

2010-Or-___

**AN ORDINANCE
of the
CITY OF
MINNEAPOLIS**

By Goodman

Amending Title 10, Chapter 188 of the Minneapolis Code of Ordinances relating to Food Code: Administration and Licensing.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 188.250 of the above-entitled ordinance be amended to read as follows:

188.250. License fees generally. The annual food license fees to be paid hereunder shall be as established in Appendix J, License Fee Schedule.

Multiple Food Category Licenses: Establishments having a restaurant, grocery or food manufacturing license which also have other food category licenses shall have the fees for those other categories, except sidewalk cafe, mobile food vehicle, and short term food, reduced by thirty (30) percent. In the instance of any question of which fee shall be reduced, the most expensive shall be paid in full and any others reduced.

Section 261.35 regarding the new business surcharge shall not apply to a food shelf applicant. If a machine is replaced or vandalized, a replacement decal may be issued at a cost as established in Appendix J, License Fee Schedule.

Section 2. That Section 188.480 of the above-entitled ordinance be amended to read as follows:

188.480. Limited Mmobile operation food vehicle vending. It shall be unlawful to open, to operate any limited mobile food vending or mobile food manufacturing vehicle in the city, unless it is licensed, operated and conducted in accordance with the following conditions:

- (1) The licensee must sell only prepackaged, nonperishable or self-limiting packaged confections as approved by the manager of environmental health, except there may be issued up to fifteen (15) food licenses for operation of mobile food manufacturing vehicles for the sale of popcorn and soft drinks.
- (2) Licensee shall not park his vehicle within thirty (30) feet of an intersection.
- (3) Licensee shall not park in such a manner so as to create a traffic hazard.

- (4) Sales by licensee shall be made on the curbside only and the vehicle shall be parked within one (1) foot of the curb.
- (5) No waste liquids, garbage, litter or refuse shall be dumped on city sidewalks, streets, or lawn areas, or in city gutters or drains. When leaving a sales area, licensee or employees shall pick up all litter resulting from the business sales and shall deposit such litter in a city environmental health division approved covered garbage receptacle located on the vehicle. The receptacle shall be easily accessible for customer use. Licensee shall be responsible for all litter and garbage left by customers.
- (6) Hours of operation for such vehicles shall be limited to the hours between 9:00 a.m. and 10:00 p.m..
- (7) Licensee shall be in conformance with applicable city ordinances regarding noise control and vehicle identification.
- (8) Licensee shall not be allowed to operate on and within the area bounded by the following streets: Commencing at the intersection of Second Avenue North and Washington Avenue; thence southwesterly along Second Avenue North to Ninth Street North; thence southerly and southeasterly along Ninth Street North to LaSalle Avenue; thence southwesterly and southerly along LaSalle Avenue to Grant Street; thence easterly along Grant Street to Portland Avenue; thence northeasterly along Portland Avenue to Ninth Street South; thence southeasterly along Ninth Street South to Chicago Avenue; thence northeasterly along Chicago Avenue to Washington Avenue; thence northwesterly along Washington Avenue to the point of beginning.
- (9) Licensee shall provide proof of liability insurance in the amount of one hundred thousand dollars (\$100,000.00) for individuals or three hundred thousand dollars (\$300,000.00) for any single incident. Certificate of insurance shall be delivered to appropriate city officials prior to issuance of a license.
- (10) Licensee shall not operate any such business within two thousand (2,000) feet of any city, county, or state fair, carnival, circus, festival or civic event that is licensed or sanctioned by the city council except when licensee has obtained a temporary food permit from the director of licensing and consumer services as being a participant under the auspices and control of such event.
- (11) Notwithstanding the limitations in subsection (1), licenses may be issued under this section for the sale of prepackaged perishable foods from nonmotorized carts operating exclusively on park board property with the approval of the park board. Each applicant for a license under this subsection shall include in the application a proposed operating location or route. The construction and dimensions of each cart, and all food and beverage items sold from such carts, shall be subject to the

approval of the manager of environmental health. Each mobile food cart shall meet National Sanitation Foundation (NSF) standards for food storage preparation and dispensing. Each cart shall be stored, cleaned and serviced on a daily basis at a permanent location in the City of Minneapolis licensed as a food distributor or manufacturer. All other provisions of this section, except subsection (1), shall apply to a license issued under this subsection.

This shall not be interpreted to prohibit food catering.

