

ORDINANCE NO. 1056

AN ORDINANCE TO AMEND ORDINANCE NO. 992 PERTAINING TO MOBILE FOOD VENDORS IN THE CORPORATE LIMITS OF ST. PAUL, NEBRASKA; TO ADD ARTICLE 9 TO CHAPTER 10 OF THE SAINT PAUL CITY CODE TO INCORPORATE THE REGULATIONS PERTAINING TO MOBILE FOOD VENDORS; TO AMEND THE FEES FOR A MOBILE FOOD VENDOR LICENSE; TO AMEND THE APPLICATION REQUIREMENTS AND SALES REGULATIONS FOR A MOBILE FOOD VENDOR LICENSE; TO RENUMBER THE CURRENT ARTICLE 9 OF CHAPTER 10 OF THE ST. PAUL CITY CODE PERTAINING TO PENALTIES; TO AMEND SECTION 10-901 PERTAINING TO THE PENALTY FOR VIOLATIONS OF CHAPTER 10; TO REPEAL ORDINANCE NO. 992 AND ANY CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF ST. PAUL, NEBRASKA, that:

SECTION 1. Article 9 pertaining to Mobile Food Vendors is hereby added to Chapter 10 of the Saint Paul City Code to read as follows:

Article 9. Mobile Food Vendors

§10-901. Definitions.

Definitions: For the purpose of this article the following terms shall have the meanings respectively ascribed to them:

Caterer shall mean a person who transports ready-to-eat food from a permitted food service establishment to another location or building for service on a per event basis for hire, and does not include a temporary food service event.

City Clerk shall mean the City Clerk of the City of St. Paul, Nebraska or his/her authorized designee.

Food shall mean any raw, cooked, or processed edible substance, beverage, ingredient, ice, or water used or intended for use or for sale in whole or in part for human consumption.

Mobile food vendor shall mean a person who by traveling from place to place upon the public ways sells or offers for sale food from public or private property to consumers for immediate delivery and consumption upon purchase, including but not limited to any such person engaged for the purposes of any public or private event occurring within the corporate limits of the City of St. Paul, Nebraska. The following activities are excluded from such

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definition, and, alone, do not subject a vendor to being covered by such definition: (a) the sale or offer for sale of farm products produced or raised by such a vendor from land occupied and cultivated by him/her; or (b) the sale or offer for sale of food by a caterer.

Permanent food establishment shall mean a fixed building which a person occupies on a continual basis and from which such person sells or offers to sell food for immediate delivery and consumption upon purchase. Such term shall not include a location where a mobile food vendor sells or offers to sell food.

§10-902. License required. It shall be unlawful for any person to sell or offer for sale food as a mobile food vendor or operate as a mobile food vendor within the City, unless such person complies with the requirements and regulations of this article, including holding a valid and active mobile food vendor license issued by the City Clerk under this article.

§10-903. Application. An applicant for a license pursuant to this article shall file with the City Clerk a signed application on a form to be furnished by the City Clerk, which shall contain the following information;

- (a) The applicant's business name, address, and phone number; and e-mail address, if any;
- (b) If the applicant is a corporation, partnership, or other entity, the names of all officers and managers of such entity;
- (c) If food is to be sold from any motor vehicle, the vehicle license numbers and descriptions of all vehicles from which the applicant proposes to sell food, and the names of all persons expected to drive such vehicles;
- (d) The description of the general type of food items to be sold;
- (e) Documentation (certificate) from the State of Nebraska (Dept. of Agriculture) Health Department showing its approval of the applicant's sale of food, if required;
- (f) A copy of the State of Nebraska sales tax permit, or proof of an applicable sales tax exemption, for the applicant;
- (g) A general description of the types of locations the applicant anticipates selling from;
- (h) A Certificate of Insurance showing general liability insurance for the food truck in an amount of at least \$1,000,000 per occurrence/\$2,000,000 aggregate, and auto insurance on the food truck or the vehicle towing the food truck.
- (i) Authorization for a background check to be conducted by the City of St. Paul Police Department, the results of which may be specifically considered in the issuance or denial of a license;
- (j) Such other information as the City Clerk may require and as requested in the said application form;
- (k) The completed application and requested documentation should be submitted three (3) business days prior to needing the license to allow appropriate processing time.

§10-904. Issuance or denial.

(a) Upon receipt of a complete application for a license pursuant to this article, the City Clerk shall make or cause to be made any inquiry or investigation that may be necessary to determine whether the applicant is in compliance with the provisions of all applicable laws and this Code. The City Clerk may request and take into consideration the recommendations of other affected departments of the City.

(b) After receipt of the completed application and application fee, the City Clerk shall either approve or deny the application. Grounds for denial may include, but are not limited to, the following:

- (1) A finding that the application is incomplete;
- (2) The nonpayment of applicable fees;
- (3) A finding that the application is not in conformance with any applicable laws or this Code;

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(4) A finding that the applicant has been convicted of three or more separate violations of the provisions of this article within the 12 months preceding the submission of a complete application;

(5) A history of criminal convictions which, in the discretion of the City Clerk, indicates that the issuance of a license to the applicant may place the health, safety and/or welfare of the residents of the City of St. Paul at risk of harm.

