

*Proposed Ordinance Notice 01 24 19*

**Ordinance 19 - \_\_\_\_**

**An Ordinance Amending Chapter 38, Article VIII, Peddlers, Solicitors, Transient Merchants, and Mobile Food Units of the City of Elk River, Minnesota, City Code**

The City Council of the City of Elk River does hereby ordain as follows:

**SECTION 1.** That § 38-383, **Exemptions** of the City of Elk River Code of Ordinances shall be amended as follows:

All persons engaged in the business activities described in this section shall comply with the provisions of section 38-414(c). The following business activities shall be exempt from the requirements of this article. The city clerk shall determine if a business activity falls within these exemptions, subject to appeal to the city council.

- (1) Doing business by appointment. A bona fide appointment is one that is not merely obtained by going door-to-door in conjunction with the taking of orders, offering for sale or selling.
- (2) Solicitation of orders for future door-to-door delivery of newspapers.
- (3) Nonprofit groups that register with the city clerk. No fee is required to so register. This exemption does not include individuals who are paid to engage in peddling, soliciting, or transient merchant business.
- (4) Selling goods to retail or wholesale stores or to professional or industrial establishments for retail re-sale only.
- (5) Selling or peddling the products of the farm or garden grown and cultivated by such person, but such activities must comply with applicable health regulations.
- (6) All vendors involved in the following community events: Fourth of July Celebration, Community Festival, Sherburne County Fair, Business Expo, and any other community event the city council deems exempt.
- (7) Garage sales, rummage sales, and craft sales.
- (8) Establishing a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods, milk, and groceries.
- (9) Selling goods or admissions to events by K—12 students where the proceeds of such sales benefit a program or activity in which the student is involved.
- (10) Mobile food units listed as part of a special event permit issued by the city. The terms of the special event permit shall apply. City sanctioned events are exempt.
- (11) Mobile food units contracted by residential property owners for private parties where food is not sold to guests or any other members of the public. This exclusion does not

include institutional uses in the residential zoning district where mobile food units are contracted to provide food for a public event.

- (12) Mobile food units as part of a school sanctioned events on school property.
- (13) Mobile food units located on Sherburne County Fairgrounds property.

**SECTION 2.** That **§38-414, Restrictions** of the City of Elk River Code of Ordinances shall be amended to read as follows:

(d) *For mobile food units .*

- (1) *State license .* Mobile food units shall hold a valid license from the State of Minnesota Department of Health or Department of Agriculture. Any conditions of the State Health Department shall be incorporated into the license issued under this section, in addition to any other conditions by the City of Elk River.
- (2) *Insurance .* A certificate of insurance that has been issued to the applicant by an insurance company authorized to do business in the State of Minnesota verifying the applicant is insured against claims arising out of all operations of such applicant under this chapter for the sum of at least one million dollars (\$1,000,000.00) against liability for bodily injuries and for at least one million dollars (\$1,000,000.00) against liability for damage or destruction of property, evidencing the following forms of insurance:
  - ~~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 not be less than \$2,000,000.00;~~
  - ~~b. Automobile liability insurance with a limit of not less than \$2,000,000.00 combined single limit. The insurance shall cover liability arising out of any auto, including owned, hired, and non-owned vehicles;~~
  - ~~c. Food products liability insurance, with a limit of not less than \$1,000,000.00 each occurrence;~~
  - ~~d. Public liability insurance, with a limit of not less than \$1,000,000.00 each occurrence;~~
  - ~~e. Property damage insurance, with a limit of not less than \$1,000,000.00 each occurrence; and~~
  - f. 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~~ on public property including right-of-way.
  - ~~g. Certificate of insurance must contain a provision requiring at least thirty (30) days' advanced written notice to the City, or ten (10) days' written notice for non-payment of premium notification be sent to the city should the policy be cancelled before its stated expiration date.~~
- (3) *Hold harmless .* A mobile food unit operating on city property, including public right-of-way, must submit a signed statement that the licensee shall hold harmless the city and its officers and employees, and shall defend and 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.

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- (4) *Duration of sales* . A license shall be valid for one year but the mobile food unit can't operate in, or in front of, the same location for more than 21 days each year within the City of Elk River.
- (5) *Overnight storage* . No overnight storage of a mobile food unit shall be permitted unless approved by council.
- (6) *Signs* . No signage shall violate the provisions of this Code relating to size and number of business signs.
- (7) *Noise* . No shouting, blowing a horn, ringing a bell, or use of any sound devices upon any of the streets, alleys, parks, or other public places of the city or upon any private premises in the city. Ice cream trucks traveling through a residential district may have outdoor music or noise-making devices to announce their presence.
- (8) *Parking* . Mobile food units must be located on a paved surface. A mobile food unit may not operate in a traffic lane, on a sidewalk, or in any location which causes an obstruction of traffic, such as queuing of patrons or advancement of vehicles. A mobile food unit may operate on eligible public streets and occupy no more than two parking spaces. No parking or sales shall take place within 60 feet of an intersection of two or more streets or within 30 feet of a driveway that enters a public street.
- (9) *Hours* . Hours of operation shall be allowed from 8:00 a.m.to midnight, except in a residential district in which sales shall be allowed from 8:00 a.m. to 10:00 p.m.
- (10) *Waste disposal* . Mobile food units shall provide waste disposal and clean up all litter and garbage generated by the mobile food unit before moving from the location.
- (11) *Self-containment* . Mobile food units can't connect to public utilities. Any generators must be self-contained.
- (12) *Inspections* . Mobile food units shall comply with all applicable fire codes and may be inspected by a city fire official prior to operation.
- (13) *Locations* . Mobile food units shall be allowed in public right-of-way only in zoning districts where retail sales are allowed as permitted or special uses under the city's zoning code. Except that mobile food units may be located on privately owned property in the commercial, industrial, and downtown zoning areas of the city with written property owner permission and residential lots as exempted per section 383 (11).

In the downtown district only one mobile food unit shall be permitted on public property located at the designated, signed parking area along King Avenue. Reservations are not permitted on King Avenue when the city hosts concert nights in River's Edge Park unless authorized by city council. City council may further authorize mobile food units in the downtown district for city-sanctioned activities. Applications for the downtown district will only be accepted up to three months in advance and are on a first come first serve basis with fee payment and a completed application.

- (14) *City parks* . Mobile food units are not allowed in city parks unless they get written permission of the parks and recreation director. Except that parks with concession stands also require the written consent of the concession operator for their specific event.
- (15) *Seating*. Mobile food units may not provide external seating unless located in an industrial zoning district.

- (16) *Ice cream trucks.* Ice cream trucks are allowed to operate within the public right-of-way in residential districts.
- (17) *Prohibitions.* Mobile food units are prohibited from vending activities within 500 feet of an event for which the city has issued a special event permit, unless they are specifically authorized by the event organizer to participate in the event.

**SECTION 4.** That this ordinance shall take effect upon adoption and be published as provided by law.

Passed and adopted by the City Council of the City of Elk River this 4<sup>th</sup> day of February, 2019.

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John J. Dietz, Mayor

ATTEST:

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Tina Allard, City Clerk