

## Chapter 183 MOBILE FOOD UNITS

Item#5A.II

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#### **183.01 Definitions.**

A. "Commissary" means a licensed food facility regulated by a governmental entity where food is stored, prepared, portioned, packaged or any combination thereof, and where such food is intended for consumption at another location or place from a mobile food unit or pushcart.

B. "Food establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. For the purposes of this chapter, "food establishment" does not include an establishment that offers only pre-packaged foods that are non-potentially hazardous; a produce stand which sells only whole, uncut fresh fruits and vegetables; an establishment operating in a farmers market if potentially hazardous food is not sold or distributed; a residence in which food that is non-potentially hazardous is sold for consumption off premises to a consumer customer provided the food is labeled so as to identify its preparer; a private home that receives catered or home-delivered food; child care facilities or food establishments in hospitals or health care facilities which are subject to regulation by state agencies; supply vehicles and vending machines.

C. "Mobile food unit" means motorized, a self-propelled food establishment or a trailer or vehicle towed by a motorized vehicle, that is readily movable, and which typically operates at a remote location and returns to base of operation or commissary at the end of its daily business. Mobile food units are considered Class IV mobile food units by the Iowa Department of Inspections and Appeals.

D. "Mobile food unit zone" means an area of governmentally owned property that has been designated as a location upon which mobile food units and pushcarts may sell or offer for sale for immediate consumption food and/or beverages.

E. "Potentially hazardous food" A biological (microorganism), chemical (cleansers, pesticides), or physical (fingernail, plastic) property that may cause an unacceptable consumer health risk.

F. "Pushcart" means a non-motorized food establishment limited to serving non-potentially hazardous packaged foods with limited assembly or commercial or commissary prepared foods that are reheated on the pushcart, such as frankfurters. Pushcarts may be towed by a vehicle, but are generally capable of being moved by human power. Pushcarts are considered Class III mobile food units by the Iowa Department of Inspections and Appeals.

#### **183.02 License and permit required.**

No person shall sell or offer for sale or otherwise engage in a business as a mobile food unit or pushcart within the city without having first obtained a license to operate as such. A mobile food unit license is a special license and is required in addition to any other required city business license or state license or permit the person may hold or be required to hold. A separate mobile food unit license is required for each mobile food vehicle or pushcart from which business is conducted in the city. Mobile food unit licenses are not transferable or assignable. The license fee required shall be established by the city council by resolution. [Permits expire at the end of each calendar year.](#)

No person shall sell or offer for sale or otherwise engage in business as a mobile food unit or pushcart within the public right-of-way, park or in a designated mobile food unit zone, unless a special occurrence permit has been obtained during a City Affiliated Event. . The owner shall make a formal request and complete an application to the city outlining all dates/times. Special Occurrence Permits require Building Official approval and a fee established by city council by resolution.

### **183.03      Application.**

An application form available from the Building and Zoning Department must be filled out and submitted to the Building and Zoning Department for processing. The completed application must be submitted together with a copy of the applicant's Iowa retail sales tax permit and proof of liability insurance, including commercial general liability insurance coverage and automotive liability insurance coverage. Commercial general liability insurance shall include coverage for bodily injury, death and property damage with limits of liability of not less than one million dollars per occurrence and aggregate combined single limit. Automobile liability insurance coverage shall include coverage for bodily injury, death and property damage with limits of liability of not less than one million dollars per occurrence, combined single limit. Certificates of insurance shall provide that the policy or policies have been endorsed to provide thirty days advance notice of cancellation and forty-five days advance notice of non-renewal and ten days advance notice of cancellation for non-payment of premium and that these notices shall be provided to the city finance department by email, facsimile or mail. Cancellation of required insurance automatically revokes and terminates the mobile food unit license to operate in Windsor Heights unless other insurance policies are provided in a timely manner to the city. If the mobile food unit sells food or beverages other than pre-packaged items that do not require hot or cold handling procedures, the application shall also contain a copy of the mobile food unit's license issued by the Iowa Department of Inspections and Appeals, a copy of the food establishment license issued by the Iowa Department of Inspections and Appeals for any commissary kitchen or other premises where food is prepared, copies of the food protection manager certifications, the name and address of the facility at which any waste fat, waste oil or waste grease generated by the mobile food unit operation is disposed of, and a copy of the certificate of annual compliance issued by the fire marshal.

