

CHAPTER 143A. MOBILE FOOD UNITS ON PUBLIC STREETS

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143A.01. Definitions. As used in this chapter, the following terms shall have the meaning ascribed to them:

- A. "Applicant" means a person who applies for a Mobile Food Unit License.
- B. "Council" means the City of Rochester Common Council.
- C. "Licensee" means a person who possesses a Mobile Food Unit License.
- D. "Mobile Food Unit" means a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, and readily movable, without disassembling, for transport to another location for the purpose of Vending.
- E. "Mobile Food Unit Zone" means the area of the City bounded by the following line: commencing at the center of the 4th Street bridge over Bear Creek, thence northerly along the centerline of Bear Creek to the center of the intersection of the Zumbro River, thence northerly along the centerline of the Zumbro River to Civic Center Drive Northeast; thence westerly along the centerline of Civic Center Drive to its intersection with Third Avenue Northwest; thence southerly along the centerline of Third Avenue Northwest to West Center Street; then westerly on West Center Street to Sixth Avenue Northwest; then southerly on Sixth Avenue Northwest to First Street Southwest; then easterly on First Street Southwest to Third Avenue Northwest; then southerly on Third Avenue Northwest to Seventh Street Southwest; then easterly on Seventh Street Southwest to Second Avenue Southwest; thence southerly on Second Avenue Southwest to a point where Second Avenue Southwest intersects with Soldiers Field Drive; thence southerly along the centerline of Soldiers Field Drive to a point where it would intersect Ninth Street Southwest if Ninth Street Southwest were extended west of Broadway; thence easterly along that centerline to the centerline of the Zumbro River; thence northerly to the center of the Fourth Street bridge over the Zumbro River; thence easterly along the centerline of Fourth Street Southeast to the point of beginning. (4277, 1/4/17)

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- F. "Operator" includes any person, firm, or corporation who owns, leases, contracts or in any other fashion permits a person to operate upon the City streets any Mobile Food Unit for the purpose of Vending, or the person driving or operating any such Unit.
- G. "Vend" or "Vending" means offering food for sale from a Mobile Food Unit on the City streets.
- H. "Zone" means an area within the Mobile Food Unit Zone as identified in Exhibit A.

143A.02. License Required. Subdivision 1. No Operator shall vend from a Mobile Food Unit while on the public streets of the City unless a license to do so is obtained from the City. The fee for an annual license shall be established by resolution adopted by the Council, and shall entitle the Operator to Vend from one such vehicle for the period of April 1 to March 31 of the following year.

Subd. 2. The City Clerk shall issue an identification tag for each vehicle licensed hereunder which shall be displayed by the operator on the left rear portion of the vehicle.

143A.03. Franchise Required. No person shall operate a Mobile Food Unit upon or over a public street, alley, or public right-of-way unless the person has obtained a franchise from the City. Each ordinance granting a franchise shall contain all of the terms and conditions of the franchise so granted. Additionally, every person possessing a franchise must comply with all of the provisions of this chapter. The franchise fee for a Mobile Food Unit shall be established by resolution adopted by the Council. The franchise will be valid for five years. An Operator or Licensee holding a franchise need not pay parking fees or meters while Vending.

143A.04. License Application and Approval. Subdivision 1. Application for a Mobile Food Unit License shall be made to the City Clerk. The City Clerk may require such information on the application as it deems reasonable and necessary including but not limited to the following:

- A. Name and address of the Applicant;
- B. Name and address of the approved commercial supply source and affiliated licensed food establishment in the City. If the licensed food establishment is not owned or operated by the applicant, the applicant shall provide written proof of consent from the establishment's owner to use the facility for food preparation, storage, and cleaning;

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- C. A description of the preparation methods and food product offered for sale, including the intended menu, display, and distribution containers;
- D. The anticipated volume of food to be stored, prepared, and sold;
- E. Plans and specifications for the Mobile Food Unit, 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.
- F. Copies of all licenses or permits required by the State Health Department or Olmsted County Public Health.
- G. A signed statement that the Applicant will defend, indemnify, and hold the City harmless from any and all claims for damage to property or injury to persons which might result or arise out of the Applicant's operation of a Mobile Food Unit as permitted by this chapter.
- H. A certificate of insurance showing the Applicant has obtained liability, food products liability, and property damage insurance that will protect the applicant, property owners, and the City from all claims for damage to property or bodily injury, including death, which may arise from the applicant's operation of a Mobile Food Unit. This insurance shall provide coverage of not less than \$1 million per occurrence. The policy shall further provide that it may not be cancelled except upon 30 days' written notice filed with the City Clerk. No license issued under this chapter shall be valid at any time the insurance required by this clause is not maintained and evidence of its continuance is on file with the City Clerk. A certificate of insurance shall contain an acknowledgement signed by the insurer that prior to modification, cancellation or termination of the subject policy, written notice shall be sent to the City Clerk by said insurance company.
- I. An inspection report required by section 143A.06.

