Section 321- Mobile Food Units

321.01 Purpose. The purpose of this Section is to protect the public health, safety, and general welfare of the community through the establishment of standards to ensure that Mobile Food Units as defined herein are appropriately located, licensed and inspected, do not impede vehicular access, traffic flow or circulation, or create public safety hazards.

321.02 Definitions. The following words and phrases, when used in this Section and unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this Subsection:

Mobile Food Unit – means a food and beverage service establishment that is a vehicle mounted unit, such as:

A. Motorized or Trailer: shall be defined as any self-propelled vehicle or fully contained trailer, licensed by the State of Minnesota to operate on public streets and roadways, which vends food (either prepackaged, prepared in the unit, or at a commissary) at retail for immediate consumption by the customer. Said vehicle and/or trailer may also be referred to herein as "unit".

B. A unit operating in conjunction with a permanent business licensed under MN Statutes Chapter 157 or Chapter 128A at the site of the permanent business by the same individual or company, and readily moveable, without disassembling, for transport to another location; and a self-contained unit, in which food is stored, cooked, and prepared for direct sale to the consumer.

C. Food Cart: shall be defined as a food and beverage service establishment that is a non-motorized vehicle self-propelled by the operator.

D. Ice Cream Truck: shall be defined as a motor vehicle utilized as the point of retail sales of pre-wrapped or pre-packaged ice cream, frozen yogurt, frozen custard, flavored frozen water, or similar frozen dessert products.

Commissary - shall be defined as a permanent, State-licensed location which services food trucks, including but not limited to the provision of food storage, paper goods and supplies, waste and grease disposal and food preparation.

Vend or Vending - shall be defined as the process of the transfer of a food product from the unit operator to a customer. Vending begins when the unit initially stops in a location at which customers can access the unit and continues until the unit leaves that location.

321.03 Applicability. Notwithstanding any contrary provision of any City ordinance, regulation, or rule, Mobile Food Units shall be licensed and located as provided in this ordinance:

Subd. 1. Permit Required. Within the City of Big Lake, no person shall vend from a Mobile Food Unit without first having obtained a permit to do so from the City.

A. Form. An application for a permit shall be submitted to the City on forms prepared by the City.

B. Required Information. The applicant shall file with the application such information that will clearly establish the times and places where the applicant desires to operate; the applicant shall describe the physical characteristics of the vehicle/unit being used; the applicant shall describe products to be sold and any other information the City may require.

1. Mobile Food Unit applicants wishing to operate on any publicly owned land, right-of-way, or street located in a residential district, or any city park shall be required to meet all requirements listed under Section 321.05 (Investigation, Approval, or Disapproval) of this Section.

Subd. 2. Fees. All applications for a permit under this Section shall be accompanied by the fee established in the City's fee schedule as adopted from time to time by the Council.

A. Proration of fee is allowed only on annual permits.

B. There shall be no refunding of paid fees, nor shall a permit be transferrable.

C. A separate permit shall be required for each Mobile Food Unit regardless of ownership, and the approved permit shall be displayed on or within the unit, visible from the outside of the unit, whenever the unit is vending.

Subd. 3. Department of Health License Requirement. Applicants must provide evidence of current licensing of the unit by the Minnesota Department of Health, the Minnesota Department of Agriculture, or other approved Department of Health licensing authority.

Subd. 4. Term of Permit.

A. Annual Permits.

1. Permits issued as an annual permit, shall expire January 1 of each year.
2. Annual Permit fees are allowed to be pro-rated.

B. Termed Permit.

1. Termed Permits are issued on a 1 to 4 day term, or a 5 to 10 day term. Dates of vending are not required to be concurrent.
2. All permits issued for a specific term must adhere to the dates allowed to vend identified on the applicant's permit.
3. Termed permit fees shall not be prorated unless otherwise specified by this Code or by law.

Subd. 5. Insurance Requirements.

