

Ordinance No. 258

**AN ORDINANCE TO ADOPT REGULATIONS CONCERNING
MOBILE FOOD VENDORS BY ADOPTING PROVISIONS
IN TITLE #7-1 OF THE CITY OF MARTIN MUNICIPAL
CODE**

WHEREAS, currently the State of South Dakota licenses mobile food vendors through the Department of Health but does not regulate where these vendors may operate; and

WHEREAS, currently the City of Martin Municipal Code does not include any general provisions governing mobile food vendors such as food trucks on private or public property; and

WHEREAS, the absence of City regulation for mobile food vendors creates uncertainty as to the circumstances under which food trucks and other mobile food vendors are allowed in the City; and

WHEREAS, the City wishes to adopt ordinances to address mobile food vendors and to allow for mobile food vendors as temporary uses on private property and on public property with the consent of the property owner; and

WHEREAS, the City wishes to adopt additional regulations governing the activity of mobile food vending on both private and public property to ensure vehicle and pedestrian safety, to require adequate sanitation and trash collection, and to govern signage and noise from the vending establishments, among other regulations; and

WHEREAS, the Common Council believes it to be in the best interests of the health, safety, and general welfare of its citizens to adopt regulations governing mobile food vending.

NOW THEREFORE, BE IT ORDAINED by the City of Martin that Section 7-1-8 of the Martin Municipal Code is hereby adopted to read in its entirety as follows:

7-1-8 Mobile Food Vendors.

The following words, terms and phrases, when used in this Section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) *Mobile Food Vendor.* A licensed and operable vehicle or concession trailer which is enclosed and self-contained, independent with respect to water, sewer, power utilities, that contains equipment for the preparation and sale or service of food or beverages with or without charge which are designed for immediate consumption.
- (2) *Food Truck Permit:* Written authorization by the city to operate a food truck in the city as provided in this section.
- (3) *Operate.* To offer for sale food and beverage items from a food truck to the general public for immediate consumption on the public right-of-way or on private property;

it does not mean either loading or unloading food or beverage items in bulk or other materials.

- (4) *Operator*. The registered owner of a food truck or the owner's designated agent who holds a food truck permit.
- (5) *Permittee*. The person who has been issued a food truck permit by the city.

Mobile food vendor operational requirements. Mobile food vendors conducting business within the City must comply with the following requirements:

- (1) An application for a food truck permit shall be filed with the finance officer on a form provided by the city.
- (2) The finance officer or designee may revoke a food truck permit for violation of this ordinance
- (3) Prior to any food truck permit being issued under the provisions of this ordinance, the applicant shall have all applicable state permits and licenses and shall pay the required fee.
- (4) All mobile food vendors must abide by all federal, state, and local laws, rules, and regulations. Mobile food vendors must operate in compliance with all state laws and regulations and must maintain continuous licensure with the South Dakota Department of Health.
- (5) Mobile food vendors may vend only on private or public property with the consent of the property owner and may not encroach into any right-of-way adjoining the property with the mobile food vending establishment or any accessory items such as trash cans, tables, chairs, etc. If requested by the City, a mobile food vendor shall promptly provide proof of a property owner's consent to operate on the property.
- (6) The vendor shall not conduct any vending in a way that causes congestion or blocking of vehicle or pedestrian traffic or fire lanes. Each vendor has an affirmative and independent duty to determine the safety and suitability of any particular location of operation and to operate in a manner reasonably calculated to avoid and prevent harm to people and to other vehicles.
- (7) All areas within and surrounding a mobile food service establishment must be maintained in a clean, neat, and sanitary condition. A movable food vendor shall provide one private trash bin with capacity of no less than 13 gallons. Trash bins shall be anchored or otherwise secured upright and have a cover. A mobile food vendor shall remove all litter generated by its operation at the vendor's expense. The mobile food vendor shall not place trash or litter from the mobile food vending establishment in any unauthorized private or City receptacle.
- (8) Umbrellas and canopies must be designed to be secure during windy conditions. Umbrellas and canopies must be at least seven feet above the ground when open and may not protrude into the right of way.
- (9) All mobile food vendors must ensure that individuals with disabilities have comparable access to mobile food vending establishment. If existing designs cannot be modified to be accessible to people with disabilities, the method of

providing service must be modified to become accessible.

- (10) A mobile food vending establishment cannot be permanently located on any public property and cannot function as a permanent structure.
- (11) A permit shall remain in effect until December 31 of the year of issuance.
- (12) The city may limit the number of food truck permits granted by resolution of the city.
- (13) The permittee shall not offer tobacco or alcoholic beverages for sale.
- (14) The sale, transfer, or assignment of a permit is expressly prohibited.
- (15) The permittee shall not project audible amplified music or sound or make any unreasonably loud noise for the purpose of advertising or attracting attention to the mobile food vending establishment.
- (16) Before any food truck vendor permit is granted, the applicant shall sign a statement holding harmless the city and shall indemnify the city, its officers and employees, for any claims for damages to property or injury to persons which may occur in connection with any activity carried on pursuant to any activities associated with food truck vending.
- (17) Any person who shall violates any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$200.00 for each offense, together with the costs of prosecution. Each day while so engaged shall be and constitute a separate offense.

CITY OF MARTIN

Mayor, Gary L Rayhill

ATTEST

Finance Officer

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