

Chapter 49 – Mobile Food Vending Units

49.1 Definitions

Mobile Food Vending Unit: Any motorized or non-motorized vehicle, trailer, kiosk, or other device designed to be portable and not permanently attached to the ground from which food items are to be vended, sold, served, displayed, or offered for sale from private property or public property, not including public streets or highways.

49.2. Licenses Required.

- A. No person shall engage, or be engaged, in the operation of a Mobile Food Vending Unit without the proper licensing.
- B. Licensing must be renewed annually and must be prominently displayed on the Mobile Food Vending Unit.
- C. Licenses are non-transferable.
- D. Any change in information requested in the application shall be provided to the City Clerk within ten days of any such change.

49.3. Application Submittal and License Year

The license year shall begin January 1st of each year and shall terminate at midnight on December 31st of that year. Original licenses shall be issued for the balance of the license year at the full license fee. License fees are nonrefundable. Once complete applications are submitted, the City Clerk shall issue either a denial letter or an approved license within 21 days. The City Clerk shall approve or deny an application upon receiving feedback from City departments including, but not limited to, the Police Department, Fire Department, Planning Department, Purchasing Department, and Treasurer's Office.

49.4. Application Requirements.

- A. The licensee for a Mobile Food Vending Unit shall, before issuance of the license, obtain and maintain in full force and effect, at its own expense, commercial general liability, insurance that names the City of Troy as an additional insured for primary limits of liability for the purpose of protecting the City from all claims and risks of loss as a result of the licensee's activity, occupation, operation, maintenance, or use of the public street, highway, or any public property in conjunction with the licensed activity. A Certificate of Insurance on an ACORD Form showing present coverage of commercial liability, automobile liability and workers compensation shall be submitted at time of application. The automobile and general liability insurance coverage shall be in an amount not less than \$1,000,000. Worker's Compensation

Chapter 49 – Mobile Food Vending Units

- Insurance, including Employers' Liability Coverage shall be in accordance with all applicable statutes of the State of Michigan. Sole proprietors must execute a certificate of exemption from Worker's Compensation requirements or provide proof of Worker's Compensation Insurance. Failure to maintain the required insurance coverage is grounds for vending license revocation. The licensee shall agree to defend, indemnify, and hold harmless the City of Troy, its officials, officers, employees, and agents against any liability, claims, causes of action, judgments, or expenses, including reasonable attorney fees, resulting directly or indirectly from any act or omission of the licensee, its employees, its subcontractors and anyone for whose acts or omissions they may be liable, arising out of the licensee's use or occupancy of the public street, highway, or any public property.
- B. Applicants must provide a copy of the Foodservice Establishment License issued by the State of Michigan, if required, and pay the fee as set forth in *Chapter 60 – Fees and Bonds Required*.
- C. For use of private property, the applicant must obtain written permission from the property owner, and have it available upon request by the City of Troy. For public property, permission is assumed upon approval of the application.
- D. An applicant for a Mobile Food Vending Unit License must file a completed application form provided by the City Clerk. The completed application form shall include the following information:
- a) The applicant's name, current business address, email address, and telephone number.
 - b) A copy of the current government-issued identification document with photo of the applicant and any designated person proposed to conduct mobile food vending. The names of these individuals will be printed on the license card, and any changes need to be provided to the Clerk's Office within 10-days of the change so a new license card may be issued.
 - c) The name under which the Mobile Food Vending Unit will be doing business.
 - d) A brief description of the food items to be sold.
 - e) A copy of the county health permit, if required.
 - f) A description of all vehicles to be used in the Mobile Food Vending Unit operation, including license plate number(s), and a complete copy of the current vehicle registration(s) and proof of insurance for each proposed Mobile Food Vending Unit.
 - g) Whether the applicant has ever had a license for mobile vending of any kind denied, revoked or suspended, and the date and jurisdiction of the denial, suspension or revocation.
 - h) Whether the applicant has ever been arrested, and if they were convicted, of a violation of any federal, state, or local law involving fraud, theft, violence, indecency, or controlled substances.

Chapter 49 – Mobile Food Vending Units

- i) Indicate if food is to be prepared in the Mobile Food Vending Unit using cooking appliances, and, if so, provide a description of the cooking appliances.

