

ORDINANCE NO. 2020 -

AN ORDINANCE CREATING A MOBILE FOOD UNIT LICENSE AND MAKING EDITS FOR CLARITY IN FOOD ESTABLISHMENT LICENSING; ESTABLISHING A NEW DEFINITION FOR MOBILE FOOD UNIT; ADDING MOBILE FOOD UNIT TO THE USE TABLE; AND ESTABLISHING NEW STANDARDS FOR MOBILE FOOD UNITS, THEREBY AMENDING CHAPTERS 14, 19, AND 21 OF THE CITY CODE.

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 14 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strike through~~ text and adding those words that are underlined, to read as follows:

**CHAPTER 14: LICENSES AND PERMITS
ARTICLE I: GENERAL PROVISIONS**

§ 14.03 FEES.

Except as otherwise stated in this code, the fees for the various licenses and permits shall be as hereinafter stated.

License/Permit	Required by Section	Annual Fee

Food Establishments	14.443	

(F) Supplemental facility		
(1) High supplemental facility (like Type I and <u>or</u> II)		\$244
(2) Medium supplemental facility (like Type III and IV)		\$186
(3) Catering supplemental facility (for food catering vehicle(s) and equipment)		\$186
(4) Low supplemental facility (like Type <u>IV or V</u>)		\$122
(G) Temporary food establishment		
(1) Complex temporary 1 to 3 days (like Type <u>I, II</u> and III)		\$173
(2) Complex temporary 4 to 21 days (like Type <u>I, II</u> and III)		\$288
(3) Simple temporary 1 to 3 days (like Type III, <u>IV</u> and V)		\$49
(4) Simple temporary 4 to 21 days (like Type III, <u>IV</u> and V)		\$115
(5) Multiple vendor, one fee		\$928
(H) Mobile Food Unit (vehicle or trailer)		
(1) Complex menu (like Type <u>I, II or III</u>)		\$346

(2) Simple menu (like Type IV or V)		\$230
([H]I) Farmers market stand (stands not exempted from licensing in M.S. Chapter 28A, as it may be amended from time to time)	14.443	\$173
([H]J) Vending machines		
(1) Food and beverage (except items in (2) below)		\$23
(2) Nuts, gum balls, hard candy and unsorted confections		\$8
(JK) Plan review, new and 50% or more remodel		Equal to twice the annual license
(KL) Plan Review, less than 50% remodel		Equal to annual license
(LM) Expedited plan review		Equal to double the plan review fee
(MN) Food equipment upgrade/replacement only or onsite consultation		\$220
(NO) HACCP plan review, new		\$240
(OP) Annual HACCP audit		\$120

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ARTICLE V. FOOD ESTABLISHMENT, LODGING ESTABLISHMENT AND PUBLIC POOL REGULATIONS

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DIVISION A: GENERAL PROVISIONS

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§ 14.443 FINDINGS AND PURPOSE.

This Article V is enacted to establish standards for the regulation of food establishments, lodging establishments and public pools in the city to protect the health, safety and general welfare of the public pursuant to the powers granted under M.S. Chapters 145A and 28A, as they may be amended from time to time. The principal objectives of this Article V of the city code are to prevent illness, to correct and prevent conditions that may adversely affect persons utilizing licensed establishments, to provide consistent standards for design, construction, operation and maintenance of licensed establishments, and to meet the consumer expectations of health and safety of licensed establishments.

For the purpose of prescribing regulations governing food establishments, lodging establishments and public pools, the city hereby adopts the following rules and statutes as may be amended or recodified from time to time:

- (a) M.S. Chapters 157 (except for 157.16), 327, 28A (except for 28A.08), 31, and 34A;

* * *

§ 14.444 DEFINITIONS.

For the purpose of this Article V, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

* * *

Mobile food unit. A food 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 site with the approval of the health authority; or
- (2) operated in conjunction with a permanent food establishment licensed under city code Section 14.446 at the site of the permanent food establishment by the same individual or company, and readily movable, without disassembly, for transport to another location.

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DIVISION B: LICENSING AND INSPECTIONS

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§ 14.450 LICENSES AND RESTRICTIONS.

(a) *Food establishment licensing categories.*

(1) **TYPE I** means those food establishments serving on average 500 or more meals per day; having 175 or more seats; or having 500 or more customers per day. Type I establishments include those:

- (A) Preparing for retail sale time/temperature control for safety (TCS) foods that require extensive processing and handling on premises;
- (B) Cooking or cooling TCS foods;
- (C) Offering as a menu item, or an ingredient of a menu item, raw or undercooked meats, poultry products, eggs, fish, shellfish or similar foods;
- (D) Transporting TCS foods as a catering service; or
- (E) Conducting food processing that involves smoking, curing or reduced oxygen packaging.

