

**CITY OF MARSHALL
ORDINANCE 24-005**

**AN ORDINANCE AMENDING CHAPTER 22 ARTICLE IV MOBILE FOOD UNITS
AND FOOD CARTS**

The Common Council of the City of Marshall do ordain:

SECTION 1:AMENDMENT “Section 22-93 License Requirement” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 22-93 License Requirement

- (a) *Type of license.* No person or business shall conduct business as either a mobile food unit or food cart without first obtaining a license from the city. An annual license allows mobile food unit or food cart operations in the city for any number of days within the license period. A temporary license allows mobile food units or food carts to operate for a period less than seven (7) days in a calendar year.~~over 21 days during any calendar year. A mobile food unit or food cart operating 21 days or less shall follow state regulations. No city license is necessary to operate for 21 days or less in any calendar year.~~ An annual license may be issued with no fee to a brick-and-mortar restaurant located~~No city license is necessary to operate if in conjunction with a permanent business~~ within the City of Marshall as defined under Minn. Stat. ch. 157 or Minn. Stat. ch. 28A.
- (1) Mobile food units or food carts operating under a special event permit issued by the city or as a community festival designated by the city are exempt from license requirements at the location, and for the duration of the event or festival.
- (2) Mobile food units or food carts participating in the Lyon County Fair at the Lyon County Fairgrounds are exempt for the duration of the Lyon County Fair.
- (b) *License fees.* Fees for annual licenses are set forth in the city's fee schedule.
- (c) *Application information requirements.* An applicant must complete the application and provide all required information to the city clerk ~~whether a license is required or is not required~~. An application shall be filed, along with the required fee, with the city clerk. The applicant must be the owner of the mobile food unit or food cart. The application shall be made on a form supplied by the city and shall contain information requested by the city, including the following:
- (1) Name of the owner and operator, if different than the owner, of the mobile food unit or food cart and permanent and temporary home and business addresses;

- (2) A description of the nature of the business, the goods to be sold and the license plate number and description for any motorized or unmotorized vehicle to be used in conjunction with the activity;
- (3) A phone number and email address of the applicant, with a designation of a preferred mailing address for notices related to the license;
- (4) The name, address and contact information for the brick-and-mortar restaurant commissary with which the mobile food unit or food cart is affiliated, if applicable;
- (5) A certificate of insurance by an insurance company authorized to do business in the State of Minnesota ~~shall meet~~which meets the following requirements:
 - a. Commercial general liability insurance, with a limit of not less than \$1,000,000.00 each occurrence. If such insurance contains an annual aggregate limit, the annual aggregate limit shall be not less than \$2,000,000.00;
 - b. Workers compensation insurance (statutory limits) or evidence of exemption from state law; ~~and~~;
 - c. 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 or food cart on public property; ~~and~~
 - d. ~~The certificate of insurance must contain a~~A provision requiring notification be sent to the city should the policy be cancelled before its stated expiration date;.
- (6) ~~Written~~If the mobile food unit or food cart is located on private property, then written consent of ~~each~~the private property owner(s) is required from which mobile food unit or food cart sales will be conducted;
- (7) If the mobile food unit or food cart will be located on city property or public right-of-way, a signed statement that the licensee shall hold harmless the city and its officers and employees, and shall indemnify the city and its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the license;
- (8) A copy of each related license or permit if applicable issued by the State of Minnesota required to operate a mobile food unit or food cart; and,
- (9) A copy of the applicant's state sales tax ID number.

~~(Ord. No. 744 2nd series, § 1, 10-22-2019)~~

~~State law reference(s) — Mobile food unit, Minn. Stat. 157.15, subd. 9.~~

SECTION 2: AMENDMENT “Section 22-94 Conditions Of Licensing” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 22-94 Conditions Of ~~Licensing~~Operating

A mobile food unit or food cart may only operate if compliant with the following:

- (a) *Locations.* A mobile food unit or food cart may only operate in the locations set forth in this subpart. A mobile food unit or food cart must be placed on either concrete or bituminous surfaces unless otherwise approved by the city and may ~~only~~ operate:
- (1) ~~i~~In commercial and industrial zoning districts on private property with written consent of the private property owner.
 - (2) In residential zoning districts, if the mobile food unit or food cart is on or directly adjacent private property operating for private catering purposes (sales not open to the general public) with the consent of the private property owner, unless the mobile food unit is an Ice Cream Truck as defined herein. Ice Cream Trucks may operate in the public right of way of residential zoning district, and must be placed on either concrete or bituminous surfaces unless otherwise approved by the city.
 - (3) ~~In the public right away where parking is permitted.~~
 - (4) At special events permitted by the city or community festivals designated by the city council. ~~Written approval from the adjacent property owner must be obtained before approval of a license.~~
 - (5) ~~On private property:~~
 - a. ~~With written consent of the private property owner.~~
 - (6) ~~When operations occur on private residential property, mobile food unit or food cart sales may only be for catering purposes (such as a private graduation party or wedding) and may not be open for sales to the general public.~~
 - (7) ~~A mobile food unit or food cart may only operate i~~In a city park or on city property with the prior written approval of the city; additional permits may be required for such operations.
- (b) *Ice Cream Trucks.* Ice Cream Trucks are defined as a type of mobile food unit utilized as the point of retail sale of pre-packaged ice cream, frozen yogurt, frozen custard, flavored frozen water, or similar frozen dessert products.
- (1) Ice Cream Trucks are subject to the same performance standards as a mobile food unit or food cart. Ice Cream Trucks may operate within the public right of way of residential zoning districts, but may not be stationary when vending within said public right of way for a period of more than ten minutes.
- (c) *Performance standards.* A mobile food unit or food cart licensee is subject to the following performance standards.
- (1) Applicable license fee shall be paid.
 - (2) A mobile food unit or food cart shall be operated in strict compliance with the laws, rules and regulations of the United States, State of Minnesota and the City of Marshall.
 - (3) Wastewater may not be drained into city storm water drains.
 - (4) A mobile food unit or food cart shall provide and maintain at least one clearly designated waste container for customer use per each food cart or mobile food unit. The operator of a mobile food unit or food cart is responsible for daily