A. The Applicant shall carry a general policy of liability insurance which shall provide a limit of coverage of not less than three hundred thousand dollars/one hundred thousand dollars ($300,000/$100,000) for bodily injury and twenty five thousand dollars ($25,000) for property damage.

1. Coinsured Requirement. Mobile Food Units operating on any public property must provide a certificate of insurance showing the City listed as coinsured.

B. Notice of Cancellation. The insurance policy required by this Section shall further provide that no cancellation of said insurance policy, for any cause, may be made by the insured or the insurance company without first giving thirty (30) days' notice to the City, in writing, of the intention to cancel.

Subd. 6. Sound Devices. No person operating a Mobile Food Unit shall shout, make any cryout, blow a horn, ring a bell or use any sound device, including any loud speaking radio or sound amplifying system upon any public property, or upon any private premises in the City where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon public property, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell, unless prior approval with conditions is received from the City.

Subd. 7. Mobile Food Unit Operations.

A. At no time shall any sales be made from a Mobile Food Unit while it is in motion.

B. Shall not employ or utilize any signs that are not attached directly to the vehicle/trailer/unit. Signs may not project above the unit, nor more than six (6) inches from the side of the unit. No flashing, strobing or intermittent lighting is allowed.

C. No external seating may be utilized while operating on public property.

D. No other equipment may be utilized that is not fully contained within the vehicle/trailer/unit while operating on public property.

E. Any generator in use must be self-contained and fully screened from view, and operate so as not to be deemed a nuisance.

F. Operations shall be limited to the number of days indicated on the applicant's State License.

G. Applicant shall provide waste disposal for litter and garbage generated by the operation of the Mobile Food Unit, and shall clean all such litter and garbage before moving from the location.
H. The Mobile Food Unit and Vendor shall obey the orders of any traffic control officer, peace officer, zoning official, or inspector, and shall be open to inspection during all open hours.

I. Hours of operation.
   1. Public Property - Hours of vending operation shall be allowed from 8:00 a.m. to 10:00 p.m. An exemption of this requirement would require approval from the City.
   2. Private Property - Hours of vending operation shall be allowed from 7:00 a.m. to 1:00 a.m. An exemption of this requirement would require approval from the City.

Subd. 8. Mobile Food Units are prohibited from the following vending activity:

A. Vending is not allowed at Lakeside Park located at 101 Lakeshore Drive without having first obtained a Lakeside Park Vendor Permit issued by the City.

B. Vending is not allowed within 500 feet of the property boundary of Lakeside Park without having first obtained a Lakeside Park Vendor Permit issued by the City.

C. Vending is not allowed on any publicly owned Highway or County Road within the City.

D. Vending is not allowed within 150 feet of the property line of any restaurant within the City.

E. Vending is not allowed within 300 feet of a community event for which the City has issued a Special Event Permit, unless they are specifically authorized by the event sponsor to participate in the event. The terms of the Special Event Permit shall apply.

Subd. 9. Location or Placement.

A. On public property.
   1. No unit shall occupy more than two (2) parking stalls.
   2. In no case shall a unit vend while occupying a traffic lane, parked on a sidewalk, or in any location which obstructs or impedes traffic.
   3. The unit shall vend only from the side of the vehicle away from moving traffic and as near as possible to the curb or side of the street.
   4. The unit shall not vend to any person standing in the traveled portion of any public street.
   5. On public streets, no unit shall vend within sixty (60) feet of the

intersection of two or more public streets, nor within thirty (30 feet of a driveway which enters onto a public street.

6. No unit shall vend while in motion.
7. There shall be no overnight parking of Food Trucks/Vendors on any public property.
8. Connection of the unit to any public utilities is strictly prohibited.

B. On private property. Mobile Food Units are allowed to operate on private property zoned retail, commercial, or industrial as expressly authorized by the owner/manager/agent for the private property, and only for the length of time authorized by their State License.