### **183.04      Exceptions.**

A. Temporary food units associated with a private party on private, residential property hosted by the owner of the property upon which the unit is dispensing food and/or beverage, such as a graduation party, wedding reception, birthday celebration or similar event, are exempt from the licensing provisions of this chapter provided the unit's participation is by invitation or contract with the host and provided the vendor displays proof of its authorization to operate in Iowa and required health inspection certification

### **183.05      General regulations for all mobile food units and pushcarts.**

A. Mobile food units shall have, and at all times maintain, all necessary licenses and permits from the Iowa Department of Inspections and Appeals as well as the City of Windsor Heights's required permits and licenses.

B. Mobile food units shall at all times operate in compliance with all applicable food, health and sanitation laws and shall comply with all health department regulations regarding food service, food storage and preparation, food handling and food cooking and shall have a valid inspection certificate or permit evincing health department inspection and approval on display and easily visible to the mobile food unit's or pushcart's patrons at all times in operation.

C. No mobile food unit or pushcart shall offer for sale or sell food and/or beverage between the hours of 12:00 a.m. and 6:00 a.m.

D. No mobile food unit or pushcart may operate in the right-of-way or outside of a designated mobile food vending zone established by the City of Windsor Heights absent of the premises obtaining a special occurrence permit which must be approved by the Building Official.

E. No mobile food unit or pushcart shall operate within a city park unless such operation occurs within the boundaries of a designated mobile food unit zone or a separate Special Occurrence Permit permit has been acquired from the Building Official.

F. No mobile food unit or pushcart shall park or stand its pushcart or vehicle within (1) 40 feet of a pedestrian crosswalk, or a stop sign or traffic signal light, (2) adjacent to a designated bicycle lane, or (3) absent written authorization of the restaurant, within 200 feet of any public entrance to any permanent restaurant during hours the restaurant is open for business. For purposes of this section, bars that serve food are deemed to be restaurants. Mobile food units and pushcarts that are not directly involved with the sponsor organization shall not park or stand within 1,200 feet (3 city blocks) of an approved special event.

G. No mobile food unit or pushcart shall operate in a manner that violates Chapter 54 of the city code concerning noise. A mobile food unit or pushcart shall not call out to, cry out, shout out or otherwise communicate or make any noise or use any device to call attention to his or her unit's or cart's location and operation.

H. A mobile food unit or pushcart is responsible for keeping and maintaining the area around and within fifty feet of the mobile food unit or pushcart neat, clean and free from trash, debris, garbage and other hazardous conditions at all times regardless of whether the trash, debris or garbage originated from the operation of the unit or pushcart or was left in the area by a pedestrian passersby or natural conditions. A mobile food unit or pushcart shall provide adequate trash receptacles for the public for all garbage from its operation and from the accumulation of garbage in the area around his or her unit or pushcart at all times the unit is in operation. At the close of its daily business the mobile food unit or pushcart must remove all garbage from the area and properly dispose of it away from the site of its operation; the garbage shall not simply be placed in nearby public garbage receptacles provided for use to the general public at large.

I. The license required by this chapter, the state sales tax permit and all licenses, permits or certificates required to be displayed by state law, shall be posted on the mobile food unit or pushcart so as to be readily visible to all persons conducting business with the mobile food unit.

J. Mobile food units and pushcarts shall only offer single service food utensils such as cups, straws, knives, forks, spoons, stirrers, plates, bowls, wrappers, containers, and similar utensils, which shall be individually wrapped if usual, and kept in a clean place and only used once in the service of food and/or beverage.

K. No mobile food unit or pushcart shall be left at its operating location at the end of its business day and shall be removed to its base business operation location.

