

ORDINANCE NO. _____

AN ORDINANCE CREATING A NEW SECTION 5-21-9, AMENDING SECTIONS 5-21-1, 5-21-2, 5-21-4, 5-21-5, 5-21-6, 5-21-7, 5-21-8, AND RENUMBERING PREVIOUS SECTIONS 5-21-9 AND 5-21-10 AS SECTIONS 5-21-10 AND 5-21-11, RESPECTIVELY, TO ACCOMMODATE THE ADDITION OF NEW SECTION 5-21-9 OF CHAPTER 5-21 OF TITLE 5 OF THE ROCHESTER CODE OF ORDINANCES RELATING TO MOBILE FOOD UNITS.

THE COMMON COUNCIL OF THE CITY OF ROCHESTER ORDAINS:

Section 1. Chapter 5-21 of Title 5 of the Rochester Code is hereby amended by creating a new section 5-21-9 to read as follows:

Sec. 5-21-9. Temporary Mobile Food Unit.

- (a) No operator shall vend from a temporary mobile food unit anywhere in the city, including while on the public streets of the city, within or adjacent to city parks, or on private property inside the city limits, unless a license to do so is obtained from the city. The fee for a temporary mobile food unit license shall be established as part of the fee schedule adopted by the council.
- (b) All temporary mobile food units must complete an application form as provided by the City Clerk.
- (c) All temporary mobile food units are subject to inspection by the Rochester Fire Department and expected to retain equipment required by a mobile food unit as outlined in this Chapter.
- (d) The City shall not issue more than two temporary mobile food unit licenses within a calendar year. Any applicant seeking additional time within City limits must obtain an annual license.

Section 2. Section 5-21-1 of Chapter 5-21 Of Title 5 of the Rochester Code is hereby amended to read as follows:

Sec. 5-21-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person who applies for a mobile food unit license.

Council means the City of Rochester Common Council.

Licensee means a person who possesses a mobile food unit license.

Mobile food unit means a food and beverage service establishment that is a vehicle-mounted unit, ~~either: either motorized or trailered, and readily movable, without disassembling, for transport to another location for the purpose of vending; or a food and beverage service establishment that is a vehicle-mounted unit, either:~~

(1) motorized or trailered, and readily movable, without disassembling, for transport to another location for the purpose of vending or;

(2) motorized or trailered, but not readily moveable and which operates more than 21 days annually at any one place.

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; thence westerly on West Center Street to Sixth Avenue Northwest; thence southerly on Sixth Avenue Northwest to First Street Southwest; thence easterly on First Street Southwest to Third Avenue Northwest; thence southerly on Third Avenue Northwest to Seventh Street Southwest; thence 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.

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.

Temporary Mobile Food Unit: 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 and in operation within City limits for no longer than 30 days within a calendar year.

Vend or *vending* means offering food for sale from a mobile food unit on the city streets.

Zone means an area within the mobile food unit zone as identified in a mobile food unit zone map to be maintained on file in the office of the city clerk.

Zone permit means a permit for a specific date and time of operation for a mobile food unit within an identified zone obtained from the office of the city clerk.

Section 3. Section 5-21-2 of Chapter 5-21 Of Title 5 of the Rochester Code is hereby amended to read as follows:

Sec. 5-21-2. License required.

- (a) No operator shall vend from a mobile food unit anywhere in the city, including while on the public streets of the city, within or adjacent to city parks, or on private property inside the city limits unless a license to do so is obtained from the city. The fee for an annual license shall be established as part of the fee schedule adopted by the council, and shall entitle the operator to vend from one such vehicle for the period of ~~April 1-May 1~~ to ~~March 31~~ April 30 of the following year.

~~No city license shall be required for operation within the city solely as part of a special event or community festival, as defined by RCO Chapters 117 and 125B, or other events permitted by the park and recreation department or the Rochester Downtown Alliance under authority delegated by the common council.~~

- (b) 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.

Section 4. Section 5-21-4 of Chapter 5-21 Of Title 5 of the Rochester Code is hereby amended to read as follows:

Sec. 5-21-4 License application and approval.

- (a) 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:
 - (1) Name and address of the applicant, and if the applicant is a corporation, LLC, or partnership, the name and contact information of the primary operator to be responsible for the MFU;
 - (2) If all food storage and preparation does not take place within the MFU, the name and address of an approved commercial supply source and affiliated licensed food establishment in the county must be provided. 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;

- (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) Proof of an approved current transient food service plan review application with Olmsted County and copies of all licenses or permits required by the state health department or Olmsted County Public Health;
- (6) 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;
- (7) 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 \$1,000,000.00 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.
- (8) An inspection report required by section 143A.06.

