

Chapter 865

Mobile Food Vending

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865.01 INTENT.

In the interest of encouraging mobile food vendors who add to the vibrancy and desirability of Traverse City, while providing a framework under which such businesses operate, this ordinance is established. (Ord. 963. Passed 5-6-13)

865.02 DEFINITIONS.

- (a) *Mobile Food Vending* shall mean vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a Food Service Establishment under Public Act 92 of 2000, which may include the ancillary sales of branded items consistent with the food, such as a tee shirt that bears the name of the organization engaged in Mobile Food Vending.
- (b) *Mobile Food Vending unit* shall mean any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground from which food is vended, served, or offered for sale.
- (c) *Vendor* shall mean any individual engaged in the business of Mobile Food Vending; if more than one individual is operating a single stand, cart or other means of conveyance, then Vendor shall mean all individuals operating such single stand, cart or other means of conveyance.
- (d) *Operate* shall mean all activities associated with the conduct of business, including set up and take down and/or actual hours where the mobile food vending unit is open for business.

(Ord. 963. Passed 5-6-13)

865.03 PERMIT REQUIRED.

No vendor shall engage in Mobile Food Vending without a permit from the City Clerk authorizing such vending. The City Clerk shall prescribe the form of such permits and application for such permit. All permits shall be prominently displayed on the mobile food vending unit. No vending through a Mobile Food Vending Unit of food and/or other human

consumables shall be permitted unless it meets the definition of Mobile Food Vending as defined by this ordinance. (Ord. 963. Passed 5-6-13)

865.04 DURATION; NON-TRANSFERABILITY.

Permits may be issued by the City Clerk for a calendar year from the date of issuance. Any permit issued under this Chapter is non-transferable. (Ord. 963. Passed 5-6-13)

865.05 APPLICATION.

Every vendor desiring to engage in Mobile Food Vending shall make a written application to the City Clerk for a permit under this Chapter. The applicant shall truthfully state, in full, all information requested by the City Clerk and be accompanied by a fee established by resolution of the City Commission. Additionally, the applicant shall provide all documentation, such as insurance, as required by the city. (Ord. 963. Passed 5-6-13)

865.06 FEES.

An application for a permit under this Chapter shall be accompanied by a fee in the amount established by resolution of the City Commission. There shall be no proration of fees. Fees are non-refundable once a permit has been issued by the City Clerk. No fee shall be charged to any honorably discharged veteran of the United States Military who is a resident of the State of Michigan and submits official documentation evidencing such to the City Clerk. If operating on non-city property, no fee shall be charged to a business which is on the city's tax rolls whose normal business includes the sale of food and/or beverages. No one shall hire or subcontract such vendors in an attempt to evade the provisions of this Chapter. (Ord. 963. Passed 5-6-13)

865.07 INVESTIGATION BY THE CITY CLERK.

For Mobile Food Vending within residential areas, approval must be given by the City Clerk prior to issuance of a permit by the City Clerk. (Ord. 963. Passed 5-6-13. Ord. 1026. Passed 9-8-15)

865.08 REQUIREMENTS.

Any vendor engaging in Mobile Food Vending shall comply with the following requirements:

1. Provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other waste attributable to the vendor on a daily basis.
2. If operating on city-owned or controlled property, may only locate on such property as established in a resolution adopted by the City Commission. If parked on public streets, vendors shall conform to all applicable parking regulations.
3. Not operate on public property within one block of a city-authorized street fair, public festival, farmers market or event being conducted without authorization from the event sponsor.
4. Not use any flashing or blinking lights or strobe lights; all exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward.
5. Not use loud music, amplification devices or "crying out" or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the City.
6. Comply with the city's Noise Ordinance, Sign Ordinance and all other City

ordinances.