L. No mobile food unit or pushcart shall conduct operations at a location or in a manner that hinders, impedes or restricts access to a pay phone, mail box, emergency call box, traffic control box, fire hydrant, entrance to a building or a driveway.

M. A mobile food unit or pushcart operating on private property shall not encroach into any public sidewalk or public right-of-way. All private property owners allowing mobile food units on property must register with the city as having a mobile kitchen for public safety purposes.

N. No mobile food unit or pushcart is allowed on the grounds of any school unless it has been invited to be there as part of a school authorized function.

O. The city reserves the right to move a mobile food unit or pushcart from any location if determined to be necessary for the provision of emergency or public services or in the interest of public safety, peace and welfare.

P. No mobile food unit or pushcart shall offer for sale or sell any liquor, beer or wine from such unit [unless a Liquor License has been approved by the Iowa Alcoholic Beverage Division-](#)

Q. City Sanction or Sponsored events may be reserved or restricted by the City of Windsor Heights including the designated mobile food vending zone established by the City of Windsor Heights. Check with the Building Official for current event Special Occurrence Permits. Special Occurrence Permits are given on a first come first serve basis depending on space provided.

#### **183.06 Pushcart specific regulations.**

A. A pushcart shall not allow, cause or obstruct the passage along any sidewalk, street, alley or parking lot as a result of a congregation of people seeking service from the pushcart or because of the size, shape or placement of the pushcart so as to interfere, inhibit or block the normal flow of pedestrian or vehicular traffic.

B. A pushcart shall not violate parking regulations.

C. A pushcart shall not sell to any person operating a vehicle on a public street while the person's vehicle is located within the traveled portion of the roadway. A pushcart may sell to a person operating or occupying a motor vehicle that is legally parked, but may only do so from the curb side of said parked vehicle.

D. No pushcart or equipment shall be allowed to remain in the public right-of-way at the close of business.

E. All pushcarts and equipment associated with the business shall be maintained so as to enhance the aesthetic and overall appearance of the area in which the pushcart is operated.

F. Pushcart vendors agree to indemnify and hold harmless the city from and against any and all loss, cost, damages or claims to persons or property, including property of the city, arising out of or claimed to have arisen out of the operation of a pushcart. In addition, pushcart vendors agree to defend, at no cost to the city, any such claims or lawsuits. The city may, at its option, join the defense of such claim or lawsuit without relieving the pushcart vendor from its obligations to indemnify, hold harmless and defend the city.

G. Pushcarts may operate anywhere within a designated mobile food unit zone on a paved surface, designated parking space or sidewalk subject to the other requirements of this chapter. In addition, a pushcart may operate at a requested location on private property provided application has been made for permission to operate the requested location and that application is accompanied by a verifiable letter from the owner or person in control of the property granting permission to operate on the premises. Permission by the owner/person in control of property may be rescinded at any time by notifying the city Building and Zoning Department in writing that permission is rescinded. If permission is rescinded, no fees or portion of fees paid will be refunded.

H. No pushcart shall conduct business in areas of the city at which they are not permitted or authorized.

I. Pushcarts shall be subject to the same permit and fee structure as all other mobile food units.

**183.07 Mobile food unit specific regulations.**

A. Sales shall be conducted on the sidewalk side of the mobile food unit whenever possible away from moving vehicles.

B. No mobile food truck should provide or allow any dining area, tables, chairs, booths, benches, bar stools, stand-up counters, or similar furniture unless allowed by a private lease on private property

C. No mobile food unit shall be used for any purpose other than as a mobile food unit offering food and/or beverage to customers.

**183.08 Enforcement and penalties.**

The Polk County Health Department, the Windsor Heights Police Department, the Windsor Heights Fire Department and the Windsor Heights Building and Zoning Department of the City of Windsor Heights are authorized to enforce this chapter. The Polk County Health Department may elect to pursue enforcement under the provisions of this chapter or under applicable state laws and regulations with the sanctions available thereunder.

The performance of any action contrary to the provisions of this chapter may be cited as a municipal infraction offense. Additionally, failure to adhere to the regulations is cause for revocation or suspension of a license to operate as a mobile food unit or pushcart.