Section 5. Section 5-21-5 of Chapter 5-21 Of Title 5 of the Rochester Code is hereby amended to read as follows:

Sec. 5-21-5. Equipment required for a mobile food unit.

- ~~(a) In addition to other equipment required by law, every mobile food unit shall be equipped with:~~
- ~~(1) 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,~~
 - ~~(2) An audible alarm which is activated when the vehicle is in motion backwards.~~
 - (3) Fire extinguishers required. A minimum of one portable fire extinguisher with a minimum fire suppression rating of 2A:10B:C shall be properly installed. In addition to any other fire extinguisher required by the code, a listed class K portable fire extinguisher shall be properly mounted and available for immediate use in any mobile food unit using vegetable oils or animal fats for deep fat frying. Portable fire extinguishers shall be maintained in accordance with the requirements of the code.
- ~~(b)~~ (b) Additional fire safety requirements.

- (1) *Training required.* Mobile food unit workers shall be trained in the use of the required portable fire extinguishers, any fire protection systems installed in the mobile food unit, proper method for shutting off fuel sources, the procedure for notifying the fire department in case of emergency, and the procedure for performing a simple leak test on cooking gas connections where used.
- (2) *Fuel Systems. Liquid propane (LP) gas systems.* Where provided for use within the Mobile Food Unit, the fuel system ~~LP gas system of a mobile food unit shall comply with the most recently adopted version of the Minnesota State Fire Code. A simple leak test shall be performed any time an exchangeable cylinder is replaced and documentation of the leak tests shall be maintained for review by the fire department. A listed LP gas alarm shall be installed within the vehicle, in the vicinity of LP gas system components in accordance with the manufacturer's instructions. The main shut-off valve on any cylinder shall remain easily accessible and unobstructed at all times during operation. A flexible connector shall be used between the regulator outlet and any fixed piping system.~~
~~Portable gas cylinders shall be properly secured and remain upright at all times. LP gas cylinder valves shall be closed except when the cooking equipment is in use.~~
 - (3) *Engine driven power sources.* Exhaust from engine-driven power sources including stationary mobile food units shall be directed away from all buildings, and other mobile food units and operations. A separation of at least ten feet from any openings or air intakes and any means of egress shall be maintained. An engine driven power source shall be separated from the public by a physical guard, fence or enclosure.
 - (4) *Refueling of engine driven power sources.* Refueling shall be performed during non-operating hours of the mobile food unit. No refueling of a portable engine drive power source may be performed unless the engine is shut off and the engine surfaces are cool to the touch.
 - (5) *Electrical power.* Generators, and extension cords used by mobile food units shall comply with the code. Electrical appliances, fixtures, equipment and wiring contained within or connected to a mobile food unit shall comply with NFPA 70, National Electric Code.
 - (6) *Solid fuel use.* Wood, charcoal, or other solid fuels used by mobile food units shall not be stored above any heat-producing appliance or vent, within three feet of any cooking appliance, near any combustible or flammable liquids, ignition sources, chemicals, food supplies or packaged goods, near removed ashes, cinders or other fire debris, or in the path of ash removal. Ash, cinders and other fire debris shall be removed from the firebox at least once per day. Ash, cinders, and other removed fire debris, shall be placed in a closed metal container.

Section 6 Section 5-21-6 of Chapter 5-21 Of Title 5 of the Rochester Code is hereby amended to read as follows:

Sec. 5-21-6. Inspection.

- (a) ~~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. Evidence of the mechanics certification is also required.~~
- (b) ~~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 ensure 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. Vehicle must be road legal. Look into state statute 169.~~
- (c) Every mobile food unit licensed pursuant to this chapter must also be inspected and permitted annually by the Rochester Fire Department to ensure continued maintenance and safe operations.

Section 7. Section 5-21-7 of Chapter 5-21 Of Title 5 of the Rochester Code is hereby amended to read as follows:

Sec. 5-21-7. Zones of operation.

An operator may vend in the mobile food unit zone subject to those restrictions and limitations identified in the mobile food unit zone map ~~on file in the office of the city clerk.~~ 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.

Section 8. Section 5-21-8 of Chapter 5-21 Of Title 5 of the Rochester Code is hereby amended to read as follows:

Sec. 5-21-8. Restrictions on vending activity.

- (a) All mobile food vehicles, and operating anywhere in the City of Rochester 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 foods, beverages, and ice must be obtained from an approved commercial source. Food cannot be stored or prepared in a home. Any food preparation or food storage done off-site must be accomplished at a food establishment location licensed by Olmsted County.

