

RECREATION, LIBRARIES AND AUTHORITIES COMMITTEE

13-030-O

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 27 OF THE DULUTH CITY CODE, 1959, AS AMENDED, ADDING A NEW ARTICLE RELATED TO MOBILE FOOD CARTS AND VEHICLES.

BY COUNCILOR LARSON:

The city of Duluth does ordain:

Section 1. That Chapter 27 of the Duluth City Code, 1959, as amended, is hereby amended by adding a new Article III as follows:

Article III. Mobile Food Carts and Mobile Food Vehicles.

Sec. 27-16. Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

Baywalk. The constructed paved walkway in close proximity to the Lake Superior Duluth Harbor Basin extending from the Duluth Harbor North Breakwater Light along North Pier Road closely following the Lake Superior Duluth Harbor Basin waterline until an end point near the intersection of West Railroad Street and Harbor Drive.

Food and beverage service establishment. A building, structure, enclosure, or any part of a building, structure, or enclosure, used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.

Lakewalk. The constructed trail surface of that recreational trail running in close proximity to Lake Superior from the Aerial Lift Bridge to 26th Avenue East and from there following the platted railroad right-of-way of the Duluth, Missabe and Iron Range Railroad to the east side of the Lester River and thereafter connecting to and located in Kitchi Gammi Park.

Mobile food cart. An outdoor food and beverage service establishment that is a non-motorized vehicle self-propelled by the operator.

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

Restaurant. A food and beverage service establishment, whether the establishment serves alcohol or nonalcoholic beverages, which operates from a location for more than 21 days annually. Restaurant does not include a mobile food cart or a mobile food vehicle.

Sec. 27-17. License--required.

(a) No person or business shall operate a mobile food cart or mobile food vehicle within the city without a license;

(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 of Minnesota, St. Louis County, or this Code;

(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 supply, fuel supply,

and waste disposal.

Sec. 27-18. Same--fees.

License applications under this Article shall be submitted to the city clerk with the designated license fee, said fee shall be set by city council resolution in accordance with Section 31-6(a) of this Code. Licenses shall be issued for a period of 12 months. Licenses are non-transferable.

Sec. 27-19. Same--operation.

A mobile food cart or mobile food vehicle is, by definition, a food establishment and must comply with the Minnesota food code, Minnesota Statutes Chapter 157 and Minnesota Rules Chapter 4626, or their successors. Additionally, it shall be unlawful to operate any mobile food cart or mobile food vehicle in the city unless it is licensed, operated, and conducted in accordance with the following requirements:

(a) Applicable license fee under Section 27-18 shall be paid;

(b) Prohibited from discarding waste, liquids, garbage, litter, or refuse on city sidewalks, streets, or lawn areas, or in city drains or trash receptacles. Licensees shall be responsible for all litter and garbage left by customers;

(c) Prohibited from using utilities from public property and right-of-ways;

(d) Prohibited from using utilities of any adjacent private property without obtaining permission from the private property owner or agent;

(e) Shall operate in strict compliance with the laws, rules, and regulations of the United States, state of Minnesota, St. Louis County, and the city;

(f) Shall abide by all vehicular public parking regulations;

(g) Shall comply with vehicle noise limits for electronically amplified sound and sound broadcasting devices pursuant to sections 34-22 and 34-24 of this Code;

(h) Shall provide and maintain at least one clearly designated waste container for customer use per each mobile food cart or mobile food vehicle;

(i) Food sold or served from mobile food carts and mobile food vehicles may not be prepared or stored at a private residence;

(j) Licensees shall collect and remit applicable Minnesota and city sales tax.

Sec. 27-20. Same-inspection.

Mobile food carts and mobile food 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. 27-21. Same--insurance required.

Before any license under this Article becomes effective, the licensee must possess a commercial general liability insurance policy for its mobile food cart and mobile food vehicle operations in an amount not less than \$100,000 per individual, \$500,000 per single incident, and \$100,000 for property damage occurring in any year, with a signed endorsement satisfactory to the city attorney. Licensee shall name and maintain the city of Duluth as an additional insured on the insurance policy.

Sec. 27-22. Same-prohibited locations.

(a) Mobile food carts and mobile food vehicles may not operate or travel on the Lakewalk or Baywalk;

(1) Mobile food carts and mobile food vehicles may not operate or travel through or on other city trails or parks unless

the licensee obtains permission from the city parks and recreation department;

(b) Mobile food vehicles may not operate or travel on public sidewalks;

(c) Mobile food carts and mobile food vehicles may not operate in city-owned parking lots, except those parking lots adjacent to or inside a city park;

(1) Mobile food carts and mobile food vehicles may not operate in city-owned parking lots adjacent to or inside a city park unless the licensee obtains permission from the city parks and recreation department;

(d) Mobile food carts and mobile food vehicles are prohibited from obstructing the ingress or egress from commercial buildings during the building hours of operation;

(e) Mobile food carts and mobile food vehicles may not operate or travel on private property unless the licensee obtains permission from the private property owner or agent;

(f) Mobile food carts and mobile food vehicles may not operate within 200 feet from the public entrance to any restaurant and/or any portion of a restaurant's outdoor dining area during that restaurant's hours of operation unless the licensee obtains permission from the restaurant owner or manager, said 200 feet measured in a straight line of constant elevation;

(g) Mobile food carts and mobile food vehicles may not operate within 400 feet from a community event or parade as defined in Section 45-49 unless the licensee obtains permission from the permit holder of that community event or parade, said 400 feet measured in a straight line of constant elevation.

Sec. 27-23. Same-denial, revocation and suspension.

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 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. For the purposes of this Section "good cause" shall include, but not be limited to:

(a) The manner, or proposed manner, of operating the mobile food cart of mobile food vehicle violates any federal, state of Minnesota, St. Louis County, or city law (including this Article) or regulation;

(b) The manner of operating the mobile food cart or vehicle constitutes a public nuisance per Minnesota Statutes 609.74 and 609.745, or their successors;

(c) Licensee or any employee or agent of the licensee are convicted of any crime relating to the operation of the mobile food cart or vehicle;

(d) Licensee or any employee or agent of licensee made omissions, deceptive statements, and/or false statements of material fact to city staff; or

(e) Failure to timely pay licensee fee or previous pattern of operation without license.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

Approved as to form:



Attorney

CCREQ/ATTY SBH:cjk 4/17/2013

STATEMENT OF PURPOSE: This ordinance amends Chapter 27 of the Duluth City Code, 1959, as amended, adding a new article regulating mobile food carts and mobile food vehicles within the city.