

# **PROPOSED ORDINANCE REGULATING FOOD TRUCKS**

## **CITY COUNCIL WORKSHOP, SEPTEMBER 27, 2016**

### **CREATING CHAPTER 3.15 OF THE CITY CODE**

**Over the past year, a staff committee with representatives from Planning, Law, Police, Fire, Zoning, Licensing, Environmental Health, Engineering and Community Events has been developing an ordinance which will specifically regulate food trucks in the City of Wichita. Currently, mobile food vendors are regulated by the City’s Transient Merchant ordinance (Chapter 3.95) or the Street Vending ordinance (Chapter 3.97), neither of which adequately addresses the unique aspects of the food truck industry. The expected outcome of this proposed ordinance is to provide clarification for both the operators of these businesses as well as city enforcement staff of regulations deemed necessary to address the public safety concerns that mobile food vending presents. The following is an overview of the proposed regulations:**

#### **Definitions**

The ordinance defines the terms relevant to the regulation of mobile food units, more commonly referred to as “food trucks.” The terms “public property” and “public right-of-way” are included, as the proposed ordinance expands the ability of mobile food vendors (MFVs) to operate mobile food units (MFUs) on public property.

#### **MFV License required**

A license is required to operate a MFU in the City. **Exceptions** include:

- Catering services at a private event not open to the public
- Ice cream trucks (regulated by 3.89) unless selling food other than ice cream
- Sidewalk vendors licensed under Chapter 3.97 of the City Code
- Door to door sales or delivery of prepared food
- Chapter applies to sale of agricultural/farm, garden, aquacultural or fruit products grown in Kansas, vendors must obtain license but no fee is required

#### **MFV License Requirements/Standards for Issuance**

- Requires Name, Address, Email Address of Applicant and Contact Person
- 18 years of age
- Business Name and Registered Entity Name, Brief Description of Items to Sale
- Vehicle Information and Proof of Valid Kansas Driver’s License for Vehicle Type
- Kansas Sales Tax Number
- No Suspension/Revocation of Similar License in Other Jurisdictions
- Proof of General Liability Insurance Policy, \$500,000 single limit, \$1 million aggregate
- Statement that No Registered Sex Offender works on premises of MFU
- Location where MFU will be stored when not in use
- If license denied for false statement, applicant ineligible to reapply for one (1) year

## Costs of MFV License and Renewal Period\*

- \$50 for each 30 days, or portion thereof
- \$250 for 6 months
- \$400 for 1 calendar year

## Operating Conditions:

- **Location – MFVs may park as permitted by Zoning Code, subject to:**
  - Cannot operate on either public or private property where signage
    - Hinders traffic on any street or flow of bicycles in any bike lane or route
    - Hinders the flow of pedestrians along sidewalks
    - Blocks/reduces to less than 5 feet accessible route for disabled
    - Blocks/obstructs access to any driveway or access to any property
    - Exception for streets closed for a community event
  - For Fire Safety – MFUs must be 10 feet from any other MFU; 20 feet from any building opening, can be reduced to 10 feet with consent of business owner
  - No vending within 150 feet from a restaurant unless authorized in writing by restaurant owner
  - No vending within 500 feet of a community event unless authorized by promoter
  - Every MFU must be stationary while vending
  - Every MFU vending on a public street, alley, sidewalk or other public ROW must be legally parked, no vending to persons standing in the street – exception for community event
  - No vending on Park property except per Park Regulations – Chapter 9.03 of Code
- **All MFVs on private property or public property other than public ROW must have written permission of the owner or City Manager or designee for public property**
- **Hours of operation** – prohibited from 1:00 a.m. to 6:00 a.m.
- **Fire Safety:**
  - Limit of 100 lbs. of propane, cylinders must be secured from tipping and impact
  - MVUs have various hood requirements based on type of operation with **12 months allowed to come into compliance**
  - Regular cleaning of hoods required
  - Fire extinguishers required by size with annual servicing
- **No sales** of alcoholic liquor, cereal malt beverage or tobacco without all required licenses
- **No flashing lights** on MFU, shine on other property or cause glare for any traffic
- **Signs** on MFU may not extend more than 1 foot from MFU
- **Sound devices** – allowed 10 a.m. to 8:30 p.m., cannot be audible over 300 ft.
- **Trash, Site clean-up** – must provide trash receptacles, dispose of all trash from site
- **Seating** – no tables/chairs are permitted that hinder flow of vehicle, bicycle or pedestrian traffic, or reduce to less than 5 feet any accessible route for disabled
- **Licenses and Permits** – must maintain all applicable to use/operation of MFU
- **Food Handling** - MFVs and/or employees shall meet conditions of Chapter 7.20 of Code
- **Wastewater Disposal** – all wastewater to be disposed of in compliance with Chapter 16.32 of Code