- (2) The operator shall vend only when the mobile food unit is lawfully stopped.
- (3) The operator shall vend only from a mobile food unit legally parked on any street by vending to the sidewalk side of the street, while parked parallel to the curb.
- (4) The operator shall not vend to any person standing in the roadway.
- (5) Hours of operation shall be limited to the hours between 6:00 a.m. and midnight, except for within the specifically designated late night zone. The hours of operation for mobile food units located within 300 feet of a residential building or a mixed-use building with a residential component shall be limited to being between 7:00 a.m. and 10:00 p.m. Unless on private property, no approved mobile food unit vehicle shall be left unattended nor remain at an authorized operating location outside of these allowed hours of operation.
- (6) The operator shall not vend within 150 feet of the property line of an established restaurant located outside of a mobile food unit zone, unless the operator has obtained the written consent of the proprietor of the restaurant. The written consent must accompany the license application. No person or corporation shall either pay or accept payment for the written consent provided herein.
- ~~(7) Each mobile food unit must be able to provide its own water and electricity.~~
- ~~(8) No power cable, cord, equipment, or any utility hose, may extend from the mobile food unit.~~
- ~~(97)~~ No operator shall use or maintain any outside sound amplifying equipment, televisions or similar visual entertainment devices, lights, or noisemakers, such as bells, horns, or whistles.
- ~~(408)~~ No operator shall use external signage, bollards, seating, or any other equipment not contained within the vehicle.
- ~~(149)~~ 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 the mobile food unit zone map. 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.
- ~~(120)~~ The operator of a mobile food unit shall not back the vehicle to vend or attempt to vend.
- ~~(131)~~ 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.
- ~~(142)~~ The operator must comply with the Minnesota Food Code.
- ~~(153)~~ Public seating within a mobile food unit is prohibited.

- (164) A mobile food unit shall maintain a separation distance of at least ten feet from the closest point of the mobile food unit to any building, structure, vehicle, fire hydrant, and any combustible materials. A clear lane of a minimum of ten feet shall be maintained on any side of a parked and operating mobile food unit adjacent to a street or fire apparatus access road to allow passage of an emergency vehicle.
- (175) Obstruction prohibited. A mobile food unit shall not obstruct access to a fire lane, fire apparatus access road, means of egress from a building or public space, or a fire department connection.
- (16) Structures that are not readily movable and/or that do not have a current Minnesota motor vehicle license plate, or a Mobile Food Unit License shall comply with the Minnesota State Building Code for buildings of permanent construction and are required to obtain all permits as applicable.
- (17) Mobile food units (MFU) that are connected to sewer, water, fuel gas or electricity shall comply with the Minnesota State Building Code and are required to obtain all permits as applicable.
- (18) Accessory structures serving or appurtenant to mobile food units (MFU) are required to comply with the Minnesota State Building Code and obtain all permits as applicable.

Section 9. Section 5-21-9 of Chapter 5-21 Of Title 5 of the Rochester Code is hereby renumbered as Section 5-21-10 and amended to read as follows:

Sec. 5-21-9.10 Penalty.

Any person, firm or corporation violating any provision of this chapter 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.

Section 10. Section 5-21-10 of Chapter 5-21 Of Title 5 of the Rochester Code is hereby renumbered as Section 5-21-11 and amended to read as follows:

Sec. 5-21-40.11 License suspension, revocation and denial.

- (a) 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:
- (1) Failed to comply with any applicable state law, city ordinance, state food code, or state or county health regulation relating to a mobile food unit;
 - (2) 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 or county;

- (3) Violated any provision of this chapter;
 - (4) 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;
 - (5) 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
 - (6) Provided false or misleading information on the application.
- (b) Whenever it appears to the council that adequate grounds may exist for the suspension, revocation or imposition of probation of a license, 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.
 - (c) 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.
 - (d) Upon a finding that the licensee has violated any such statute or ordinance, the council may:
 - (1) Suspend the license for up to 60 days;
 - (2) Revoke the license; or
 - (3) Place the license on probation for a stated time period. The council may impose conditions upon the license during the time of probation.

Section 11. This ordinance shall become effective from and after its publication.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
ROCHESTER, MINNESOTA, THIS _____ DAY OF _____, 2026.

PRESIDENT OF SAID COMMON COUNCIL

ATTEST: _____
CITY CLERK

APPROVED THIS _____ DAY OF _____, 2026.

MAYOR OF SAID CITY

(Seal of the City of
Rochester, Minnesota)

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