



City of Blaine Anoka County, Minnesota

Blaine City Hall
10801 Town Sq Dr NE
Blaine MN 55449

Legislation Text

File #: ORD 21-2485, Version: 2

Administration - *Erik Thorvig, Community Development Director*

Title

Second Reading

Establishing Chapter 22, Article XII, Mobile Food Trucks Regulations; Amending Chapter 22, Article VI, Section 22-273 - Exceptions to Definitions; and Amending Chapter 70, Article II, Section 70-44 - Exceptions

Executive Summary

Based on feedback from the City Council at the April 19 and June 14, 2021 workshops, amendments are proposed to allow food trucks with certain regulations in the City of Blaine. First reading was held on November 1, 2021 with no proposed changes by Council.

Background

Staff have discussed the topic of food truck regulations in the City as an increase in requests are being made by vendors. The council discussed this topic at the April 19 and June 14, 2021 workshops and was generally comfortable making modifications to the ordinance to expand the presence of food trucks in the City.

Blaine City Code currently defines food trucks as a transient merchant. A transient merchant means a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than 14 consecutive days.

Current city regulations only permit transient merchants in I-2A, Heavy Industrial zoning districts. This was intentional when the regulations were established to limit transient merchants in the City. Food trucks are also permitted when a special event license is granted through the City. Food trucks have become more popular since the transient merchant regulations were established. There have been frustrations with current regulations in Blaine by both food truck vendors and groups wanting to host a food truck.

Based on feedback provided by the City Council at both workshops, the following is general summary of the proposed changes.

Amending Chapter 22, Article VI, Section 22-273 - Exceptions to Definitions

This section of the city code regulates transient merchants. As mentioned prior, mobile food trucks are currently considered a transient merchant. The proposed amendment exempts mobile food trucks from the definition of a transient merchant as food trucks will now have their own set of requirements.

Amending Chapter 70, Article II, Section 70-44 - Exceptions

Chapter 70, Article II regulates special events in Blaine. A special event is defined as an activity planned and constructed by a person, corporation, or organization on public, commercial, regional recreational or industrial zoning property. Examples of a special event include the Blaine Festival, various events at the National Sports Center outside of the typical scope of the facility such as concerts, 3M Open, etc.

The proposed amendment clarifies that *Events sponsored by a business such as a customer appreciation or employee event, grand opening, etc. where a food truck is present and is the only attraction* are exempt from the requirements of the special event ordinance. This makes having a food truck at said events identified in the exemption a much less cumbersome process. Additionally, food trucks would still be permitted at events that require a special events permit.

Establishing Chapter 22, Article XII, Mobile Food Truck Regulations

Chapter 22, Article XII establishes new and separate regulations for mobile food trucks.

Licensing and Registration - The City would only require a registration for food trucks. This process would require submittal of a brief registration form to the City Clerk's office. Registration would allow a food truck operator to conduct business in the City through December 31 of the year in which registration is provided. Registration is not required for each instance the food truck operates. There is no fee proposed. The food truck operator must provide proof of any necessary licensing required by the State of Minnesota or Anoka County.

Allowed Activities - The following is where food trucks are allowed to operate.

- In conjunction with a private party or event located at a city park, provided the renter of the park initiates the request for a food truck.
- In conjunction with a city sponsored event located at a city park or other city owned property.
- In conjunction with a school sponsored event located on school district owned property.
- In conjunction with a private event, on private property, such as a customer appreciation or employee event, grand opening, birthday party, graduation, etc. Consent of the private property owner shall be obtained.
- At the National Sports Center in conjunction with an event hosted at the National Sports Center.
- At Northtown Mall, as part of a food truck-oriented event.
- In conjunction with a special event as defined under Chapter 70.

Prohibited Activities - General regulations related to hours of operation and other safeguards to protect the health, safety and welfare of the public are identified in this section.

Strategic Plan Relationship

Not applicable.