321.04 Exemptions. The following are exempt from Mobile Food Unit licensing requirements:

A. Mobile Food Units which are vending under a Special Event Permit issued by the City of Big Lake are allowed to operate under that Special Event Permit as authorized by the organizers/managers of the event, at the location of, and for, the duration of the event.

B. Appropriately licensed caterers are exempted from this Section for catered events.

C. Mobile Foods Units which are vending at a school, church, or other non-profit owned land for a non-profit event.

D. Mobile Food Units which are hired to vend on private property for private events, located in any residential or agriculture zoned property. The Mobile Food Units must be fully contained on private property.

E. Mobile Food Units owned and operated by a commercial food business located in the City of Big Lake.

321.05 Investigation, Approval, or Disapproval. The City may conduct such background checks as the city deems necessary and prudent when considering Mobile Food Unit applications.

A. Mobile Food Unit applicants wishing to operate on any publicly owned land, right-of-way, or street located in a residential district, or in any City Park, shall be required to undergo a background check that may include, but is not limited to, a driver's license check and a criminal history check, for the protection of the public good.

321.06 Approval, or Denial of Permit. The City shall approve or deny the application in the manner prescribed in this Section within a reasonable period of time. The following shall be grounds for denying a permit:

A. Failure of an applicant to truthfully provide any information requested by the City as part of the application process.

B. Failure of the applicant to complete the application and/or pay any required fee.

C. When an applicant has a bad business reputation. Evidence of a bad business reputation may include prior revocations of any permit or license, prior convictions for violation of any federal, state, or local law or which adversely reflects upon the person's ability to conduct the business for which the permit is being sought, or prior complaints with the City, Better Business Bureau, State Attorney General, or other similar business or consumer rights office.

D. The conviction of the applicant within the past five years from the date of application, for any violation of any Federal or State statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will not adversely affect the health, safety, and welfare of the residents of the City. Such violations shall include but not be limited to: burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

E. The revocation within the past five years of any license issued to the applicant for the purpose of conducting a Mobile Food Unit or similar business transaction.

F. The denial, within the last year, of any license or permit application for the purpose of conducting a Mobile Food Unit or similar business transaction.

G. Failure to follow all Federal, State, and Local regulations, including failure to be registered, licensed or permitted if such registration, license or permit is required by any Federal, State, or Local regulation.

H. Appeal. Any permit applicant aggrieved by the denial of a permit may appeal by filing with the City Administrator within ten (10 days of the date of mailing of the notice of denial, a written statement requesting a hearing before the City Council and setting forth fully the grounds for the appeal. A hearing shall be held within thirty (30) days of receipt of the request. Notice of the hearing shall be given by the City Administrator in writing, setting forth the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permit applicant at his/her last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) prior to the date set for hearing.

321.06 Suspension or Revocation.

A. Permits issued under the provisions of this Section may be revoked after notice and a hearing conducted by the City Administrator, for any of the following causes: violation of this Section; violation of federal, state, or local law, rule, or regulation relating to Mobile Food Units; or any action identified in Subd. 11 of this Section.

B. Notice of the hearing for revocation of a permit shall be given by the City Administrator in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permit holder at his/her last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

C. Appeal. The decision of the City Administrator following a hearing as provided for in this Section can be appealed by petitioning the Big Lake City Council. The appeal must be delivered to the City Administrator in writing within ten (10) days of the date of mailing of the City Administrator's decision.

D. Emergency. If, in the discretion of the City Administrator, imminent harm to the health or safety of the public may occur because of the actions of any person permitted under this Section, the City Administrator may immediately suspend the person's permit and in such event shall provide notice to the person of the right to a post-suspension hearing pursuant to the procedures in Subd. 321.06.B. of this Section.

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

321.08 Penalty. Any violation of this Section, including but not limited to the vending operation of a Mobile Foot Truck within the City without a permit issued pursuant to this Section, shall be a misdemeanor punishable in accordance with the penalties established by Minnesota Statutes.