

MOBILE FOOD UNITS

§ 110.185 PURPOSE.

This subchapter is intended to require an establishment preparing and serving food from a self-contained readily moveable vehicle to obtain a license from the city and to regulate the conditions from which the licensed establishment operates within the city for the promotion of business within the city and for the protection of customers and the general public.

(Ord. 905, passed 6-2-2015)

§ 110.186 DEFINITION.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

MOBILE FOOD UNIT.

(1) A self-contained food service operation, located in a readily movable motorized wheeled or towed vehicle that is readily movable without disassembling and that is used to store, prepare, display or serve food intended for individual portion service; or

(2) A mobile food unit as defined in M.S. § 157.15, subd. 9, as it may be amended from time to time.

(Ord. 905, passed 6-2-2015)

§ 110.187 LICENSE APPLICATIONS.

(A) *License types.* Each applicant must indicate whether it is applying for a temporary license or annual license. A temporary license allows mobile food unit operations in the city for up to 10 days total from March 15 to November 15 of each calendar year. An annual license allows mobile food unit operations in the city for 10 days or more from April 1 to October 31 of each calendar year. A licensee will only be issued one temporary license per calendar year, however nothing shall prohibit a temporary licensee from applying for an annual license within

the same calendar year.

(B) *License fees.* There is no fee for a temporary license. There is a fee for an annual license. The fee shall be established periodically by resolution of the City Council.

(C) *Mobile food unit.* It is unlawful for any person to operate a mobile food unit in the city without first obtaining a license from the city. An application for a license shall be filed, along with all required fees, with the City Clerk. The applicant must be the owner of the mobile food unit. The application shall be made on a form supplied by the city and shall contain the following information:

(1) A description of the nature of the business and the goods to be sold and the license plate number and description for any vehicle to be used in conjunction with the activity;

(2) The name of the owner and operator, if different than the owner, of the mobile food unit and the name of all persons working for the owner and operator of the mobile food unit;

(3) The applicant's full legal name, other names the applicant uses or is known by, date of birth and driver's license number or other legal identification with a photograph of the applicant;

(4) The permanent and any temporary home and business address, phone numbers and email address of the applicant;

(5) The name, address and contact information for the commissary with which the mobile food unit is affiliated, if applicable;

(6) Names and contact information of at least 2 references who will substantiate the applicant's good character and business responsibility or other evidence of the good character and business responsibility of the applicant;

(7) A statement regarding whether the applicant has ever been convicted of a felony, gross misdemeanor, or misdemeanor, including violation of a municipal ordinance but excluding traffic violations, and if so, the date and place of conviction and the nature of the offense;

(8) 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 each occurrence. If such insurance contains an annual aggregate limit, the annual aggregate limit shall be not less than \$2,000,000;

(b) Automobile liability insurance with a limit of not less than \$2,000,000 combined single limit. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned vehicles;

(c) Food products liability insurance, with a limit of not less than \$1,000,000 each occurrence;

(d) Public liability insurance, with a limit of not less than \$1,000,000 each occurrence;

(e) Property damage insurance, with a limit of not less than \$1,000,000 each occurrence;

(f) Workers compensation insurance (statutory limits) or evidence of exemption from state law; and

(g) The city shall be endorsed as an additional insured on the certificate of insurance and the umbrella/excess insurance if the applicant intends to operate its mobile food unit on public property.

(9) The certificate of insurance shall state that the insurance has been endorsed to require that the city be notified 30 days in advance of cancellation of the policy or a material modification of a coverage term;

(10) Written consent of each private property owner from which mobile food unit sales will be conducted;

(11) If applying only for a temporary license, the applicant must provide the exact dates and locations for its up to 7 days of mobile food unit operations;

(12) A copy of each related license or permit issued by Scott County and the state required to operate a mobile food unit; and

(13) A copy of the applicant's state sales tax ID number.

(Ord. 905, passed 6-2-2015; Ord. 928, passed 3-2-2016)

§ 110.188 CONDITIONS OF LICENSING.

(A) *Locations.* A mobile food unit may only operate in the locations set forth in this division (A). A mobile food unit may operate in a private commercial or industrial parking lot and on private residential property, with the written consent of the private property owner. When operations occur on private residential property, mobile food unit sales may only be for catering

purposes (such as a private graduation party or wedding) and not open for sales to the general public. A mobile food unit may only operate along a public or private street when the street is closed to all non-emergency vehicles. A mobile food unit may only operate in a city park or on city property with the prior written approval by the city; additional permits may be required for such operations.