§10-905. License fee. An application for a one-day license under this article shall be accompanied by a nonrefundable processing fee of \$50.00. An application for an annual (calendar year) license under this article shall be accompanied by a nonrefundable processing fee of \$250.00. The one-day license fee herein shall not apply to permits issued for Grover Cleveland Alexander (GCA) Days.

§10-906. Mobile Food Permits issued for Grover Cleveland Alexander (GCA) Days Celebration. Mobile Food vendors serving food or beverages during the Grover Cleveland Alexander (GCA) Days weekend shall be required to submit an application to the City in accordance with this article and pay a nonrefundable processing fee of \$150.00. Mobile Food vendors that have been approved for an annual Mobile Food Permit and are in compliance with these regulations shall be allowed to sell food and/or beverages during the GCA Days weekend.

§10-907. Renewal. An annual license issued under this article shall expire on December 31 of each year, unless renewed for the following year by the licensee. The licensee shall renew the license for the following year by filing with the City Clerk, on or before December 31, a registration updating or confirming the information provided in the immediately preceding license application or registration. The registration shall be on a form provided by the City Clerk. At the time of registration, the licensee shall pay a renewal fee of \$250.00 per year.

§10-908. Sales regulations. Mobile food vendors shall comply with the following regulations:

(a) A mobile food vendor shall not sell nor offer to sell food from a location within 50 feet of the main entrance used by customers to enter or exit a permanent food establishment during the hours food is sold within such permanent food establishment, unless each such permanent food establishment within such area has provided written consent.

(b) A motor vehicle from which a mobile food vendor sells or offers to sell food shall not exceed 40 feet in length and 102 inches in width. A mobile food vendor selling or offering the sale of food from or using a trailer or other auxiliary equipment shall, during such operations, keep the trailer or auxiliary equipment hitched to an operable motor vehicle towing it, unless otherwise permitted by the City in association with an authorized street show, festival, parade, block party, or similar event. An attached trailer or other auxiliary equipment shall not exceed 102 inches in width, and the combined length of the motor vehicle and trailer or auxiliary equipment shall not exceed 60 feet. The maximum dimensions in this subsection may be exceeded by a particular motor vehicle, trailer, or piece of equipment, if approved by the City Clerk upon a mobile food vendor's application for a waiver.

(c) A mobile food vendor may sell or offer to sell food from a motor vehicle at a location in a City right-of-way open to traffic or parking, but only from a motor vehicle parked in a location where a motor vehicle is authorized to park by law, signage, or city permit. Such a motor vehicle and auxiliary equipment shall not be parked at a diagonal parking space, unless specifically authorized by the City. Such a motor vehicle and auxiliary equipment shall not be parked in a parking space adjacent to the corner of a street intersection.

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(d) A mobile food vendor shall not sell or offer to sell food from a location which would involve customers to be waited on or served while standing in a portion of a street being traversed by motor vehicle traffic.

(e) A mobile food vendor who sells or offers to sell food from a location on property other than a parking space or City right-of-way shall first obtain and possess, and be able to exhibit upon request, each of the following:

- (1) Written consent of the owner of such property; and
- (2) A temporary use permit issued by the City Utility Superintendent or his/her designee, where same permanent uses are permitted under the City of St. Paul Zoning Ordinance; provided, that a temporary use permit shall not be required if the mobile food vendor is present as an authorized part of a private event or an event authorized by another city permit.

(f) A mobile food vendor shall not sell nor offer to sell food from a City park property unless he/she possesses the written consent of the City of St. Paul Utility Superintendent.

(g) A mobile food vendor shall not sell nor offer to sell food from a school property unless he/she possesses the written consent of an authorized representative of the school.

(h) A mobile food vendor shall not sell nor offer to sell food from a location within an area authorized for a street show, festival, parade, block party, or similar event, or within 200 feet of any boundary of such authorized area, unless the mobile food vendor is in possession of the written consent of the event licensee to sell or offer to sell food from that location.

(i) A mobile food vendor shall possess and be able to exhibit his/her license under this article, all required State of Nebraska (Dept. of Agriculture) Health Department permits, a State of Nebraska sales tax permit or proof of sales tax exemption, and any other written consents or documentation required under this article, at all times during which the mobile food vendor is selling or offering to sell food. Sales tax applied to customer orders must reflect the current sales tax required to be paid within the St. Paul city limits pursuant to Nebraska Department of Revenue regulations.

(j) The City Utility Superintendent or the St. Paul Police Department may order a mobile food vendor to move from or leave a specific location, if the operation of the mobile food vendor at that location causes an obstruction to vehicular or pedestrian traffic or otherwise endangers the health, safety, or welfare of the public. The City may tow or otherwise move a mobile food vendor's vehicle or other auxiliary equipment to another location at the food vendor's expense if the vehicle or equipment presents a danger to public safety and the mobile food vendor fails to move the same.