Section 3. That the Minneapolis Code of Ordinances be amended by adding thereto a new Section 188.485 to read as follows:

188.485. Mobile food vehicle vendors. (a) Any licensee under Chapter 188, 362, or 363 of this Code who is licensed to sell food for consumption on designated premises may apply to the city council by and through the department of licenses and consumer services for a permit to conduct a portion of such licensed business from a mobile food vehicle on the public sidewalks, plazas, or private property, including parking lots. To the extent authorized in any such permit granted under the provisions of this section, the permittee may conduct such licensed business on the public sidewalk notwithstanding the provisions of sections 188.10, 427.110, 427.130, 478.90, and 430.30 of this Code. The number of approved mobile food vehicle permits shall not exceed twenty-five (25) at any given time.

(b) Plan submission. Application for a mobile food vehicle permit shall be made at the department of licenses and consumer services before beginning the construction of a mobile food vehicle vending operation. The director of licenses and consumer services may require such information on the application as the director deems reasonable and necessary, including but not limited to, the following information:

- (1) Name and address of the applicant.
- (2) Name and address of the approved commercial supply source and primary licensed food establishment.
- (3) A description of the preparation methods and food product offered for sale, including the intended menu, display, and distribution containers.
- (4) The anticipated volume of food to be stored, prepared, and sold.
- (5) Plans and specifications for the mobile food vehicle, including the proposed layout, photographs, mechanical schematics, construction materials, finish schedules, equipment types, manufacturers, model numbers, locations, dimensions, weight of vehicle per wheel, performance capacities, power source, installation specifications, and information on any custom fabricated equipment.
- (6) A valid copy of all necessary licenses or permits required by state or local health and transportation authorities.

- (7) A signed statement that the permittee shall hold harmless the city, the Downtown Business Improvement Special Service District (the "district"), and their officers and employees, and shall indemnify the city, the district, and their officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect permittee, property owners, city, and the district from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice filed with the director of licenses and consumer services. No permit issued pursuant to the provisions of this section shall be valid at any time the insurance required herein is not maintained and evidence of its continuance filed with the director of licenses and consumer services.
- (8) The proposed location for conducting business and the written consent of the property owner(s) adjacent to the permit operating location if the proposed location is a public sidewalk or written consent of the property owner of record if the proposed location is private property. The submission shall include a signed statement that the permittee shall hold harmless said property owner(s) for any claims for damage to property or injury to persons which may be occasioned by any activity carried on or under the permit. This consent and hold harmless statement must be submitted on a form deemed appropriate by the director of licenses and consumer services. No application will be accepted for a permit operating location within which a current permit has been issued or an application is pending.
- (9) Each year at the time of filing the application for such a permit, the applicant shall pay to the city finance officer a sum as established in Appendix J, License Fee Schedule.

(c) Location review and restrictions. Proposed operating locations shall be reviewed as follows:

- (1) Mobile food vendors may only operate within the boundaries of the district in section 465.10. The director of public works shall refer the subject of mobile food vendors in general to the district, which shall report its advisory recommendations concerning the potential locations of mobile food vendor sites on the public sidewalks within the district. The list of potential operating locations shall be available for review in the department of licenses and consumer services.
- (2) Upon receipt of a complete application for a permit, the permit shall be referred to the director of public works for approval or disapproval. The use of the permit operating location for mobile food vending must be compatible with the public interest in use of the sidewalk areas as public right-of-way. In making such

determination, the director of public works shall consider the width of the sidewalk, the weight that can be supported by the paving at the proposed location, the proximity and location of existing street furniture, including but not limited to, utility poles, parking meters, bus shelters, benches, street trees, newsracks, as well as, the presence of bus stops, truck loading zones, taxi stands, valet parking zones, or other approved sidewalk cafes or mobile food vehicles to determine whether the requested location would result in pedestrian or street congestion.

- (3) The director of public works shall not approve a location where a mobile food vehicle would substantially impair the structural capacity of a sidewalk, movement of pedestrians or vehicles, or pose a hazard to public safety. The director shall not approve any location which is adjacent to a bus stop, taxi stand, or handicap loading zone, within thirty (30) feet of an intersection, within three (3) feet of a curb, or directly in front of a property entryway. Pedestrian walkways of no less than six (6) feet must be maintained around the mobile food vehicle.
- (4) The approved operating location shall be indicated on the permit and shall include the area of the mobile food vehicle. The permit must be prominently displayed on the vehicle.
- (5) If the requested operating location is denied, the applicant may select an alternate location, which shall also be referred to the director of public works for review.
- (6) The city shall not approve more than one (1) mobile food vehicle per private parking lot.
- (7) Permittee shall not operate any such business within two thousand (2,000) feet of any city, county, or state fair, carnival, circus, festival or civic event that is licensed or sanctioned by the city council except when licensee has obtained a temporary food permit from the director of licensing and consumer services as being a participant under the auspices and control of such event.