## **License Denial Suspension/Revocation**

- Failure to Provide Complete Information on Application
- Failure to Pay License Fee
- Providing False Information on application
- Suspension/Revocation of similar license within 2 years prior to application
- Failure to Comply with Operating Requirements of this Chapter
- Failure to maintain liability insurance
- Allowing a registered sex offender to work upon premises of MFU
- Licensee becomes ineligible to hold a MFV license

## **Appeal Procedure**

- 10 Days Written Notice of Appeal to City Council
- City Clerk Schedules Hearing Before City Council, No later than 30 Days
- City Council May Approve the Denial, Suspension/Revocation, Overrule or Modify
- City Council's decision may be appealed to 18<sup>th</sup> Judicial District Court

## **Enforcement - Personnel Authorized**

- Police
- Fire Department
- Director of Public Works and Utilities or designee
- Traffic Engineer or designee
- Zoning Administrator or designee
- MABCD Inspectors

## **Penalty for Violations**

- Misdemeanor
- Fine not to exceed \$500
- Each day a violation occurs shall constitute a separate offense and be punishable as a separate offense

## **Existing Ordinance Amendments**

- Chapter 3.95, Transient Merchants, amended to specifically remove MFVs
- Chapter 3.97, Street Vendors, amended to specifically remove MFVs

## **Community/Industry Representatives Contacted**

- Wichita Food Truck Coalition – Staff held two meetings with this group, adopting several of their suggested changes into the final version of the proposed ordinance
- Wichita Downtown Development Corporation (letter provided)

## Background Research

- **Mindmixer Survey Idea Report**
- **Webinar on Food Truck Regulation, National Business Institute, presented by Matt Gellor, attorney and CEO of the Southern California Food Vendors Association**
- **National League of Cities publication, “FOOD ON WHEELS: Mobile Vending Goes Mainstream” (September 2013)**
- **Model Ordinance for the Regulation of Food Trucks, International Municipal Lawyer’s Association (March, 2013)**
- **Review of ordinances from several cities, including:**
  - Portland, OR
  - Boston, MA
  - Lawrence, KS
  - Derby, KS
  - Tulsa, OK
  - College Station, TX
  - San Antonio, TX
  - Kansas City, MO
  - Topeka, KS

### **\*Food Truck Fee Sampling-**

- LAWRENCE, KS. - \$300 per year, must pay for inspections
- DERBY, KS. - \$50/month; \$200/6 month license, Inspection fees unknown
- TOPEKA, KS - \$250/6 month license, Inspection fees unknown
- OKLAHOMA CITY - \$250/year + \$150 additional permit to sell on public property, Must pay for inspections
- K.C., MO - Fees are from \$100 - \$500 annually, depending upon location, Must pay for inspections
- TULSA, OK - \$20 application fee, \$30 annual fee, \$85.50 “site permit” fee
- SAN ANTONIO, TX-Fees are from \$100 - \$300 per year, depending upon type of food sold (pre-packaged vs. prepared on site), fees for events are \$432 for up to 14-day events, \$30 per day for 3 day or less events, additional fees are charged by State of Texas
- BOSTON, MA - \$500 per year, additional fees for vending on public property, additional fees for certain prime locations within city
- COLLEGE ST. TX - \$500 per unit per year, \$250 renewal each year after, must post a \$1,000 bond, addition fees charged by State of Texas
- CHICAGO, IL - \$150 application fee for fire dept. to review and approve plan, \$100 application fee + fire inspection for permit, \$700/ 2 year license is vending pre-packaged food, \$1,000/2 year license if prepare and serve food
- ROCHESTER, NY- \$250/year to vend outside of down town area, \$750/7year to vend in down town area, Must pay all inspection fees