

ORDINANCE 23-088

Introduced by Councilor Baker

**AN ORDINANCE OF THE CITY OF ALBERT LEA, MINNESOTA AMENDING CHAPTER 12,
ARTICLE V. - MOBILE VENDORS**

THE CITY COUNCIL OF THE CITY OF ALBERT LEA ORDAINS:

Sec. 12.110. Purposes and intent

This article is adopted for the purpose of authorizing the city to regulate the operation of mobile food carts, mobile food vehicles and mobile vendors.

Sec. 12.111. Definitions.

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

Food or beverage establishment means any building, room, stand, enclosure, vehicle, space, area or other place wherein food or beverages are prepared, served, sold or offered for sale to the public, regardless of whether there is a charge for the article.

Mobile food cart means a self-contained cart used to prepare and serve food that is non-motorized and propelled by the operator.

Mobile food vehicle means an outdoor food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered.

Mobile vendors mean any vendor of goods, services or products on City property, in the public right of way or during special events or festivals pursuant to section 36.094. This definition includes all *mobile food carts* and *mobile food vehicles* and all *Transient Merchants* pursuant to 12.432 if selling goods on City property, during a special event or festival pursuant to section 36.094, or in the public right of way. Excluded are vendors of goods, services or products under a separate third party under contract with the City.

Restaurant means a food and beverage service establishment, whether the establishment serves alcohol or nonalcoholic beverages, which operates from a location for more than twenty-one (21) days annually. The term "restaurant" does not include a mobile food cart or mobile food vehicle.

Sec. 12.112. License required.

a) No person or business shall vend as a mobile food cart, mobile food vehicle, or mobile vendor within the city unless a license to do so is obtained from the city. Licenses are required for operations occurring within a permitted special event or festival pursuant to section 36.094.

b) The city may require such information on the license application as city staff deem reasonable and necessary, including, but not limited to, the following information:

- (1) Trade name;
- (2) Name, mailing address, email address, and telephone numbers of applicant and manager;
- (3) Name and contact information of commercial food supply sources;

- (4) Proof of applicable licenses or permits required by the state department of health or department of agriculture;
- (5) Brief physical description of the mobile food cart or mobile food vehicle, which may include physical layout plan and dimensions, photographs, equipment types, manufacturer and model numbers, axle weight, license plate numbers, and vehicle identification numbers;
- (6) Information regarding water, fuel, and electrical supplies, and waste disposal.
- (7) Proof of liability insurance.

Sec. 12.113. Fees.

License applications under this article shall be submitted to the city clerk with the designated license fee. Said fee can be found in the city's annual fee schedule. The license shall be issued for a period of twelve (12) months and is non-transferable. Licenses must be displayed in a conspicuous location for public viewing.

Sec. 12.114. Operation.

The term "mobile food cart" or "mobile food vehicle" means a food establishment and must comply with the Minnesota Food Code, Minn. Stats. Ch. 157, and Minn. Rules Ch. 4626, as amended. It shall be unlawful to operate as a mobile vendor in the city unless it is licensed, operated, and conducted in accordance with local, state, and federal requirements and the following regulations:

- (1) Discarding waste, liquids, gray water, garbage, litter, or refuse on city sidewalks, streets, or lawn areas, or in city drains or trash receptacles is prohibited. Licensees must provide at least one (1) designated waste container for customer use. Licensees are responsible for clean-up and trash removal generated from their operation;
- (2) Using utilities from public property and rights-of-way is prohibited;
- (3) Using the utilities of any adjacent private property is prohibited unless written permission is obtained from the property owner or agent;
- (4) Licensees must comply with all city parking, signage, lighting, and noise regulations;
- (5) Food sold or served from mobile food carts and mobile food vehicles may not be prepared or stored at a private residence;
- (6) Licensees shall collect and remit applicable state and city sales tax;
- (7) Licensees shall comply with the 2017 edition of the National Fire Protection Associations No. 96 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations;
- (8) Hours of operation are 7:00 a.m. to 10:00 p.m. or as set by city manager or designee. Licensees are allowed to set up one (1) hour prior to conducting vending and allowed one (1) hour after conducting business for clean-up and trash removal. No vendor may remain on site for twenty-four (24) hours;
- (9) Licensees are prohibited from selling or serving alcohol;
- (10) Mobile vendors may not operate within a residential zoning district, unless the area is listed on the mobile food unit map or authorized by the city manager or designee for a special or private event or festival;
- (11) Mobile food units or vehicles must not be located on private property unless written permission is given by the property owner or agent;
- (12) Unless operating in a permitted special event or festival pursuant to section 36.094 mobile vendors may not operate or travel in or on public sidewalks;
- (13) Mobile vendors are prohibited from obstructing the ingress and egress from commercial buildings during the building hours of operation;
- (14) Unless operating in a permitted special event or festival pursuant to section 36.094, or renting space provided by the City, mobile vendors must not be located closer than one hundred (100)