(d) *Approved food and beverage list.* The manager of environmental health shall maintain a record of approved food and beverage items which may be prepared and sold by mobile food vehicle vendors. Requests to have a food or beverage item considered for approval shall be submitted in writing to the manager of environmental health, who shall determine whether the food or beverage item is capable of preparation and service from the mobile food vehicle based on the equipment being used and the design and construction of the vehicle.

(e) *Form and condition of permit.* In addition to naming the permittee, the approved operating location site diagram, and other information deemed appropriate by the director of licenses and consumer services, the mobile food vehicle vending permit shall contain the following conditions:

- (1) Each mobile food vehicle vending permit shall expire on April first of each year.

- (2) The permit shall not be transferrable from person to person or from place to place without approval of the director of licenses and consumer services.
- (3) The approved operational location may be changed, either temporarily or permanently, by written notice of the director of licenses and consumer services or his or her designee.
- (4) The permit is valid for one vehicle only.
- (5) There shall be issued to each permittee a suitable decal that shall be permanently and prominently affixed to the vehicle.

(f) *Restrictions.* The mobile food vehicle shall comply in all respects with all requirements of state law, including but not limited to Minnesota Rules Chapter 1315, Chapter 1346, and Chapter 4626, and any requirements found in any other law, statute, rule, resolution, ordinance, or regulation of any kind and the following:

- (1) All equipment must meet applicable National Sanitation Foundation (NSF) food service equipment standards.
- (2) All foods, beverages, and ice must be obtained from an approved commercial source. Food cannot be stored in a home.
- (3) Any food preparation or food storage done off-site must be accomplished at the primary licensed food establishment location. Food cannot be prepared in a home.
- (4) Hours of operation shall be limited to the hours between 7:00 a.m. and midnight. The hours of operation for mobile food vehicles located within three hundred (300) feet of a residential building or a mixed use building with a residential component shall be limited to the hours between 7:00 a.m. and 10:00 p.m.. No approved mobile food vehicle shall be left unattended on a sidewalk nor remain on the sidewalk outside of these allowed hours of operation.
- (5) No mobile food vehicle vendor shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns, or whistles.
- (6) All waste liquids, garbage, litter and refuse shall be kept in leak proof, nonabsorbent containers which shall be kept covered with tight-fitting lids and properly disposed of at the licensed food establishment. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles, or any other place except the licensed food establishment. The garbage receptacle shall be easily accessible for customer use. The permittee shall be responsible for all litter and garbage left by customers.
- (7) The mobile food vehicle shall not have a drive-through.

- (8) The manager of environmental health may summarily close any licensed food establishment, including a mobile food vehicle, pursuant to section 188.580.
- (9) A mobile food vehicle vendor shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of the sidewalk or remove the vehicle entirely from the sidewalk if necessary to avoid such congestion or obstruction.
- (10) The mobile food vehicle shall comply with the provisions of section 466.280 and 536.20 relative to signage and advertising on the vehicle.
- (11) No mobile food vehicle shall use external signage, bollards, seating, or any other equipment not contained within the vehicle.
- (12) Any power required for the mobile food vehicle shall be self-contained and will not use utilities drawn from the public right-of-way or any adjacent property.
- (13) The height of the mobile food vehicle, including all accessory equipment, shall not exceed eight (8) feet.

(g) *Permit adverse action.* An application or approved permit may be denied, revoked, suspended, or not renewed, after notice and an opportunity for a hearing thereon, for any of the following reasons:

- (1) The application contains material omissions or false, fraudulent, or deceptive statements.
- (2) The vehicle is operated in such a manner as constituting a public nuisance per this Code or Minnesota Statute 609.74 and 609.745.
- (3) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this Code pertaining to food, fire prevention, and health or safety.

The provisions of this section are not exclusive. Adverse license action may be based upon good cause as authorized by Chapter 4, Section 16 of the Charter. This section shall not preclude the enforcement of any other provisions of this Code or state and federal laws and regulations.