commissioners

ATTEST

Dustin Dassinger, City Administrator

First Reading: _____, 2026

Second Reading: _____, 2026

Final Passage: _____, 2026