Type I food establishments require a certified food protection manager as specified in Minnesota Rules Chapter 4626. They include, but are not limited to, full-service restaurants; counter-service restaurants; food retail delis; institutional kitchens; food manufacturing, packaging and processing plants; bakeries preparing TCS foods or detailed decorating; and meat markets with complex processing. A supplemental license is required for each additional separate and distinct food facility such as a bakery, kitchen, meat market, grocery store, bar or serving area facility on the same premises.

(2) **TYPE II** means a Type I food establishment serving on average fewer than 500 meals per day; having fewer than 175 seats; or having fewer than 500 customers per day. Type II establishments require a certified food protection manager as specified in Minnesota Rules Chapter 4626.

(3) **TYPE III** means those food establishments serving or preparing:

- (A) Mainly non-TCS foods and a limited amount of TCS foods that require minimal processing and handling;
- (B) TCS foods prepared elsewhere and only heated or held cold on-site; and
- (C) Serving or retailing limited TCS foods, such as pizza, requiring handling followed by heat treatment.

Type III establishments require a certified food protection manager as specified in Minnesota Rules part 4626.0033 unless specifically exempted. They include, but are not limited to, such operations as pizza carry-out and delivery; ice cream dipping; heating for hot holding pizzas, precooked bagged soups and wrapped sandwiches made elsewhere intended for customer self-service; bake-off only bakeries; produce departments; processing raw meat, poultry, fish, or game animals intended for cooking by the consumer; buffet-style breakfasts with hot held foods or waffle stations; coffee shops with frothed milk, juice bars with blended drinks and assembling yogurt parfaits; and serving kitchens receiving meals prepared elsewhere.

(4) **TYPE IV** means those food establishments having minimal food handling. They include, but are not limited to such operations as, preparing or packaging non-TCS food that are made from ingredients that are not TCS; heating or serving precooked hot dog or sausage products, popcorn, nachos, pretzels,

or frozen pizza; childcare with snacks and milk; retail sales of cold or frozen packaged foods; packaged foods where customers may heat the food on-site; unpackaged baked goods made elsewhere; continental breakfasts with rolls, juice, coffee, cold cereal and milk; and on-sale bars with mixed drinks.

(5) **TYPE V** means those food establishments where non-TCS food or food products are sold at retail or served in the original container including snack bars, bottled beverages and packaged food products. Type V food establishments are not required to have a certified food protection manager as specified in Minnesota Rules Chapter 4626.

(6) **SUPPLEMENTAL FACILITY** means any additional distinct or separate food retail or food service facility on the same premises as a Type I, II, III, IV, or V establishment, including catering food vehicles. Supplemental facilities are categorized as:

(A) **HIGH SUPPLEMENTAL FACILITY** having similar food handling operations specified under Type I or II establishment;

(B) **MEDIUM SUPPLEMENTAL FACILITY** having similar food handling operations specified under Type III ~~or IV~~ establishment; or

(C) **LOW SUPPLEMENTAL FACILITY** having similar food handling operations specified under Type IV or V establishment.

(7) **TEMPORARY FOOD ESTABLISHMENT** is defined in Minnesota Rules Chapter 4626 and includes special event food stands as defined in M.S. § 157, as it may be amended from time to time. Temporary food establishments are categorized as:

(A) Complex temporary food establishment having similar food handling operations specified under Type I, II ~~and~~ ~~or~~ ~~Type~~ III establishment[s]; or

(B) Simple temporary food establishment having similar food handling operations specified under Type IV ~~and~~ ~~or~~ V establishment[s].

(8) **MOBILE FOOD UNIT** is a food establishment preparing and serving food and beverages from a vehicle or trailer operating in conjunction with a licensed commercial kitchen or commissary for food preparation and storage. Mobile food units must adhere to the requirements of § 21.302.18 of the city code.

(A) Complex menu mobile food unit having similar food handling operations specified under Type I, II or III establishment; or

(B) Simple menu mobile food unit having similar food handling operations specified under Type IV or V establishment.

~~(8)9~~ **FARMERS' MARKET STANDS** meaning those food establishments operating at farmers' markets and not exempt from licensing under M.S. § 28A, as it may be amended from time to time.

~~(9)10~~ **VENDING MACHINES** means devices dispensing unit servings of food that are either a food or beverage machine or a nut, gum ball or unwrapped candy machine.