Board/Commission Review

Not applicable.

Financial Impact

There is no fee proposed for the food truck registration. It's anticipated that staff time will be minimal to process food truck registrations.

Public Outreach/Input

One food truck operator has communicated with some councilmembers and staff regarding the proposed regulations. The operator provided comments on November 5. He was very appreciative of the effort and commended the ordinance changes. He recommended two minor changes related to licensing requirements and length of operation. Staff didn't have a concern with the proposed changes and amended the ordinance to reflect the changes.

Staff Recommendation

By motion, adopt the ordinance as proposed.

THE CITY OF BLAINE DOES ORDAIN: (Added portions are underscored and deleted portions are shown with overstrike.)

ARTICLE XII. - MOBILE FOOD TRUCKS

DIVISION 1. - GENERALLY Sec. 22-721. - Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Mobile Food Truck means a food or beverage service establishment that is a vehicle mounted unit, either motorized or trailer, and readily movable, without disassembling, for transport to another location.

Sec. 22-722. - Exceptions to definitions.

For the purpose of this article, the term Mobile Food Truck shall not apply to:

- (a) Vending trucks as defined in Chapter 22, Article IX.
- (b) Transient merchants as defined in Chapter 22, Article VI.

Exemption from these definitions shall not, for the scope of this article, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

Secs. 22-723-22-730. - Reserved.

DIVISION 2. - LICENSING AND REGISTRATION Sec. 22-731. - Licensing and Registering.

- (a) *County license required.* No person shall operate a Mobile Food Truck within the city limits without first having obtained the appropriate license from the county as it may be amended from time to time, if the county issues a license for the activity.
- (b) *State license required.* When a state license is required, no person shall operate a Mobile Food Truck within the city limits without first having obtained the appropriate license from the State of Minnesota.
- (c) *City Registration required.* Prior to operating a Mobile Food Truck within city limits, the operator shall register with the City Clerk's office. Registration shall be completed on a form provided by the City Clerk's office including the following information.
 - (1) The applicant's information.
 - (2) Proof of any required county or state license.
 - (3) Signature affidavit acknowledging receipt of applicable city regulations for Mobile Food Trucks.

- (d) *Fee.* No fee is required for City Registration.
- (e) *Duration.* Each City Registration shall be valid through December 31 of the year in which registration is provided. Registered Mobile Food Truck operators are only required to register prior to their first event and registration is valid for any subsequent events.

Sec. 22-732. - Revocation.

- (a) *Generally.* Any registration issued under this division may be suspended or revoked at the discretion of a hearing officer on behalf of the city council for violation of any of the following:
 - (1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.
 - (2) Fraud, misrepresentation or false statements made during the course of the registered activity.
 - (3) Engaging in any prohibited activity as provided under section 22-743 of this article.
 - (4) Violation of any other provision of this article.
- (b) *Multiple persons under one registration.* The suspension or revocation of any registration issued for the purpose of authorizing multiple persons to conduct business as Mobile Food Truck operators on behalf of the registered Mobile Food Truck operator shall serve as a suspension or revocation of each authorized person's authority to conduct business as a Mobile Food Truck operator on behalf of the registered Mobile Food Truck operator whose registration is suspended or revoked.
- (c) *Notice.* Prior to revoking or suspending any registration issued under this chapter, the city shall provide a registration holder with written notice of the alleged violations and inform the registered Mobile Food Truck operator of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the registration application, or if no residential address is listed, to the business address provided on the registration application.
- (d) *Hearing.* Upon receiving the notice provided in part (c) of this section, the registered Mobile Food Truck operator shall have the right to request a hearing. If no request for a hearing is received by the city clerk within ten days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a hearing is requested within the stated time frame, a hearing shall be scheduled with a hearing officer on behalf of the city council within 20 days from the date of the request for the hearing. Within three regular business days of the hearing, the hearing office, on behalf of the city council, shall notify the licensee of its decision.
- (e) *Emergency.* If, in the discretion of the city manager or their designee, imminent harm to the health or safety of the public may occur because of the actions of Mobile Food Truck operation registered under this chapter, the city manager or their designee, on behalf of the city council, may immediately suspend the person's license and provide notice of the right to hold a subsequent hearing as prescribed in part (c) of this section.
- (f) *Appeal.* Any person whose registration is suspended or revoked under this section shall have the right to appeal that decision in court.

