



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Emily King, Deputy City Clerk
Date: January 2, 2024
Item: 2nd Reading: Ordinance Amendment – Chapter 110.20 & 115, Mobile Food Units

Council Action Requested:

Consider Second Reading of the amendments to Hastings City Code Chapters 110.20 and 115, regarding mobile food unit licensing and regulations.

Background Information:

The City adopted licensing and regulations for Mobile Food Units in 2018. Since then, Mobile Food Units have grown tremendously in popularity. The current provisions are listed in the Solicitor and Peddler section of City Code which do not fully address the unique features of and regulations for mobile food units. Staff are proposing to repeal the current language from Chapter 115, Section K, remove language referencing mobile food units throughout Chapter 115, and enact a new section dedicated for mobile food unit licensing and regulation. The proposed ordinance amendment supports a licensing process, provides consistent language with state statutes, and includes the provisions previously listed in Chapter 115, Section K. Previously, City Code did not provide language to support the formal licensing process. The proposed changes define the license and application requirements, liability insurance requirements, and performance standards to help protect the interest of the public. Additionally, the new language highlights the required criminal history background investigation for ice cream truck vendors that travel through residential districts.

Financial Impact:

N/A

Advisory Commission Discussion:

N/A

Council Committee Discussion:

Administration Committee of Council held a meeting on November 13th to discuss the specific changes to the proposed ordinance amendments.

Attachments:

- Ordinance 2nd Reading

ORDINANCE NO. _____

AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA, AMENDING HASTINGS CITY CODE CHAPTERS 115 AND 110.20 REGARDING MOBILE FOOD UNITS

The City Council of the City of Hastings, Dakota County, Minnesota, does hereby ordain as follows:

SECTION 1. REPEAL. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 115, regarding mobile food units shall be repealed as follows:

Special Provisions For Mobile Food Units. The following apply to all Mobile Food Units:

1. MFU’s shall not be located or operated on any portion of Second Street East or on that portion of Sibley Street from the Levee Parking lot south to East Third Street unless City Council approval is granted as a designated Special Event and in that case all of the standards in this Chapter applicable to Special Events shall apply.
2. MFU’s shall not occupy more than two parking spaces on any municipal parking lot or any side street with parallel parking designated.
3. MFU’s must obtain prior written approval from the City’s Parks & Recreation Director, or designee, prior to operating in any city park.
4. MFU’s may not be parked overnight and no equipment associated with an MFU may be stored overnight on any city street or in any public right-of-way.
5. MFU operators must clean around their unit and remove all trash generated from the operation of the MFU and its customers.
6. MFU operators must supply their own electrical power.
7. MFU operators must conspicuously display on the MFU their Minnesota Department of Health or Department of Agriculture license along with their city issued license to operator the MFU.
8. MFU operators must provide to the city and maintain at all time of operation a minimum insurance requirements established by the city.
9. MFU’s and any associated generators and equipment must be located and operated in a manner to minimize noise, exhaust and odors impacting the public and surrounding public and private properties and so as not to create a public or private nuisance.
10. Service of intoxicating or alcoholic beverages by MFU’s is prohibited.

SECTION 2. AMENDMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 115, Section 115.01: Definitions, shall be amended as follows:

SECTION 3. AMENDMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 115, Section 115.03: Licensing; Exemptions, shall be amended as follows:

8. The date(s) during which the applicant intends to conduct business. If the applicant is applying for a daily license, the number of days he or she intends to conduct business in the city (*maximum 14 consecutive days, Special Provisions – Transient Merchant – Extended Stay*)

F. *Duration.* All licenses granted under this chapter shall be valid only during the time period indicated on the license. Transient merchant licenses are limited to 14 consecutive days or must meet the requirements of § 155.07(G) - Transient Merchant – Extended Stay.

I. *Special Event.* To protect the public safety by having an orderly placement of peddlers and transient merchants within the location of the special event, peddlers and transient merchants, applying for

a license for the special event shall be required to obtain a permit from the entity sponsoring the special event. The sponsoring entity may charge a fee for its permit. Penalty, see § 10.99.

SECTION 4. ENACTMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 110, Section 110.20: Mobile Food Units, shall be enacted as follows:

110.20 Mobile Food Units

A. *Purpose.* The purpose of this section is to regulate mobile food units in order to protect the health, safety, and general welfare of the citizens of Hastings by establishing standards to ensure that mobile food units, as defined herein, are appropriately located, permitted, do not impede vehicular access, traffic flow or circulation, or create public safety hazards.

B. *Definitions.* The following words, terms, and phrases when used in this section shall have the following meanings unless the context clearly indicates otherwise.

Mobile Food Unit. A food and beverage service establishment that is a vehicle mounted unit, such as:

Motorized or trailered, operating no more than twenty-one (21) days annually at any one place, or operating more than twenty-one (21) days annually at any one place with the approval of the regulatory authority as defined in Minnesota Rules, part 4626.0020, subpart 70; and a self-contained unit, in which food is stored, cooked, and prepared for direct sale to the consumer.

Operated in conjunction with a permanent business licensed under M.S. § 157 or § 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location; and self-contained unit, in which food is stored, cooked, and prepared for direct sale to the consumer.

Food Cart: A food and beverage service established that is a non-motorized vehicle self-propelled by the operator.