* * *

Section 2. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strike through~~ text and adding those words that are underlined, to read as follows:

* * *

CHAPTER 19: ZONING

* * *

ARTICLE I. GENERAL PROVISIONS

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DIVISION B. DEFINITIONS

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§ 19.03 DEFINITIONS.

* * *

Mobile food unit. A food 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 site with the approval of the health authority; or
- (2) operated in conjunction with a permanent food establishment licensed under city code Section 14.446 at the site of the permanent food establishment by the same individual or company, and readily movable, without disassembly, for transport to another location.

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ARTICLE III. ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES

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§19.29 HIGH INTENSITY MIXED USE WITH RESIDENTIAL (HX-R) DISTRICT.

* * *

(b) *Permitted principal uses.*

* * *

- (10) Farmers Market subject to standards set forth in Chapter 14, Article IX; ~~and~~
- (11) Arts and crafts festival subject to standards set forth in Chapter 14, Article IX[-]; and
- (12) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18.

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§19.31.01 REGIONAL COMMERCIAL (CR-1) DISTRICTS.

* * *

(b) *Permitted principal uses.*

* * *

- (12) Farmers Market subject to standards set forth in Chapter 14, Article IX; ~~and~~
- (13) Arts and crafts festival subject to standards set forth in Chapter 14, Article IX[-];
- (15) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18.

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ARTICLE IIIA. ADDITIONAL ZONING DISTRICTS

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§19.40.07 COMMERCIAL SERVICES CS-05 AND CS-1.

* * *

(b) *Permitted principal uses.*

* * *

(9) Farmers Market subject to standards set forth in Chapter 14, Article IX; [~~and~~]

(10) Arts and crafts festival subject to standards set forth in Chapter 14, Article IX[-];

* * *

(12) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18.

* * *

§19.40.08 COMMERCIAL OFFICE DISTRICT CO-1.

* * *

(b) *Permitted principal uses.*

* * *

(6) Farmers Market subject to standards set forth in Chapter 14, Article IX; [~~and~~]

(7) Arts and crafts festival subject to standards set forth in Chapter 14, Article IX[-];

* * *

(9) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18.

* * *

§19.40.09 RESIDENTIAL OFFICE DISTRICTS RO-24 AND RO-50.

* * *

(b) *Permitted principal uses.*

* * *

(6) Farmers Market subject to standards set forth in Chapter 14, Article IX; [~~and~~]

(7) Arts and crafts festival subject to standards set forth in Chapter 14, Article IX[-]; and

(8) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18.

* * *

§19.40.10 CONSERVATION DISTRICT SC.

* * *

(b) *Permitted principal uses.*

* * *

(6) Farmers Market subject to standards set forth in Chapter 14, Article IX; [~~and~~]

(7) Arts and crafts festival subject to standards set forth in Chapter 14, Article IX[-]; and

(8) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18.

* * *

Section 3. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strike through~~ text and adding those words that are underlined, to read as follows:

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CHAPTER 21: ZONING AND LAND DEVELOPMENT

* * *

ARTICLE II. DISTRICTS AND USES

* * *

DIVISION H. USES

* * *

§ 21.209 USE TABLES.

* * *

(b) *Table key.* The following labeling conventions apply to each table in this section.

(1) *Uses.* Uses are often defined in § 19.03. Uses not defined are subject to standard dictionary definitions.

(2) *Permitted uses.* Uses identified in the zoning district column with the letter “P” are allowed as permitted uses, primary or accessory, in the respective zoning district.

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(5) *Accessory uses.* Uses identified in the zoning district column with the letter “A” are allowed as accessory uses in the respective zoning district as defined in § 19.03.

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(c) *Residential Zoning Districts*

Use Type	Zoning District									References; See Listed Section
	R-1	R- 1A	RS-1	R-3	R-4	RM -12	RM- 24	RM- 50	RM- 100	

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Temporary Uses										
Farmers market	P				P	P	P	P	P	Chapter 14 Article IX
<u>Mobile food unit in conjunction with entertainment and recreation special events</u>	<u>P</u>	<u>21.302.18,</u> <u>Chapter 14</u> <u>Article V</u>								
<u>Mobile food unit</u>	<u>A</u>	<u>21.302.18,</u> <u>Chapter 14</u> <u>Article V</u>								

* * *

(d) *Neighborhood and Freeway Commercial Zoning Districts*

Use Type	Zoning District								References; See Listed Section
	B-1	B-2	B-4	C-1	C-2	C-3	C-4	C-5	

Temporary Uses										
Mobile food unit	P	P	P	P	P	P	P	P	P	21.302.18, Chapter 14 Article V
Transient merchant sales (interior to hotels)		A		A	A	A	A	A	A	14.180 to 14.192