(B) *Performance standards.* A mobile food unit licensee is subject to the following performance standards:

(1) A mobile food unit with an annual license may not operate on the same property more than 21 days from April 1 to October 31 (M.S. § 157.15, subd. 9, as it may be amended from time to time).

(2) No mobile food unit sales between 11:00 p.m. and 7:00 a.m.

(3) A mobile food unit must dispose of its gray water daily. Gray water may not be drained into city storm water drains.

(4) An out of service mobile food unit may be stored only in an area zoned B1, I1, or I2, and where outside storage is allowed by conditional use permit.

(5) The mobile food unit may have a maximum bumper to bumper length of no more than 30 feet.

(6) 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 single sandwich board style sign is permitted per mobile food unit;

(b) The maximum sign size is 8 square feet;

(c) The sign must be placed on the ground and within 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.

(7) A mobile food unit with a Type I cooking hood shall have said hood cleaned at least annually as required by the applicable regulations.

(8) A mobile food unit with a fire suppression system under the cooking hood shall have the system tested and tagged in accordance with applicable codes.

(9) A mobile food unit must have at least 1, 2A:20BC fire extinguisher in the mobile food unit. If deep frying occurs in the mobile food unit, then the mobile food unit must have at least 1 Class K fire extinguisher in the mobile food unit. Each fire extinguisher must display an inspection tag dated within the past 12 months.

(10) A licensee must comply with all laws, ordinances, regulations, parking zones and posted signs.

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

(12) Propane tanks must be attached or secured to the mobile food unit and must be adequately ventilated.

(C) *License.* A mobile food unit license is non-transferable. Proof of license shall be displayed at all times in the mobile food unit. Mobile food unit operations may not occur in January, February, March, November and December. A mobile food unit license is an annual license.

(D) *Practices prohibited.* It is unlawful for any person engaged in the business of a mobile food unit operation to do the following:

(1) Call attention to that licensee's business by crying out, blowing a horn, ringing a bell or by any loud or unusual noise, or by use of any amplifying device;

(2) Fail to display proof of license and produce valid identification when requested;

(3) Remain on the property of another when asked to leave;

(4) Claim endorsements by the city based on license; or

(5) Conduct business in any manner as to create a threat to the health, safety and welfare a specific individual or the general public.

(Ord. 905, passed 6-2-2015) Penalty, see § 110.999

§ 110.189 SUSPENSION OR REVOCATION OF A LICENSE.

A license issued pursuant to this section may be suspended by a city official if the

licensee has violated § 110.188, or is otherwise conducting business in such a manner as to constitute a breach of peace, fraudulent conduct, or any other conduct that is prohibited by local, state or federal laws or regulations. Falsification of information required for a license is also grounds for denial, suspension or revocation of a license. The license shall be automatically revoked if the licensee does not file an appeal pursuant to this section. When taking action on any license issued under this subchapter, the city official shall provide the licensee with verbal or written notice of the violation. The notice shall inform the licensee of its right to be heard before the City Council. The notice shall also inform the licensee that the license shall be automatically revoked if no appeal is filed within 21 days of the date of the notice by the city official. Verbal notice shall be confirmed within 5 days by a mailed written notice to the licensee. The City Council shall not conduct a hearing on a suspension or revocation unless a request is made by the licensee in writing. If a request for a hearing is made, the City Council shall conduct the hearing at the next available City Council meeting. No City Council resolution or other notice calling for a hearing shall be required.

(Ord. 905, passed 6-2-2015)

§ 110.190 PENALTY.

Upon conviction, a person's first violation of any provision in this subchapter constitutes a petty misdemeanor. A conviction for a subsequent violation constitutes a misdemeanor.

(Ord. 928, passed 3-2-2016)

§ 110.999 PENALTY.

(A) Every person violates a section, subdivision, paragraph, or provision of this chapter when the person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows.

(1) *Misdemeanor.* Where the specific section, subdivision, paragraph, or provision specifically makes violation a misdemeanor, the person shall be punished as for a misdemeanor.

(2) *Petty misdemeanor.* As to any violations not constituting a misdemeanor under the provisions of division (A)(1) above, the person shall be punished as for a petty misdemeanor.

(2013 Code, § 6.99)

(B) The penalty for a first or second incident shall be imposed and administered by the City Administrator upon an admission by the licensee that the licensee violated any part of §§ 110.025 through 110.043. The penalties for a third or subsequent incident may only be imposed by the City Council.