Subd. 2. Upon receipt of all required information and the payment of all required license and franchise fees, the City Clerk shall forward the application to the Council for approval.

Subd. 3. The Mobile Food Unit license may not be transferred to another person without Council approval. Each license is valid for only one Mobile Food Unit.

143A.05. Equipment Required for a Mobile Food Unit. In addition to other equipment

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required by law, every Mobile Food Unit shall be equipped with:

- A. A convex mirror mounted on the front so the operator in his normal seating position can see the area in front of the vehicle obscured by the hood; and,
- B. An audible alarm which is activated when the vehicle is in motion backwards.

143A.06. Inspection. Subdivision 1. Prior to the initial use and operation of a Mobile Food Unit, the Unit shall be thoroughly examined and inspected by a certified mechanic and found to comply with all standards of safety prescribed by the laws of the state or the City. An inspection report showing that a Mobile Food Unit has met the standards of safety prescribed by law must be presented to the City Clerk at the time of license application.

Subd. 2. Every Mobile Food Unit licensed pursuant to this chapter shall be inspected from time to time and at least annually by a certified mechanic to insure the continued maintenance of safe operating conditions. The operation of any Mobile Food Unit which fails to meet the standards of safety established by laws shall be discontinued until such time as the deficiency is eliminated.

143A.07. Zones of Operation. An Operator may Vend in a Mobile Food Unit Zone subject to those restrictions and limitations identified in Exhibit A. Within any Zone, an Operator shall not setup or move a Mobile Food Unit between 7:00 a.m., and 9:00 a.m., or between 4:00 p.m., and 5:30 p.m.

143A.08. Restrictions on Vending Activity. Subdivision 1. The following restrictions apply to Mobile Food Units and Operators throughout the City:

- A. The Operator shall Vend only when the Mobile Food Unit is lawfully stopped.
- B. The Operator shall Vend only from a Mobile Food Unit legally parked on any street by Vending to the sidewalk side of the street.
- C. The Operator shall not Vend to any person standing in the roadway.
- D. The Operator shall not Vend after 1:00 a.m.
- E. The Operator shall not Vend within 150 feet of the property line of an established restaurant located outside of a Mobile Food Unit Zone.
- F. Each Mobile Food Unit must provide its own water and electricity.
- G. No power cable, cord, equipment, or any utility hose, may extend from the Mobile Food Unit.

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- H. Within a Zone, a Licensee must comply with all posted parking restrictions as well as those parking restrictions applicable for that Zone as identified in Exhibit A. Outside a Zone, a Licensee must comply with all posted parking restrictions. For purposes of this clause, the term “parking restrictions” does not include a parking meter fee or charge.
- I. The Operator of a Mobile Food Unit shall not back the vehicle to Vend or attempt to Vend.
- J. All waste liquids, garbage, litter and refuse shall be kept in leak proof, nonabsorbent containers which shall be kept covered with tight-fitting covers and properly disposed of. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles, or any other place other than the Mobile Food Unit. The garbage receptacle shall be easily accessible for customer use. The Licensee shall be responsible for all litter and garbage left by customers.
- K. The Operator must comply with the Minnesota Food Code.

Subd. 2. In addition to the restrictions found in subdivision 1, the following restrictions apply to Mobile Food Units and Operators in all City parks located outside of a Mobile Food Unit Zone:

- A. An Operator shall Vend in or adjacent to a park only during the posted park operating hours.
- B. An Operator shall not Vend within 50 feet of a right-of-way adjoining a park.
- C. An Operator shall not Vend within 150 feet of a person to whom a park concession permit has been issued by the Board of Park Commissioners.
- D. An Operator shall not Vend within 150 feet of the Soldier’s Field Veteran’s Memorial.
- E. An Operator shall not Vend within 500 feet of any event being held in a park and for which a permit has been issued by the Board of Park Commissioners or the City’s Park and Recreation Department.

Subd. 3. An Operator who is Vending in a City park must satisfy any permit requirements and pay any permit fees adopted by the Board of Park Commissioners in addition to the license and fees established by this chapter.

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143A.09. 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 or continues.

