

ORDINANCE NO.  
2017-05  
AN ORDINANCE ESTABLISHING LICENSING AND REGULATIONS  
FOR MOBILE FOOD UNITS AND FOOD CARTS.

THE CITY COUNCIL OF THE CITY OF CLEARWATER HEREBY ORDAINS:

SECTION 1. Chapter 18 of the Clearwater City Code is hereby amended to add Article V, which shall read as follows:

Article V. Mobile Food Units and Food Carts

**Sec. 18-118.** Purpose.

This ordinance is designed to permit the reasonable use of mobile food units while preventing any adverse consequences to residents, businesses and public property.

**Sec. 18-119.** Definitions.

The following words and terms when used for this license shall have the following meanings unless the context clearly indicates otherwise.

- (a) **Mobile Food Unit.** (1) A self-contained food service operation, located in a motorized, wheeled or towed vehicle, that is readily movable without disassembling and that is used to store, prepare, display, or serve food intended for individual portion service; or (2) a mobile food unit as defined in Minnesota Statutes Section 157.15, Subdivision. 9.
- (b) **Food Cart.** A food and beverage service establishment that is a non-motorized vehicle that is self-propelled by the operator.

**Section 18-120.** License Requirement.

- (a) **Type of License.** An annual license allows Mobile Food Unit or Food Cart operations in the city for any number of days over 21 days during any calendar year. A Mobile Food Unit or Food Cart operating 21 days or less shall follow state and county regulations. No city license is necessary to operate for 21 days or less in any calendar year.

- (b) License fees. Fees for annual licenses are set forth in the City's fee schedule.
- (c) License Application Requirements. It is unlawful for any person to operate a Mobile Food Unit or a Food Cart in the city without first obtaining a license from the city. An application for a license shall be filed, along with the required fee, with the City Clerk. The applicant must be the owner of the Mobile Food Unit or Food Cart. The application shall be made on a form supplied by the city and shall contain information requested by the City, including the following:
  - (1) Name of the owner and operator, if different than the owner, of the mobile food unit or food cart and permanent and temporary home and business addresses;
  - (2) The applicant's full legal name, date of birth, and driver's license number;
  - (3) A description of the nature of the business, the goods to be sold and the license plate number and description for any motorized or unmotorized vehicle to be used in conjunction with the activity;
  - (4) A phone number and email address of the applicant, with a designation of a preferred mailing address for notices related to the license;
  - (5) The name, address and contact information for the commissary with which the mobile food unit or food cart is affiliated, if applicable;
  - (6) A certificate of insurance by an insurance company authorized to do business in the State of Minnesota, evidencing the following forms of insurance:
    - (i) Commercial general liability insurance, with a limit of not less than one million dollars (\$1,000,000) each occurrence. If such insurance contains an annual aggregate limit, the annual aggregate limit shall be not less than two million dollars (\$2,000,000).
    - (ii) Automobile liability insurance with a limit of not less than two million dollars (\$2,000,000) combined single limit. The insurance shall cover liability arising out of any auto, including owned, hired and non-owned vehicles;

- (iii) Food products liability insurance, with a limit of not less than one million dollars (\$1,000,000) each occurrence;
  - (iv) Public liability insurance, with a limit of not less than one million dollars (\$1,000,000) each occurrence;
  - (v) Property damage insurance, with a limit of not less than one million dollars (\$1,000,000) each occurrence;
  - (vi) Workers compensation insurance (statutory limits) or evidence of exemption from state law; and,
  - (vii) The City shall be endorsed as an additional insured on the certificate of insurance and the umbrella/excess insurance if the applicant intends to operate its Mobile Food Unit or Food Cart on public property.
- (7) The certificate of insurance must contain a provision requiring notification be sent to the City should the policy be cancelled before its stated expiration date.
  - (8) Written consent of each private property owner from which Mobile Food Unit or Food Cart sales will be conducted;
  - (9) If the Mobile Food Unit or Food Cart will be located on city property or public right-of-way, a signed statement that the licensee shall hold harmless the city and its officers and employees, and shall indemnify the city and its 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 license;
  - (10) A copy of each related license or permit if applicable issued by Wright County/Stearns and the State of Minnesota required to operate a Mobile Food Unit or Food Cart; and,
  - (11) A copy of the applicant's state sales tax ID number.

**Sec. 18-121.** Conditions of Licensing. A Mobile Food Unit or Food Cart may only operate if compliant with the following:

- (a) **Locations.** A Mobile Food Unit or Food Cart may only operate in the locations set forth in this subpart. A mobile food unit or food cart may only operate in commercial and industrial zoning districts, with the written consent of the private property owner and must be placed on either concrete or bituminous unless otherwise approved by the City. When operations occur on

private residential property, Mobile Food Unit or Food Cart sales may only be for catering purposes (such as a private graduation party or wedding) and may not be open for sales to the general public. A mobile food unit or food cart may only operate in a city park or on city property with the prior written approval of the City; additional permits may be required for such operations.