(e) *Industrial Zoning Districts*

Use Type	Zoning District						References; See Listed Section
	IT	I-1	I-2	I-3	IP	FD-2	

Temporary Uses							
Mobile food unit	P	P	P	P	P	P	21.302.18, Chapter 14 Article V
Transient retail sales, donated items	P	P	P	P	P	P	14.61, 21.302.34

(f) *Specialized Zoning Districts*

Use Type	Zoning District		References; See Listed Section
	CX-2	LX	

Temporary Uses			
Mobile food unit	P	P	21.302.18, Chapter 14 Article V
Transient merchant sales (interior to hotels)	A	A	14.180 to 14.192

ARTICLE III. DEVELOPMENT STANDARDS

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DIVISION B. USE STANDARDS

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§ 21.302.18 MOBILE FOOD UNITS. [RESERVED]

- (a) Purpose. The following standards are intended to address mobile food units in the interest of the public health, safety, and general welfare of the community.
- (b) License required. Mobile food units must be properly licensed per Section 14.446.
- (c) Exemptions. Locations that operate mobile food units as an extension of their license under M.S. 28A.06 are exempt from all requirements in this Section 21.302.18.
- (d) Standards. The following standards apply to mobile food units unless otherwise approved through one of the following special events: farmers' market permit per Section 14.600, arts and crafts festival permit per Section 14.700, permit for public assembly, parade, race, or private special event per Section 14.61, or other city sponsored event.
 - (1) Locations Zoned and Used Non-Residentially
The following standards apply to commercial, industrial, and mixed use zoning districts, and to all other properties that are not zoned and used residentially.
 - (A) No mobile food unit may park or operate in the public right-of-way unless approved by the Issuing Authority.
 - (B) Any event of four or more trucks must be reviewed as a special event per Section 14.61.
 - (C) Mobile food units may be parked within required parking areas, but must be parked on asphalt, concrete, or other surface approved by the Issuing Authority.
 - (D) Mobile food units, including service areas and accessory outdoor seating, may not block sidewalks, impede pedestrian or vehicular circulation, or interfere with public safety.
 - (E) Mobile food units must be located at least 10 feet away from building entrances and other mobile food units.
 - (F) No mobile food unit may locate within 200 feet of an exterior entrance to a restaurant or building occupied by a restaurant unless approved in writing by the owner or operator of the subject restaurant.
 - (G) No mobile food unit may be located within a parking structure.
 - (2) Locations Zoned and Used Residentially
The following standards apply to properties that are both zoned and used residentially. For the purposes of this subsection, properties in mixed use zoning districts are not considered to be zoned residentially.
 - (A) Mobile food unit service is limited to private guests of the property owner, unless otherwise approved through a special event license to sell to the general public.
 - (B) Mobile food units may park on the street nearest the private property they serve provided on-street parking is not otherwise prohibited at that location, or within a site on a driveway. If located within the public right of way, serving must be oriented away from the street.
 - (C) Mobile food units, including service areas and accessory outdoor seating, may not block sidewalks, impede pedestrian or vehicular circulation, or interfere with public safety.
 - (D) No more than one mobile food unit may operate at one time on a site.
 - (E) A site may not host a mobile food unit more than three days per year.
 - (F) Mobile food units may not operate between the hours of 9 p.m. and 10 a.m.
 - (3) Storage. No mobile food unit may be stored overnight or maintained on a residentially zoned property, including public right-of-ways abutting properties zoned residential.
 - (4) Operation
 - (A) Mobile food units may not operate between the hours of 10 p.m. and 7 a.m. unless otherwise approved by the City Council.
 - i. If located within 250 feet of locations zoned and used residentially, not including mixed use districts, then mobile food units may not operate between the hours of 9 p.m. and 10 a.m. unless otherwise approved by the City Council.
 - j. Hours of operation may be extended for taproom, cocktail room, and winery uses.
 - (B) Mobile food units must depart from the site when not in operation.

- (C) The owner or operator of the mobile food unit must provide trash and recycling receptacles for customer use and keep the site free from litter, refuse, debris, junk or other waste which results in offensive odors or unsightly conditions.
- (D) No mobile food unit waste liquids, garbage, litter or refuse may be dumped or drained into sidewalks, streets, gutters, drains, public trash receptacles, or any other place except at the licensed commercial kitchen or commissary associated with the mobile food unit.
- (E) All mobile food unit signs must be affixed to the vehicle or trailer.
- (F) No sound amplification, noisemakers, or flashing lights are permitted.

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Passed and adopted this _____ day of _____, 2020.

Mayor

ATTEST:

APPROVED:

Secretary to the Council

City Attorney