

ORDINANCE 225,11d

Introduced by Councilor Brooks

AN ORDINANCE AMENDING CHAPTER 22, REGULATIONS AND FEES FOR MOBILE FOOD CARTS AND MOBILE FOOD VEHICLES

THE CITY OF ALBERT LEA ORDAINS:

Sec.1. That Chapter 22 of the Code of Ordinances, City of Albert Lea, Minnesota is hereby amending Article XVI, Sections 22-582, 22-583, 22-584, and 22-587, Regulations and Fees for Mobile Food Carts and Mobile Food Vehicles, which will read as follows:

Sec. 22-580: PURPOSES AND INTENT

The ordinance is adopted for the purpose of authorizing the City of Albert Lea to regulate the operation of mobile food carts and mobile food vehicles.

Sec. 22-581: DEFINITIONS

- a) *Food or Beverage Establishment.* Means any building, room, stand, enclosure, vehicle, space, area or other place wherein food or beverages are prepared, served, sold or offered for sale to the public, regardless of whether there is a charge for the article.
- b) *Mobile Food Cart.* . A self-contained cart used to prepare and serve food that is non-motorized and propelled by the operator.
- c) *Mobile Food Vehicle.* An outdoor food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered.
- d) *Restaurant.* A food and beverage service establishment, whether the establishment serves alcohol or nonalcoholic beverages, which operates from a location for more than twenty-one (21) days annually. Restaurant does not include a mobile food cart or mobile food vehicle.

Sec. 22- 582: LICENSE—REQUIRED

- a) No person or business shall vend from a mobile food cart or mobile food vehicle within the City unless a license to do so is obtained from the City. Licenses are not required for operations occurring entirely within a permitted community event pursuant to Section 50-133. Mobile food cart and mobile food vehicles operated at a permitted event, must provide proof of licensure with the State of Minnesota Department of Health and liability insurance to the City of Albert Lea as noted in Sec. 22-586.
- b) The City may require such information on the license application as city staff deem reasonable and necessary, including but not limited to, the following information:
 - 1. Trade name;
 - 2. Name mailing address, email address, and telephone numbers of applicant and manager;
 - 3. Name and contact information of commercial food supply sources;
 - 4. Proof of applicable licenses or permits required by the State of Minnesota Department of Health or Department of Agriculture.
 - 5. Brief physical description of the mobile food cart or mobile food vehicle, which may include physical layout plan and dimensions, photographs, equipment types, manufacturer and model numbers, axle weight, license plate numbers, and vehicle identification numbers;
 - 6. Information regarding water, fuel, and electrical supplies, and waste disposal.

Sec. 22-583: FEES

License applications under this Article shall be submitted to the city clerk with the designated license fee. Said fee can be found in the City's annual Fee Schedule. The License shall be issued for a period of 12 months and is non-transferable. Licenses must be displayed on the mobile food cart or mobile food vehicle in a conspicuous location for public viewing.

Sec. 22-584: OPERATION

A mobile food cart or mobile food vehicle is, by definition, a food establishment and must comply with the Minnesota Food Code, Minnesota Statutes Chapter 157, and Minnesota Rules Chapter 4626, or as amended. It shall be unlawful to operate any mobile food cart or mobile food vehicle in the city unless it is licensed, operated, and conducted in accordance with local, state, and federal requirements:

- a) Discarding waste, liquids, gray water, garbage, litter, or refuse on city sidewalks, streets, or lawn areas, or in city drains or trash receptacles is prohibited; Licensees must provide at least one designated waste container for customer use. Licensees are responsible for clean-up and trash removal generated from their operation;
- b) Using utilities from public property and right-of-ways is prohibited;
- c) Using the utilities of any adjacent private property is prohibited unless written permission is obtained from the property owner or agent;
- d) Licensees must comply with all City parking, signage, lighting, and noise regulations;
- e) Food sold or served from mobile food carts and mobile food vehicles may not be prepared or stored at a private residence;
- f) Licensees shall collect and remit applicable Minnesota and city sales tax;
- g) Licensees shall comply with the National Fire Protection Associations' Standard for Ventilation Control and Fire protection of Commercial Cooking Operations;
- h) Hours of operation are 11:00 a.m. to 8:00 p.m. or as set by City Manager or designee; Licensees are allowed to set up one (1) hour prior to conducting food vending and allowed one (1) hour after conducting business for clean-up and trash removal. No food cart or food vehicle may remain on site for twenty-four hours.
- i) Licensees are prohibited from selling or serving alcohol;
- j) Mobile food units may not operate within a residential zoning district, unless the area is listed on the Mobile Food Unit Map or authorized by the City Manager or designee for a community or private event;
- k) Mobile food units or vehicles must not be located on private property unless written permission is given by the property owner or agent;
- l) Mobile food units or vehicles may not operate or travel in or on public sidewalks;
- m) Mobile food units or vehicles are prohibited from obstructing the ingress and egress from commercial buildings during the building hours of operation;
- n) Mobile food units or vehicles must not be located closer than 100 feet from any restaurant and/or its outdoor dining area during normal business hours, unless written permission is given by the restaurant proprietor. The distance is measured from the front door or the outdoor seating area (whichever is closer to the mobile food unit licensee);
- o) Mobile food units or vehicles must not be located within 500 feet from a community event or parade as defined in Section 50-133 unless written permission is given by the community event or parade permit holder. The distance is measured from the event entrance or any clearly defined event boundary or parade route (whichever is closer to the mobile food unit);
- p) Mobile food units or vehicles may not impede pedestrian movement or parking;
- q) Mobile food units may not have a drive-through;

- r) The Mobile Food Unit Map will identify acceptable locations of operation. Mobile food units may operate only within the areas identified unless written permission is granted to operate elsewhere and approved by the City Manager or designee;
- s) The use of any outside sound amplifying equipment, televisions or similar visual entertainment devices, lights, or noisemakers, such as bells, horns, or whistles is prohibited.

Sec. 22-585: INSPECTION

Mobile food carts and mobile food vehicles are subject to inspection by city staff from the police, fire, parks and recreation departments, and licensees must comply with any regulation or specific directive imposed by city staff from those departments.

Sec. 22-586: INSURANCE

- a) Mobile food carts and mobile food vehicle licensees will have current insurance during the term of the license. A certificate of insurance showing the applicant has obtained liability, food products liability, and property damage insurance that will protect licensee, property owners, and the city from all claims for damage to property or bodily injury, including death, which may arise from operations under the license or in connection therewith must be provided to the City Clerk. Such insurance shall provide coverage of not less than one million (1,000,000) per occurrence. The City shall be named as an additional insured on the certificate of insurance. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice filed with the City Clerk. No license 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 City.
- b) Each mobile food unit licensee must sign a statement agreeing to defend, indemnify, and hold harmless the City from and against all claims, damages, losses and expenses, including attorney's fees and costs, arising out of or resulting from the applicants operation of a mobile food unit as permitted by this chapter.

Sec. 22-587: REPEALED

Sec. 22-588: DENIAL, REVOCATION, AND SUSPENSION

All license applications shall be submitted to the City Clerk subject to Council approval. License applications and current licenses may be denied, revoked, or suspended for good cause. The city shall mail written notice describing the reasons for denial, revocation, or suspension of a license covered by this Article. The licensee may then demand a hearing before the city council by delivering a written demand to the city clerk within ten business days after the notice of denial, revocation or suspension is mailed. Such appeal shall be heard at the first regularly scheduled meeting of the city council thereafter. For the purposes of this Section "good cause" shall include, but not be limited to:

- a) The manner, or proposed manner, of operating the mobile food cart or mobile food vehicle violates any local, state, or federal law;
- b) Licensee or any employee or agent of the licensee are convicted of any crime relating to the operation of the mobile food cart or vehicle;
- c) Licensee or any employee or agent of licensee made omissions, deceptive statements, and/or false statements of material fact to city staff; or
- d) Failure to timely pay licensee fee or previous pattern of operation without license.

Sec. 22-589: PENALTY

Any person, firm or corporation violating any provision of this ordinance shall be guilty of a

misdemeanor and a separate offense shall be deemed committed on each day during or on which a violation occurs to continues.

Sec. 22-590: SEVERABILITY and SAVINGS CLAUSE

If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that findings shall not serve as invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

That the motion for the adoption of the foregoing ordinance was duly seconded by Councilor Baker, and upon a vote being taken thereon, the following voted in favor thereof: Councilors Murray, Baker, Howland, Olson, Rasmussen, Brooks and Mayor Rasmussen, Jr.

And the following voted against the same: None

Introduced the first time on the 13th day of May, 2019

Introduced the second time on the 28th day of May, 2019

Mayor Vern Rasmussen, Jr.

Filed and attested to the 29th day of May, 2019

Secretary of the Council