

CHAPTER 114: REGULATIONS AND FEES FOR MOBILE FOOD UNITS AND FOOD CARTS

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114.01 PURPOSE AND INTENT.

The ordinance is adopted for the purpose of authorizing the City of Blooming Prairie to regulate the operation of mobile food units and food carts.

114.02 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. A food and beverage service establishment that is a vehicle mounted unit, either:
 - (1) Motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the City Administrator or City Council for the City of Blooming Prairie.
 - (2) Operated in conjunction with a permanent business licensed under Minnesota Statute chapter 157 or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.
- (B) Food Cart. A food and beverage service establishment that is a non-motorized vehicle that is propelled by the operator.
- (C) Restaurant. A food and beverage service establishment, where the establishment serves alcohol or nonalcoholic beverages, which operates from a location for more than twenty-one (21) days annually. A restaurant does not include a mobile food unit or food cart.
- (D) Ice Cream Truck. A motor vehicle utilized as the point of retail sales of pre-wrapped or pre-packaged ice cream, frozen yogurt, frozen custard, flavored frozen water, or similar frozen dessert products.

114.03 LICENSE REQUIREMENT.

- (A) No person or business shall vend from a mobile food cart or mobile food unit 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.
- (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 unit, which may include physical layout plan and dimensions, photographs, equipment types, manufacturer and model numbers, axle weight limit, license plate numbers, and vehicle identification numbers.
 - (6) Information regarding water, fuel, electrical supply, and waste disposal.
- (C) 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.

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114.04 FEES.

License application under this Ordinance shall be submitted to city administration with the designated license fee. Fees can be found on the Blooming Prairie Annual Fee Schedule.

114.05 OPERATION.

A mobile food cart or mobile food unit 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 unit in Blooming Prairie 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 units may not be prepared or stored at a private residence;
- (F) Licensees shall collect and remit applicable Minnesota and city sales tax, if applicable;
- (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 from 7:00 a.m. to 8:00 p.m. or as set by the City Administrator 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. Hours of operation may be extended in conjunction with a permitted community event. No food cart or mobile food unit may remain on site for more than twenty-four hours, unless written permission is granted by the property owner. Licensee must comply with all parking regulations.
- (I) Licensees are prohibited from selling or serving alcohol;
- (J) Mobile food units and food carts may not operate within a residential zoning district, unless authorized by the City Administrator or designee for a community or private event. Ice cream truck vendors may operate in all zoning districts;
- (K) Mobile food units and food carts must not be located on private property unless written permission is given by the property owner or agent;
- (L) Mobile food units and food carts may not operate or travel in or on public sidewalks;
- (M) Mobile food units or food carts are prohibited from obstructing the ingress and egress from commercial buildings during the building hours of operation;
- (N) Mobile food units or food carts 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 or food cart licensee);

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- (O) Mobile food units or food carts must not be located within 500 feet of a community event or parade, unless written permission is given by the community event or parade 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 or food cart);
- (P) Mobile food units or food carts may not impede pedestrian movement or parking;
- (Q) Mobile food units or food carts may not have a drive-through;
- (R) The use of any outside sound amplifying equipment, televisions or similar visual entertainment devices, lights, or noisemakers, such as bells, horns, or whistles are prohibited. Ice cream trucks traveling through a residential district may have outdoor music or noise-making devices to announce their presence;
- (S) An out of service mobile food unit or food cart stored within the City must comply with all applicable ordinance requirements;
- (T) 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.

114.06 INSPECTION.

Mobile food carts and mobile food units are subject to inspection by city staff, licensees must comply with any regulation or specific directive imposed by city staff.

114.07 INSURANCE.

- (A) Mobile food units or food cart licensees must 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 the 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 city administration. 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 city administration. 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 or food cart 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 applicant's operation of a mobile food unit or food cart as permitted by this chapter.

114.08 DENIAL, REVOCATION, AND SUSPENSION

All license applications shall be submitted to city administration and/or the City Council for approval. License applications and current licenses may be denied, revoked, or suspended for good cause. The city shall mail written notice describing the reason for denial, revocation, or suspension of a license covered by this Ordinance. The licensee may then request a hearing before the city council by delivering a written request to city administration 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 is not limited to:

- (A) The manner, or proposed manner, of operating the mobile food unit or food cart violates and 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 unit or food cart;
- (C) Licensee or any employee or agent of the 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 a license.

114.09 EXEMPTIONS

The following are exempt from Mobile Food Unit licensing requirements.

- (A) Appropriately licensed caterers are exempted from this Ordinance for catered events.
- (B) Mobile food units which are vending at a school, church, or other non-profit owned land for a non-profit event.
- (C) Mobile Food Units which are hired to vend on private property for private events, located in any residential or agriculture zoned property. The mobile food units must be fully contained on private property.
- (D) Mobile food units owned and operated by a commercial food business located in the City of Blooming Prairie.
- (E) Licenses are not required for operations occurring entirely within a permitted community event.

114.10 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.

114.11 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 finding shall not serve as invalidation or affect the validity and enforceability of any other section or provision of this ordinance.

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Passed by the City Council of Blooming Prairie, Minnesota this 17th day of May, 2021.

Mayor

Attested:

City Administrator