7. Comply with all applicable federal, state and county regulations.
8. May have one portable sign that is six square feet, with no dimension greater than 3 feet and no height (with legs) greater than 4 feet, located within five feet of the unit; and under no circumstances shall such sign be placed upon the sidewalk or impede pedestrian and/or vehicle safety.
9. Within residential areas, a mobile food vendor may only operate between the hours of 9 a.m. and 9 p.m.; and in commercial areas, a mobile food vendor may only operate between the hours of 7 a.m. and 11 p.m. On private property within Commercial Area, a mobile food vendor may only operate between the hours of 6:00 a.m. and 3 a.m. Other restrictions regarding hours of operation may be established by resolution of the City Commission.
10. No Mobile Food Vending Unit may be left unattended for more than 2 hours; and any Mobile Food Vending Unit not in operation shall be removed between the hours of 11 p.m. and 7 a.m. in commercial areas and 9 p.m. to 9 a.m. in residential areas. This subsection applies to Mobile Food Vending Units operating on city-controlled property only.
11. Not represent the granting of a permit under this Chapter as an endorsement by the city.
12. Shall not utilize any electricity or power without the prior written authorization of the power customer; no power cable or similar device shall be extended at or across any city street, alley, or sidewalk except in a safe manner.

(Ord. 963. Passed 5-6-13, Ord. 988. Passed 1-21-14)

865.09 PARKING BEYOND LIMITS ALLOWED BY CITY ORDINANCE AND ORDER.

Any Mobile Food Vending Unit with a valid Mobile Food Vending License may park in a city-controlled parking space for durations as authorized by the permit; and such Mobile Food Vending Unit shall not be restricted to the hours where parking would otherwise be allowed in the particular parking space. Provided, however, that no Mobile Food Vending Unit shall park in a city-controlled parking space if parking is prohibited altogether. Any Mobile Food Vending Unit parked in a metered parking space with a valid Mobile Food Vending License shall activate the meter at all times while parked by depositing the appropriate sum of money into the parking meter. (Ord. 963. Passed 5-6-13)

865.10 IMPOUNDMENT.

Any equipment associated with food vending that are not in compliance with this Chapter and left on public property may be impounded at the owner's expense. (Ord. 963. Passed 5-6-13)

865.11 OTHER PERMITS.

A permit obtained under this Chapter shall not relieve any vendor of the responsibility for obtaining any other permit, or authorization required by any other ordinance, statute or administrative rule. (Ord. 963. Passed 5-6-13)

865.12 REVOCATION

The City Clerk shall revoke the permit of any vendor engaged in Mobile Food Vending who ceases to meet any requirement of this Chapter or violates any other federal, state or local regulation, makes a false statement on their application, or conducts activity in a manner that is adverse to the protection of the public health, safety and welfare.

Immediately upon such revocation, the City Clerk shall provide written notice to the permit holder by certified mail to their place of business or residence as indicated on the application. Immediately upon such revocation, the permit shall become null and void. (Ord. 963. Passed 5-6-13)

865.13 COMPLAINTS; APPEALS.

If a written complaint is filed with the City Clerk alleging a Food Vendor has violated the provisions of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the vendor together with a notice that an investigation will be made as to the truth of the complaint. The vendor shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the City Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified. If a permit is denied or revoked by the City Clerk, or if a written complaint is certified pursuant to this Chapter, the applicant or holder of a permit may appeal to and have a hearing before the City Manager. The City Manager shall make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of City Clerk or filing of the complaint shall be sustained and the applicant may appeal the City Manager's decision to a court of competent jurisdiction. (Ord. 963. Passed 5-6-13)

865.14 APPEARANCE TICKETS.

The Police Chief and sworn officers of the Police Department, or such other officials as designated by the City Manager are authorized to issue and serve appearance tickets with respect to a violation of this Chapter pursuant to Michigan law. Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements. (Ord. 963. Passed 5-6-13)

865.15 CIVIL INFRACTION.

A vendor who violates this Chapter is responsible for a civil infraction and subject to a fine of \$500 per day. Provided, however, that the fine for parking violations shall be those as outlined in Chapter 488 of these codified ordinances. (Ord. 963. Passed 5-6-13. Ord. 970. Passed 6-3-13)