

## CHAPTER 122A

### MOBILE FOOD MERCHANT

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**122A.01 PURPOSE.** The purpose of this chapter is to protect residents of the City against fraud, unfair competition and ensure public safety pertaining to mobile food merchant sales and distribution.

**122A.02 DEFINITIONS.** For use in this chapter the following terms are defined:

1. **Bustaurant** — means a mobile food vending unit in a converted bus or similar vehicle which includes an eat-in restaurant. This type of mobile food vending unit contains a mobile kitchen and facilitates the preparation, marketing, and sale of food that is whole unprocessed, packaged, prepared and/or not potentially hazardous.
2. **City Park** — means a parcel of land, owned, operated as, and designated as a park by the City of Robins.
3. **Event Venue** — means an establishment on a parcel of land which is operated solely or primarily to host specialized events, generally occurring weekly, or throughout a month, but not occurring daily. These specialized events may be exclusive to said establishment and are not prevalent throughout the City. The City of Robins Zoning Administrator shall make the determination if a venue is an Event Venue.
4. **Food** — means a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
5. **Food Cart** — means a non-self-propelled vehicle food establishment which facilitates the preparation, marketing, and sale of food that is whole and unprocessed, prepared, packaged, and/or non-potentially hazardous or commissary-wrapped foods maintained at proper temperatures or precooked foods that require limited assembly, such as frankfurters.
6. **Food and Drug Administration (FDA)** — means the Department of the United States government responsible for monitoring trading and safety standards in the food and drug industries.
7. **Food, Packaged** — means bottled, canned, carton, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. "Packaged" does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.
8. **Food, Prepared** — means food that is packaged and also includes food which is cooked or handled in some way, altering an unprocessed wholefood by mechanical or human processing which would occur in accordance with USDA or FDA regulations and is then consumed at a later time.

9. **Food, Potentially Hazardous** — means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.
10. **Food Stand** — means any article, device, fixture or equipment that is used as a place to provide food and includes, but is not limited to, food tents, food shacks, food pods or food booths that are non-motorized, with or without a mobile kitchen, and facilitates the preparation, marketing, and sale of food that is whole unprocessed, prepared and/or not potentially hazardous. Food stands are not lawfully permitted as a permanent structure.
11. **Food trailer.** See food truck.
12. **Food truck** — means a self-propelled, or non-self-propelled vehicle or trailer, which is operable and is currently licensed through a North American Department of Motor Vehicles. A food truck contains a mobile kitchen and facilitates the preparation, marketing, and sale of food that is whole unprocessed, packaged, prepared and/or not potentially hazardous.
13. **Food, Unprocessed Whole** — means products which are not potentially hazardous raw food and do not have a post-harvest human or mechanical required element of preparation prior to safe human consumption. Generally these items are whole fruits or vegetables.
14. **Food wagon.** See food truck.
15. **Hard-Surfaced** — means a surface that is comprised of Portland Cement Concrete (PCC), Asphalt Cement Concrete (ACC), or other paved, or seal coated surface.
16. **Intermittent Sales** — means food sales which occur from a mobile vending unit which is only stopped when making a sale. Stops for sales are generally less than five (5) minutes in total duration.
17. **Licensee** – means owner of the business
18. **Mobile Food Vendor** — means the business owner, corporation, entity, or group obtaining the license to prepare; market or sell food from a mobile vending unit or food stand.
19. **Mobile Food Vendor Sales** — means an exchange of prepared, packaged, or prepared food for American currency at a set price, not for goodwill donation or for free.
20. **Mobile Food Vendor License** — means the document issued by the Office of the City Clerk granting permission for a business owner, corporation, entity, or group to sell unprocessed whole food, prepared food or prepackaged food from a mobile vending unit or food stand.
21. **Mobile Food Vending Unit** — means a food establishment that is self-contained, with the exception of grills and smokers, and readily movable, such as a food cart, bustaurant, or food truck.
22. **Owner** – means owner of the business.
23. **Private Property** — means a lot or defined area of land which is not in the ownership of a local, state, or federal government entity.
24. **Mobile Food Merchant** — A non-motorized vehicle limited to serving non-potentially hazardous foods or commissary-wrapped food maintained at proper temperatures. A motorized vehicle shall not be considered a mobile food merchant. All potentially hazardous foods are prohibited from sale.
25. **Restaurant** — means a retail business owner licensed to serve food and beverages for on-premises consumption and that uses a kitchen on the premises for food preparation. These establishments may include entertainment, dancing, and the serving of alcoholic beverages if permitted by applicable state or local law and any required licenses or permits have been

acquired. For the purposes of this Chapter, a restaurant must also derive at least 25% of their revenue from the sale of food, not alcohol, for immediate consumption on the premises and be located on the street level.