- removal of trash, litter, recycling and refuse. Public trash cans shall not be used to dispose of waste generated by the operation. The operator shall provide a garbage receptacle with a tight-fitting lid. The receptacle shall be easily accessible for customer use and located within five feet of the unit.
- (5) If a mobile food unit must provide a power supply it shall be screened from public view and ~~that complies~~ with pertinent city noise regulations.
 - (6) A mobile food unit or food cart may operate between 7:00 a.m. and 10:30 p.m. and if issued a special event permit may operate between 10:30 p.m. to 1:30 a.m. in designated ~~downtown~~ areas, and must not create any unnecessary noise, disturbances or disrupt public traffic or safety in any way. An exemption to hours may be authorized by city council on a per event basis.
 - (7) A mobile food unit or food cart shall be allowed to set up one hour prior to conducting food vending and shall exit from the site within one hour of the close of conducting business.
 - a. A mobile food unit or food cart operating under a special event permit may remain overnight at the location and for the duration of a special event or community festival permitted or designated by the city on ~~private property in commercial and industrial zoned districts after conducting business with permission from the property owner~~
 - (8) A mobile food unit or food cart may have a maximum footprint of 300 square feet unless otherwise approved by the city.
 - a. ~~A mobile food unit or food cart may be restricted to operate only on private property if it exceeds a maximum footprint of 300 square feet.~~
 - (9) If a mobile food unit or food cart are operating in the public right-of-way, interactions between a mobile food unit or food cart and a consumer must take place between the mobile food unit or food cart and the curb away from traffic.
 - (10) Mobile food units cannot obstruct the movement of pedestrians or vehicles or pose a hazard to public safety.
 - (11) A mobile food unit or food cart must not occupy more than two parallel parking spots or no more than four diagonal/horizontal parking spots if operating within the public right-of-way.
 - (12) Operators must clean around their mobile food unit or food cart at the end of each day and the mobile food unit or food cart must be kept in good repair and have a neat appearance.
 - (13) A mobile food unit or food cart operator must be licensed by the Minnesota Department of Health and Proof of the Minnesota Department of Health licensing must be provided and posted on the mobile food unit or food cart.
 - (14) A mobile food unit or food cart must comply with any applicable fire department food truck requirements.
 - (15) An out of service mobile food unit or food cart stored within the city must comply with all applicable ~~zoning~~ ordinance requirements.
 - (16) A mobile food unit or food cart may operate on private property in any residential zoned districts for a "one-time" event for catering purposes only.
 - (17) A mobile food unit or food cart may not operate within 100 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 written permission from the restaurant owner/manager.

- (18) A mobile food unit or food cart may not operate in city-owned parking lots, except those parking lots adjacent to or inside a city park with the prior written approval of the city.
- (d) *Non-transferable license.* A mobile food unit or food cart license is non-transferable. Proof of all required licenses shall be displayed at all times in the mobile food unit or food cart.
- (e) *Practices prohibited.* It is unlawful for any person engaged in the business of a mobile food unit or food cart operation to do any of the following:
 - (1) Call attention to that licensee's business by crying out, blowing a horn, ringing a bell, loud music or by any loud or unusual noise;
 - a. Mobile food units or food carts that are not stationary longer than 10 minutes are exempt, but must follow applicable ordinance Section 42-89 Loud Noises.
 - b. Ice Cream Trucks may play music or use bells as long as either complies with Section 42-89.
 - (2) Fail to display proof of license and produce valid identification when requested;
 - (3) Leave a mobile food unit or food cart unattended or at an authorized location outside allowed hours of operation;
 - a. A mobile food unit or food cart may be exempt from this requirement following sec. b (7) a.
 - (4) Operate the mobile food unit or food cart in or on public sidewalks or trails;
 - (5) Allow a mobile food unit or food cart to remain on the property of another when asked to leave;
 - (6) Obstruct the ingress or egress from commercial buildings during the building hours of operation;
 - (7) Claim endorsements by the city; or
 - (8) Conduct business in any manner as to create a threat to the health, safety, and welfare of a specific individual or the general public.

(Ord. No. 744 2nd series, § 1, 10-22-2019)

SECTION 3: AMENDMENT “Section 22-95 Suspension Or Revocation Of A License.” of the Marshall Municipal Code is hereby *amended* as follows:

AMENDMENT

Section 22-95 Suspension Or Revocation Of A License.

A license issued pursuant to this article may be suspended by the city if the licensee has violated the terms of this article, or is otherwise conducting business in such a manner as to constitute a breach of the 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 adhere to the corrective action required by the citation issued~~file an appeal~~ pursuant to City of Marshall Ordinance Chapter 2-VII Administrative Citations~~this section~~. When taking action on any license issued under this section, the city shall provide the licensee with ~~verbal or~~ written notice of the violation. A licensee may appeal pursuant to the administrative procedure process set forth in the City of Marshall City Code.~~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. Verbal notice shall be confirmed within five 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 applicant for an appeal prior to the next city council meeting. No city council resolution or other notice calling for a hearing shall be required.~~

(Ord. No. 744 2nd series, § 1, 10-22-2019)

PASSED AND ADOPTED BY THE CITY OF MARSHALL COMMON COUNCIL

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Presiding Officer

Attest

Robert Byrnes, Mayor, City of
Marshall

Steven Anderson, City Clerk, City of
Marshall