Sec. 22-733. - Registration transferability.

No registration issued under this article shall be transferred to any person other than the person to whom the registration was issued.

Secs. 22-734-22-740. - Reserved

DIVISION 3. - REGULATIONS

Sec. 22-741.- Allowed activities.

Mobile Food Trucks are allowed under the following circumstances:

- (a) In conjunction with a private party or event located at a city park, provided the renter of the park initiates the request for a food truck.
- (b) In conjunction with a city sponsored event located at a city park or other city owned property.
- (c) In conjunction with a school sponsored event located on school district owned property.
- (d) In conjunction with a private event, on private property, such as a customer appreciation or employee event, grand opening, birthday party, graduation, etc. Consent of the private property owner shall be obtained.
- (e) At the National Sports Center in conjunction with an event hosted at the National Sports Center.
- (f) At Northtown Mall, as part of a food truck-oriented event.
- (g) In conjunction with a Special Event as defined under Chapter 70.

Sec. 22-742. - Prohibited activities.

No Mobile Food Truck operator shall conduct business in any of the following manner:

- (a) Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- (b) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way. Parking of Mobile Food Trucks shall not occur on any public right-of-way, except for events permitted under Section 22-741(c) located in a residential zoning district or events identified in Section 22-741(b).
- (c) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.
- (d) Conducting business before 7:00 a.m. or after 10:00 p.m.
- (e) Failing to provide proof of license, or registration, and identification when requested.
- (f) Using the registration of another person.
- (g) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No Mobile Food Truck operator shall claim to have the endorsement of the city solely based on the city having issued a registration to that person.
- (h) Remaining on the property of another when requested to leave.
- (i) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

Sec. 22-743. - Penalty.

Any individual found in violation of any provision of this article, shall be a guilty of a misdemeanor.

Sec. 22-744. - Severability.

If any provision of this article is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

Sec. 22-745. - Effective date.

This article becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

Secs. 22-746-22-750. - Reserved.

ARTICLE VI. - PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

DIVISION 1. - GENERALLY

Sec. 22-273. Exceptions to definitions.

For the purpose of this article, the terms peddler, solicitor, and transient merchant shall not apply to:

- (a) Noncommercial door-to-door advocates. Nothing within this article shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in noncommercial door-to-door advocacy shall not be required to register as a solicitor under sec. 22-296.
- (b) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
- (c) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.
- (d) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.
- (e) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- (f) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.
- (g) Any person participating in an organized multi-person bazaar or flea market.
- (h) Any person conducting an auction as a properly licensed auctioneer.
- (i) Any officer of the court conducting a court-ordered sale.
- (j) Mobile Food Trucks as defined in Chapter 22, Article XII.

Exemption from these definitions shall not, for the scope of this article, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

(Ord. No. 19-2437, 11-4-2019)

ARTICLE II. - SPECIAL EVENTS ON PUBLIC LANDS OR PRIVATE PROPERTY WITH COMMERCIAL, REGIONAL RECREATIONAL OR INDUSTRIAL ZONING OR LAND USES

Sec. 70-44. Exceptions.

- (a) Activity sponsored by a school district.
- (b) Any other city-sponsored special event or other event at city manager's discretion or their designee.
- (c) Events sponsored by a business such as a customer appreciation or employee event, grand opening, etc. where a food truck is present and is the only attraction.

INTRODUCED AND READ in full this 1st day of November, 2021.

PASSED by the City Council of the City of Blaine this 15th day of November, 2021.