feet from any business area during normal business hours, unless written permission is given by the proprietor. The distance is measured from the front door;

- (15) Mobile vendors must not be located within one thousand (1000) feet from a special event or parade as defined in section 36.094 unless written permission is given by the special event or festival or parade permit holder. The distance is measured from the event entrance or any clearly defined event boundary or parade route (whichever is closer to the mobile vendor);
- (16) Mobile vendors may not impede pedestrian movement or parking;
- (17) Mobile vendors may not have a drive-through;
- (18) The mobile vendor map will identify acceptable locations of operation. Mobile vendors may operate only within the areas identified unless written permission is granted to operate elsewhere and approved by the city manager or designee;
- (19) The use of any outside sound amplifying equipment, televisions or similar visual entertainment devices, lights, or noisemakers, such as bells, horns, or whistles is prohibited unless specifically permitted.

Sec. 12.115. - Inspection.

Mobile vendor carts and mobile vendor vehicles are subject to inspection by city staff from the police, fire, and parks and recreation departments, and licensees must comply with any regulation or specific directive imposed by city staff from those departments.

Sec. 12.116. - Insurance.

a) Mobile vendor licensees will have current insurance during the term of the license. A certificate of insurance showing the applicant has obtained liability, food products liability, and property damage insurance that will protect licensee, property owners, and the city from all claims for damage to property or bodily injury, including death, which may arise from operations under the license or in connection therewith must be provided to the city clerk. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) per occurrence. The city shall be named as an additional insured on the certificate of insurance. The policy shall further provide that it may not be cancelled except upon thirty (30) days' written notice filed with the city clerk. No license issued pursuant to the provisions of this article shall be valid at any time the insurance required herein is not maintained and evidence of its continuance filed with the city.

b) Each mobile vendor licensee must sign a statement agreeing to defend, indemnify, and hold harmless the city from and against all claims, damages, losses and expenses, including attorney fees and costs, arising out of or resulting from the applicant's operation of a mobile food unit as permitted by this article.

Sec. 12.117. - Denial, revocation and suspension.

a) All license applications shall be submitted to the city clerk subject to council approval. License applications and current licenses may be denied, revoked, or suspended for good cause. The city shall mail written notice describing the reasons for denial, revocation, or suspension of a license covered by this article. The licensee may then demand a hearing before the city council by delivering a written demand to the city clerk within ten (10) business days after the notice of denial, revocation or suspension is mailed. Such appeal shall be heard at the first regularly scheduled meeting of the city council thereafter.

b) For the purposes of this section, the term "good cause" includes, but is not limited to:

- (1) The manner, or proposed manner, of operating the mobile vending operation violates any local, state, or federal law;

- (2) Licensee or any employee or agent of the licensee are convicted of any crime relating to the operation of the mobile vending operation;
- (3) Licensee or any employee or agent of licensee made omissions, deceptive statements, and/or false statements of material fact to city staff; or
- (4) Failure to timely pay licensee fee or previous pattern of operation without license.

Sec. 12.118. - Penalty.

Any person, firm or corporation violating any provision of this article shall be guilty of a misdemeanor and a separate offense shall be deemed committed on each day during or on which a violation continues to occur.

Secs. 12.119—12.129. - Reserved.

That the motion for the adoption of the foregoing resolution was duly seconded by Councilor Baker, and upon a vote being taken thereon, the following voted in favor thereof: Councilors Christensen, Baker, Howland, S. Rasmussen, R. Rasmussen, Anderson, and Mayor Murray;

And, the following voted against the same: None.

Introduced and passed the first time on the 10th day of April, 2023

Introduced and passed the second time on this 8th day of May 2023

Mayor Rich Murray

Filed and attested this 9th day of May, 2023

Secretary of the Council