Ice Cream Truck: A motor vehicle utilized as the point of retail sales of pre-wrapped or prepackaged ice cream, frozen yogurt, frozen custard, flavored frozen water or similar frozen dessert products.

C. *License.* A license allows mobile food unit operations during the designated licensing period in accordance with the terms of this section and other applicable sections of this Code. Licenses issued on an annual basis and will be active from April 1st to March 31st.

D. *License Required.* It is unlawful for any person to operate a Mobile Food Unit without first obtaining a license from the City. An application for a license shall be filed, along with all required fees and documents, with the City Clerk. The City Clerk shall issue the license administratively unless one or more grounds for denial exist. All licenses issued by the City shall be visibly displayed in the mobile food unit at all times when conducting businesses in the City. The application shall be made on a form supplied by the City and shall contain the information in Chapter 110.02 including all additional information as deemed by the City Clerk.

1. A certificate of insurance by an insurance company authorized to do business in the state, evidencing the following forms of insurance

- a. Commercial general liability insurance, with a limit of not less than \$1,000,000.00 per occurrence;
- b. Automobile liability insurance with a limit of not less than \$1,000,000.00 per occurrence. Such policy must include liability coverage for owned, non-owned, and hired automobiles;
- c. Workers' compensation insurance (statutory limits) or evidence of exemption from the law;
- d. The City shall be endorsed as an additional insured on the certificate of insurance.

2. *License Transferability.* No license issued shall be transferred to any person other than the person to whom the license was issued.

E. *License Ineligibility.* The following are grounds for denying issuance of a Mobile Food Unit License:

1. The failure of an applicant to obtain and demonstrate proof of all necessary licenses or permits required by state, county, or local health, or transportation authorities.
2. The failure of an applicant to truthfully provide any information requested by the City as part of the application process.
3. The existence of three or more substantiated complaints about the business conduct within the preceding three years from City residents or other jurisdictions where licenses have been issued to the applicant.
4. Failure to meet or comply with the provisions in this chapter.

F. *Performance Standards.* A mobile food unit licensee is subject to the following performance standards:

1. A mobile food unit must dispose of its gray water daily. Gray water may not be drained into City storm water drains.
2. A mobile food unit is not required to obtain a sign permit from the City. However, no additional signage is permitted beyond that which is on the mobile food unit unless it meets the following requirements:
 - a. one (1) single sandwich board style sign is permitted per mobile food unit;
 - b. the maximum sign is 8 square feet;
 - c. the sign must be placed on the ground within ten (10) feet of the mobile food unit;
 - d. the sign must not be placed within the public right of way except with the express written permission of the City; and

e. the sign cannot project from the mobile food unit or be mounted to the roof of the mobile food unit.

3. A licensee must comply with all laws, ordinances, regulations, parking zones, and posted signs of the State of Minnesota, Dakota County; and the City of Hastings.

4. A mobile food unit must provide an independent power supply that is screened from public view.

5. Mobile Food Unit's and any associated generators and equipment must be located and operated in a manner to minimize noise, exhaust and odors impacting the public and surrounding public and private properties and so as not to create a public or private nuisance.

6. The operator of the mobile food unit must clean around their unit and remove all trash generated from the operation of the MFU and its customers.

7. A mobile food unit may not operate within 500 feet of an existing restaurant unless permitted through a City event.

8. A mobile food unit may not operate within 300 feet of a Special Event designated by the City unless permitted.

9. No external seating may be utilized while operating on public property.

10. No other equipment may be utilized that is not fully contained within the vehicle/trailer/unit while operating.

11. The mobile food unit shall obey the orders of any traffic control officer, peace officer, zoning official, or inspector, and shall be open to inspection during all open hours.

12. Mobile Food Units may not maintain or use outside sound amplifying equipment, televisions, or other similar visual entertainment devices, or noisemakers such as bells, horns, or whistles. Ice cream trucks traveling through a residential district may have outdoor music or noise-making devices to announce their presence.

13. Ice cream truck vendor that travel through residential districts are required to undergo a criminal history background investigation prior to operating in the community, at the cost of the applicant.

14. Applicants must provide evidence of current licensing of the unit by the Minnesota Department of Health or the Minnesota Department of Agriculture. Evidence must be provided and posted within the unit.

15. Permit Display. Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times and shall be available for inspection by the City.

16. Service of intoxicating or alcoholic beverages by MFU's is prohibited.

17. MFU's shall not be located or operated on any portion of Second Street East or on that portion of Sibley Street from the Levee Parking lot south to East Third Street unless City

Council approval is granted as a designated Special Event and in that case all of the standards in this Chapter applicable to Special Events shall apply.

18. MFU's shall not occupy more than two parking spaces on any municipal parking lot or any side street with parallel parking designated.

19. MFU's must obtain prior written approval from the City's Parks & Recreation Director, or designee, prior to operating in any city park.

20. MFU's may not be parked overnight and no equipment associated with an MFU may be stored overnight on any city street or in any public right-of-way.

SECTION 5. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on _____, 2024 amends the City Ordinance to allow the City to regulate mobile food unit licensure and operations.

SECTION 6. EFFECTIVE DATE. This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this ____ day of _____, 2024.

Mary D. Fasbender, Mayor

Attest:

Kelly Murtaugh, City Clerk

Published in the Hastings Journal on _____, 2023.