(k) An individual representative of the mobile food vendor shall be present with the motor vehicle and other auxiliary equipment operated by the mobile food vendor at all times that it is parked in City right-of-way or on City property when open for business to sell food, and at all times that it is parked on private property at a location where food is or will be offered for sale.

(l) A mobile food vendor may sell or offer to sell food seven (7) days a week upon receipt of a valid license to sell or offer to sell food. Notwithstanding this subsection, upon evidence of endangerment of public safety, the chief of police or his/her designee may limit hours of operation for all mobile food trucks within the City, as needed for the protection of public safety.

(m) A mobile food vendor using a motor vehicle shall maintain a motor vehicle liability insurance policy for such motor vehicle as required by state law, and shall exhibit proof of such policy when requested.

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(n) A mobile food vendor shall maintain in operable condition all fire suppression equipment or devices as required by local, state or federal law.

(o) A mobile food vendor shall visibly display his/her business name on his/her motor vehicle or auxiliary equipment.

(p) A mobile food vendor shall provide trash receptacles for the collection of trash and recyclable materials, in sizes sufficient to serve his/her customers. Prior to leaving a location, the mobile food vendor shall pick up and properly dispose of any trash, litter, or recyclable materials within 25 feet of the location. Receptacles and their contents shall be removed from the location for proper disposal or recycling, and contents shall not be deposited in public trash or recycling containers on City right-of-way or City property.

(q) A mobile food vendor shall not place on City right-of-way or City property any freestanding sign, table, chair, umbrella, or other fixture or equipment; provided, that a mobile food vendor may place one identification or menu sign and one table (not for seating customers) on the sidewalk or other area directly adjacent to his/her parked motor vehicle or other equipment.

(r) A mobile food vendor shall comply with all City ordinances regulating noise.

§10-909. Revocation or suspension.

(a) Grounds. A license issued under this article may be revoked or suspended by the City Clerk for any of the following reasons:

(1) Any fraud, misrepresentation, or false statement contained in the application for license;

(2) Any fraud, misrepresentation, or false statement made in connection with the selling of food;

(3) Any violation of this article or any applicable laws or provisions of this Code;

(4) Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

(b) Multiple convictions of violation of this article or of any similar article. The City Clerk or City Police shall revoke a license issued under this article for any mobile food vendor who is convicted of three (3) or more separate violations of the provisions of this article or of any similar article in effect in any other jurisdiction within any consecutive 12-month period. For purposes of this section conviction shall mean any finding of guilt or liability on the part of the mobile food vendor by a court of competent jurisdiction, and shall include any conviction that has previously been set aside.

(c) Notice. To revoke or suspend a license, the City Clerk or City Police shall provide written notice to the license holder stating the revocation or suspension action taken, the grounds for such action, and the availability of an appeal under this section. Such notice shall be served personally upon the license holder or sent by regular U.S. mail to the license holder's address as stated in his/her application.

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- (d) Appeal. A license holder aggrieved by the decision of the City Clerk under this section may file an appeal with the City Council.
- (e) Re-application. A person whose license has been revoked under this article may not re-apply for a new license for a period of twelve (12) months after the effective date of the revocation.

§10-910. Penalty. It shall be unlawful for any person to violate the provisions of this article. Any person found guilty of violating any of the provisions of this article shall, upon conviction be fined a sum of not less than Two Hundred Dollars (\$200.00) nor more than Four Hundred Dollars (\$400.00) in addition to the penalties set forth herein.

§10-911. Severability. If any provision, clause, sentence, paragraph or other portion of this article or the application thereof to any person or circumstances shall be held to be invalid, that invalidity shall not affect the other provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

SECTION 2. The existing Article 9 of Chapter 10 of the Saint Paul City Code is hereby moved to Article 10 to read as follows:

Article 10. Penal Provision

§10-1001. VIOLATION; PENALTY.

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Chapter, set forth at full length herein or incorporated by reference shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than two hundred (\$200.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.

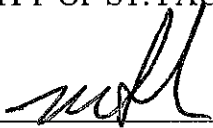
SECTION 3. Ordinance No. 992 and any and all Ordinances or portions thereof, which are in conflict herewith, are hereby repealed.

SECTION 4. This Ordinance shall take effect and be in full force as of January 6, 2025 upon its passage, approval, and publication in pamphlet form.

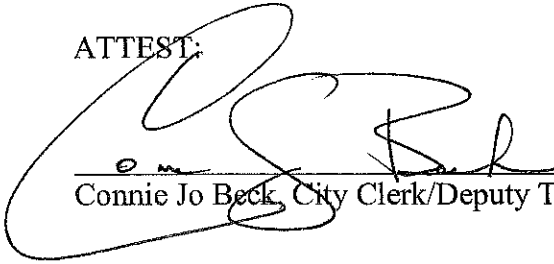
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APPROVED AND ADOPTED this 6th day of January, 2025.

CITY OF ST. PAUL, NEBRASKA

By: 
Mike Feeken, Mayor

ATTEST:


Connie Jo Beck, City Clerk/Deputy Treasurer