(2013 Code, § 6.22)

(C) (1) *Licensees.*

(a) Any licensee who furnishes, sells, or attempts to sell tobacco, tobacco products, or tobacco-related devices to a minor or whose employee furnishes, sells, or attempts to sell tobacco, tobacco products, and tobacco-related devices to a minor shall be penalized as follows:

1. *First incident:* \$500 fine, plus 1-day license suspension; provided; however, that the day license suspension will be suspended for 1 year on the condition that both the licensee and his or her employees have no further incidents of furnishing, selling or attempting to sell tobacco, tobacco products, and tobacco-related devices to a minor;

2. *Second incident within 36 months of first incident:* \$750 fine, plus 5-day license suspension; and

3. *Third or subsequent incident within 36 months of first incident:* \$1,000 fine, plus 30-day license suspension or revocation.

(b) The penalty for a first or second incident may be imposed and administered by the City Administrator if the licensee waives the hearing authorized by § 110.065 and the licensee admits the violation. The penalties for a third or subsequent incident may only be imposed by the City Council. No suspension or penalty may take effect until the licensee has received notice of the alleged violation and an opportunity for a hearing as provided in § 110.065.

(c) Any revoked license shall not be eligible for reinstatement for at least 12 months.

(2) *Other individuals.* Any individual who sells tobacco, tobacco products, and tobacco-related devices to a minor shall be charged an administrative penalty of \$50, subject to the right to a hearing before the City Council as provided in § 110.065. Nothing in this division (C) shall prohibit the city or other jurisdiction from seeking criminal prosecution for any alleged violation of this division (C) by any individual other than a licensee or employee of a licensee.

(3) *Criminal penalties.*

(a) Except as otherwise provided in division (C)(3)(f) below, it shall be a misdemeanor for anyone to sell tobacco, tobacco products, and tobacco-related devices to a minor. Whoever violates this division (C)(3) a subsequent time within 5 years of a previous conviction under this division (C)(3) shall be guilty of a gross misdemeanor.

(b) Except as otherwise provided in division (C)(3)(f) below, it shall be a misdemeanor for anyone to furnish tobacco, tobacco products, and tobacco-related devices to a minor.

(c) It shall be a petty misdemeanor for a minor to smoke, chew, sniff, or otherwise use or ingest tobacco, tobacco products, and tobacco-related devices.

(d) It shall be a petty misdemeanor for a minor to have in minor's possession tobacco, tobacco products, and tobacco-related devices. This provision does not apply to a minor who is an employee of a license holder while stocking tobacco, tobacco products, and tobacco-related devices or to a minor lawfully involved in a compliance check.

(e) It shall be a petty misdemeanor for a minor to purchase, or attempt to purchase tobacco, tobacco products, and tobacco-related devices, or for any person to purchase or otherwise obtain such items on behalf of a minor. This provision does not apply to a minor who purchases or attempts to purchase tobacco-related products while under the direct supervision of a responsible adult for training, education, research, or enforcement purposes.

(f) It shall be a petty misdemeanor for a minor to sell, furnish, or give away any tobacco, tobacco products, and tobacco-related devices.

(g) It shall be a misdemeanor for a minor to attempt to disguise minor's true age by the use of a false form of identification, whether the identification is that of any other person or one on which the age of the minor has been modified or tampered with to represent an age older than the actual age of the minor.

(4) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(2013 Code, § 6.23)

(D) Each day that a person violates any of the provisions of §§ 110.080 through 110.089 shall constitute a separate offense hereunder.

(2013 Code, § 6.24)

(E) Each day that a person violates any of the provisions of §§ 110.115 through

110.118 shall constitute a separate offense hereunder.

(2013 Code, § 6.26)

(F) A violation of this §§ 110.155 through 110.063 shall be a misdemeanor under state law.

(G) In addition to or in lieu of any administrative or civil penalty for §§ 110.185 through 110.189, a licensee may be criminally charged for a violation of local, state or federal laws or regulations.

(Ord. 1, passed 4-1-1978; Ord. 85, passed 3-4-1982; Ord. 86, passed 3-4-1982; Ord. 337, passed 7-23-1992; Ord. 352, passed 1-7-1993; Ord. 519, passed 7-2-1998; Ord. 633, passed 7-18-2002; Ord. 812, passed 2-12-2009; Ord. 831, passed 3-11-2010; Ord. 841, passed 12-30-2010; Ord. 873, passed 10-1-2013; Ord. 905, passed 6-2-2015)