143A.10. License Suspension, Revocation and Denial. Subdivision 1. Any license issued by the City pursuant to the provisions of this chapter may be suspended, revoked or placed on probation or, in connection with the application or renewal of a license, denied upon a finding that the Licensee:

- A. Failed to comply with any applicable state law, city ordinance, Minnesota Food Code, or state or county health regulation relating to a Mobile Food Unit;
- B. Failed to possess any license, permit, or approval from any state or county authority needed in order to legally operate the Mobile Food Unit within the State of Minnesota or Olmsted County.
- C. Violated any provision of this chapter;
- D. Failed to comply with any condition set forth in the license, set forth in a council action regarding the license, or set forth as part of the placement of the license on probation;
- E. Allowed the Mobile Food Unit business to be operated or maintained in a way that unreasonably annoyed, endangered or injured the safety, health, morals, comfort or repose of any considerable number of members of the public; or
- F. Provided false or misleading information on the application.

Subd. 2. Whenever it appears to the Council that adequate grounds may exist for the suspension, revocation or imposition or probation of a permit, the Council shall by resolution specify the nature of the alleged grounds and order that a hearing on the matter be held as provided below.

Subd. 3. No such suspension, revocation or probation shall be effective until the Licensee has been afforded an opportunity for a hearing after reasonable notice. The notice shall state the time, place and issues to be addressed. All parties will be afforded an opportunity at the hearing to present evidence and argument concerning the issues.

Subd. 4. Upon a finding that the Licensee has violated any such statute or ordinance, the council may:

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- A. Suspend the license for up to 60 days;
- B. Revoke the license; or
- C. Place the license on probation for a stated time period. The Council may impose conditions upon the license during the time of probation.

143A.31. Franchise Granted. A non-exclusive franchise is granted to Muharem Dedic d/b/a The Back Alley Kitchen to operate a mobile food unit on the public streets of the City of Rochester from the time this ordinance takes effect until midnight on December 31, 2022, subject to the terms and conditions of this chapter. (4250, 6/20/16)

143A.32. Franchise Granted. A non-exclusive franchise is granted to George Psomas d/b/a Mac's Mobile Kitchen to operate a mobile food unit on the public streets of the City of Rochester from the time this ordinance takes effect until midnight on December 31, 2022, subject to the terms and conditions of this chapter. (4256, 7/18/16)

143A.33. Franchise Granted. A non-exclusive franchise is granted to Randall Shull d/b/a Porky Business to operate a mobile food unit on the public streets of the City of Rochester from the time this ordinance takes effect until midnight on December 31, 2022, subject to the terms and conditions of this chapter. (4297, 5/1/17)

143A.34. Franchise Granted. A non-exclusive franchise is granted to Derrick Chapman d/b/a Twisted Barrel Wood Fire Pizza to operate a mobile food unit on the public streets of the City of Rochester from the time this ordinance takes effect until midnight on December 31, 2022, subject to the terms and conditions of this chapter. (4298, 5/1/17)

143A.35. Franchise Granted. A non-exclusive franchise is granted to Cory Scrobeck d/b/a Dough Boys to operate a mobile food unit on the public streets of the City of Rochester from the time this ordinance takes effect until midnight on December 31, 2022, subject to the terms and conditions of this chapter. (4299, 5/1/17)

143A.36. Franchise Granted. A non-exclusive franchise is granted to Bryan Bachman d/b/a Catering For All It's Worth to operate a mobile food unit on the public streets of the City of Rochester from the time this ordinance takes effect until midnight on December 31, 2022, subject to the terms and conditions of this chapter. (4300, 5/1/17)

143A.37. Franchise Granted. A non-exclusive franchise is granted to Charles Connelly d/b/a Charlies Concessions to operate a mobile food unit on the public streets of the City of Rochester from the time this ordinance takes effect until midnight on December 31, 2022, subject to the terms and conditions of this chapter. (4308, 6/5/17)

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143A.38. Franchise Granted. A non-exclusive franchise is granted to Pamela Miller d/b/a BACB Unleashed to operate a mobile food unit on the public streets of the City of Rochester from the time this ordinance takes effect until midnight on December 31, 2022, subject to the terms and conditions of this chapter. (4307, 6/5/17)

143A.39. Franchise Granted. A non-exclusive franchise is granted to Joseph Phillips d/b/a Jersey Jo's to operate a mobile food unit on the public streets of the City of Rochester from the time this ordinance takes effect until midnight on December 31, 2022, subject to the terms and conditions of this chapter. (4310, 6/19/17)

143A.40. Franchise Granted. A non-exclusive franchise is granted to Porfirio Rodriguez Sanchez d/b/a The Compadres LLC to operate a mobile food unit on the public streets of the City of Rochester from the time this ordinance takes effect until midnight on December 31, 2022, subject to the terms and conditions of this chapter. (4313, 7/5/17)

(4016, 5/2/11; 4248, 6/6/16; 4250, 6/20/16; 4256, 7/18/16; 4277, 1/4/17; 4297, 5/1/17; 4298, 5/1/17; 4299, 5/1/17; 4300, 5/1/17; 4307, 6/5/17; 4308, 6/5/17; 4310, 6/19/17; 4313, 7/5/17)