49.5. Restrictions and Requirements

- A. Mobile Food Vending Units cannot operate while stopped or parked on a public roadway or highway. They can operate on private property, with the permission of the property owner, or on public property not including streets and highways.
 - Exception: Mobile Food Vending Units may operate on residential streets while parked in a legal parking space, and in compliance with the other requirements of the City Code of Ordinances.
- B. Mobile Food Vending Units cannot operate within 300 feet (as the crow flies) of the property line of any brick-and-mortar restaurant.
- C. Mobile Food Vending Units cannot impede access to building entrances or driveways.
- D. Mobile Food Vending Units must remain more than 25 feet away from handicapped parking spaces and access ramps and cannot be placed on any property without the written permission of the property owner.
- E. Mobile Food Vending Units shall be in compliance with all health and welfare requirements of the state or county health departments.
- F. Sufficient trash receptacles must be provided, maintained, and emptied by the Mobile Food Vending Unit operator. Trash within 25 feet of the Mobile Food Vending Unit must be collected by the operator.
- G. Mobile Food Vending Units shall not operate a sound device that produces a loud or raucous noise, use or operate any loudspeaker, public address system, radio, sound amplifier, or similar device to attract public attention.
- H. Mobile Food Vending Units shall not operate in a way that increases traffic congestion or delay, impairs/blocks vehicular or pedestrian travel, poses a hazard to life or property, interferes with an abutting property owner, or obstructs access to emergency vehicles.
- I. Mobile Food Vending Unit operators must have authorization from the property owner(s) to utilize utilities. Licensees shall not connect the Mobile Food Vending Unit to a source of city electricity, water, or sewer, without first obtaining the express permission in writing from the City of Troy for the connection.

Chapter 49 – Mobile Food Vending Units

- J. Mobile Food Vending Unit operators shall not make use of any outdoor cooking facilities, including grills, and shall at no time utilize outdoor storage, warming, or refrigeration devices.
- K. The Mobile Food Vending Unit must be removed from the public property or private property outside of the approved hours of operation.
- L. Mobile Food Vending Units shall not operate within 300 feet of a City fair, festival, farmers market, concert, or any other City event, unless expressly authorized by the City to operate as part of the event. Mobile Food Vending Units shall not operate within 300 feet of any other event being conducted unless the vendor has express authorization from the event sponsor.
- M. Within residential areas, a mobile food vendor may only operate between the hours of 9:00 a.m. and 10:00 p.m. Within non-residential areas, a mobile food vendor may only operate between the hours of 6:00 a.m. and 2:00 a.m.
- N. Public property shall not be altered, and fixtures of any kind shall not be installed on public property by the licensee unless authorized by the City of Troy, including but not limited to signage, or securing or affixing the Mobile Food Vending Unit to any public structure.
- O. A Mobile Food Vending Unit License issued pursuant to this Chapter's provisions shall be displayed in a prominent location visible to customers at all times.
- P. Mobile Food Vending Units shall be required to have an annual inspection completed and passed by the Troy Fire Department in order to receive a license. Inspections will be scheduled by the Fire Department upon the receipt of the application from the City Clerk.

49.6. Suspension or Revocation of License

The City Clerk shall immediately take action to suspend the license of any Mobile Food Vending Unit when there is clear and convincing proof that the permittee or licensee has done any of the following:

- A. Acted in violation of any section of this ordinance or otherwise exceeded the scope of the license or permit granted
- B. Made a false statement on the application (includes affirmative statements and omissions)

Chapter 49 – Mobile Food Vending Units

- C. Conducted activities in a manner that is contrary to the health, morals, safety or welfare of the public
- D. Revocation or suspension of any required state or county authorization
- E. Arrest for any other federal, state or local controlled substance crime, theft or dishonesty crimes, food adulteration crimes, violent crimes, and crimes against children and/or solicitation

Immediately upon such suspension, the City Clerk shall provide written notice to the license holder by email and First Class US mail to the mailing address as indicated on the application, and the notice shall indicate the reason for the suspension.

If the permittee or licensee wishes to challenge the decision made by the City Clerk, then the licensee must file a written appeal to the City Manager within 14 days of being suspended. If the licensee does not appeal the City Clerk's decision within 14 days, the City Clerk will automatically revoke the permit or license.

Upon receipt of a written appeal, the City Manager will review any and all information surrounding the suspension, and make a written determination within 10 days. After reviewing all pertinent information, the City Manager may overrule the suspension, limit the timeframe for the suspension, revoke the license, or make any other determination under the circumstances. The City Manager's determination is the City's final decision. Failure of the permittee or licensee to timely meet the filing deadlines as set out in this Section waives any right to contest the suspension and ultimate revocation of the license.

49.7. Exemptions

The following persons are exempt from the licensing requirements of this division:

- A. A person authorized and approved by the City to sell/distribute food from a fixed or mobile vending unit during, and as part of, an official City of Troy fair, festival, or special event.
- B. A person authorized and approved by the City to sell/distribute food from a fixed or mobile vending unit during, and as part of, an official City of Troy event where the vendor is otherwise licensed to sell at that specific event.

Chapter 49 – Mobile Food Vending Units

- C. A person who is permitted or licensed under another section of the City Code to sell/distribute food from a fixed or mobile vending unit.

49.8. Violations and Penalties

- A. A violation of any section of this Chapter is a Municipal Civil Infraction subject to the provisions of Chapter 100 of the Code of the City of Troy.
- B. Each day that a violation continues is a separate Municipal Civil Infraction violation. Sanctions for each violation of said sections shall include a fine of not more than \$500.00, costs, damages and injunctive orders as authorized by Chapter 100.