- (b) Performance Standards. A Mobile Food Unit or Food Cart licensee is subject to the following performance standards.
- (1) Applicable license fee shall be paid.
  - (2) A Mobile Food Unit or Food Cart shall be operated in strict compliance with the laws, rules and regulations of the United States, State of Minnesota, Wright County and the City of Clearwater.
  - (3) Wastewater may not be drained into City storm water drains.
  - (4) A Mobile Food Unit or Food Cart shall provide and maintain at least one clearly designated waste container for customer use per each Food Cart or Mobile Food Unit. The operator of a Mobile Food Unit or Food Cart is responsible for daily removal of trash, litter, recycling and refuse. Public trash cans shall not be used to dispose of waste generated by the operation. The operator shall provide a garbage receptacle with a tight-fitting lid. The receptacle shall be easily accessible for customer use, and located within 5 feet of the unit.
  - (5) A Mobile Food Unit must provide an ~~independent~~ power supply that is screened from public view and that complies with pertinent City noise regulations.
  - (6) A Mobile Food Unit or Food cart may operate between 7 a.m. and 10 p.m. and must not create any unnecessary noise, disturbances or disrupt public traffic or safety in any way. An exemption to hours may be authorized by City Council on a per event basis.
  - (7) A Mobile Food Unit or Food Cart may have a maximum footprint of 300 square feet unless otherwise approved by the City.
  - (8) Operators must clean around their Mobile Food Unit or Food Cart at the end of each day and the mobile food unit or food cart must be kept in good repair and have a neat appearance.

- (9) A Mobile Food Unit or Food Cart operator must be licensed by the Minnesota Department of Health and Proof of the Minnesota Department of Health licensing must be provided and posted on the mobile food unit or food cart.
  - (10) A Mobile Food Unit or Food Cart must comply with any applicable Fire Department Food Truck Requirements.
  - (11) An out of service Mobile Food Unit or Food Cart stored within the City must comply with all applicable zoning ordinance requirements.
  - (12) A Mobile Food Unit or Food Cart may operate on private property in any residential zoned districts for a “one-time” event for catering purposes only.
  - (13) A Mobile Food Unit or Food Cart may not operate within 100 feet from the public entrance to any restaurant and/or any portion of a restaurant’s outdoor dining area during that restaurant’s hours of operation unless the licensee obtains written permission from the restaurant owner/manager.
  - (14) A mobile food unit or food cart may not operate in city-owned parking lots, except those parking lots adjacent to or inside a city park with the approval of a special event permit.
- (c) Non-Transferable License. A Mobile Food Unit or Food Cart license is non-transferable. Proof of license shall be displayed at all times in the Mobile Food Unit or Food Cart.
- (d) Practices Prohibited. It is unlawful for any person engaged in the business of a Mobile Food Unit or Food Cart operation to do any of the following:
- (1) Call attention to that licensee’s business by crying out, blowing a horn, ringing a bell, loud music or by any loud or unusual noise, or by use of any amplifying device;
  - (2) Fail to display proof of license and produce valid identification when requested;
  - (3) Leave a Mobile Food Unit or Food Cart unattended or at an authorized location outside allowed hours of operation;
  - (4) Operate the Mobile Food Unit or Food Cart in or on public sidewalks or trails;
  - (5) Allow a Mobile Food Unit or Food Cart to remain on the property of

another when asked to leave;

- (6) Obstruct the ingress or egress from commercial buildings during the building hours of operation;
- (7) Claim endorsements by the City; or
- (8) Conduct business in any manner as to create a threat to the health, safety, and welfare of a specific individual or the general public.

**Sec. 18-122.** Suspension or Revocation of a License.

A license issued pursuant to this Article may be suspended by the City if the licensee has violated the terms of this ordinance, or is otherwise conducting business in such a manner as to constitute a breach of the peace, fraudulent conduct, or any other conduct that is prohibited by local, state or federal laws or regulations. Falsification of information required for a license is also grounds for denial, suspension or revocation of a license. The license shall be automatically revoked if the licensee does not file an appeal pursuant to this Section. When taking action on any license issued under this Section, the City shall provide the licensee with verbal or written notice of the violation. The notice shall inform the licensee of its right to be heard before the City Council. The notice shall also inform the licensee that the license shall be automatically revoked if no appeal is filed within twenty-one (21) days of the date of the notice by the city. Verbal notice shall be confirmed within five (5) days by a mailed written notice to the licensee. The City Council shall not conduct a hearing on a suspension or revocation unless a request is made by the next City Council meeting. No City Council resolution or other notice calling for a hearing shall be required.

SECTION 2. This Ordinance shall take place upon its passage and publication according to law.

PASSED AND ADOPTED by the City Council of the City of Clearwater, Minnesota, this \_\_\_\_ day of \_\_\_\_\_, 2017.

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Pete Edmonson, Mayor

ATTEST:

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Kevin Kress, City Administrator