26. **Special Event** — means an event or celebration for which a permit is granted by the City. An "event or celebration" is a significant occurrence or happening sponsored by a civic, business owner, educational, government, community, or veterans' organization and may include athletic contests.
27. **Temporary Sales** — means sales occurring from a mobile food vending unit or food stand of unprocessed whole food relating to, occurring in, or varying with a particular season or defined period of time no greater than four (4) consecutive months in duration.
28. **United States Department of Agriculture (USDA)** — mean a department of the United States government that manages various programs related to food, agriculture, natural resources, rural development and nutrition.

**122A.03 LICENSE REQUIRED.** Any business engaging in the business of a mobile food merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

1. Application forms are available at City Hall, 265 S. Second St., Robins, IA 52328.
2. Any mobile food merchant license shall not be transferrable to another mobile food merchant without approval of the City.
3. Each mobile food merchant owner shall obtain the necessary licenses and/or permits as may be required by the county, state, or federal governing bodies. All applicants shall comply with all applicable county, state or federal laws, rules and regulations.
4. Each mobile food merchant shall always prominently display his/her license while engaging in a temporary business of selling and delivering goods, nonpotential hazardous foods, within the city.
5. For purposes of nonprofit organizations defined and authorized by Chapter 504A of the Iowa Code or authorized and organized under statutes or regulations of the United States government, or approved by the Internal Revenue Service, shall meet all of the following requirements and completed by such organizations in connection with the annual registration with the City Clerk's office for the City:
  - a. There shall be filed with the office of the City Clerk in writing the names and home addresses of all the owners who will be conducting activities in the City claimed to be exempt from this chapter.
  - b. There shall be filed with the City Clerk's office in writing the temporary addresses at which all such owners will be residing while participating in such activities in the City.
  - c. There shall be filed with the City Clerk's office the license application and a copy of the license.
  - d. Written documentation shall be filed with the City Clerk's office from the organization showing the authority of the employees to represent the organization and to otherwise perform activities for the organization in the City.
  - e. Any owner claiming to represent an exempt organization and to be exempt from the requirements of this chapter who fails to present such certificate to a police officer on demand, or to any other owner upon reasonable request, shall then not be considered

to be exempt from the requirements of this chapter, and shall be subject to all the penalties provided for the violation of any provisions of this chapter.

**122A.04 APPLICATION FOR LICENSE.** An application in writing shall be filed with the City Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business owner address and phone number. The application shall also set forth the applicant's name, and the owner's name and address, the nature of the owners, the last three addresses of business activity. An application fee of five dollars (\$5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

**122A.05 LICENSE FEES.** The following license fees shall be paid to the City Clerk prior to the issuance of any license.

1. Mobile food merchants.
  - A. One calendar year.....\$20.00

**122A.06 PROOF OF LIABILITY INSURANCE REQUIRED.** Before a license under this chapter is issued to a mobile food merchant, the owner (licensee) shall provide the City Clerk with a Certificate of Liability Insurance naming the City of Robins as additionally insured.

**122A.07 LICENSE ISSUED.** If the City Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately. The application for license and a copy of the license shall be on file at the City Clerk's office.

**122A.08 DISPLAY OF LICENSE.** Each mobile food merchant shall keep such license in possession at all times while doing business in the City and shall, upon request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each mobile food merchant shall display publicly such merchant's license in the merchant's place of business.

**122A.09 TIME RESTRICTION.** All mobile food merchant licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 8:00 p.m.

**122A.10 REVOCATION OF LICENSE.** After notice and hearing, the City Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee (owner) has made fraudulent statements in the application for the license.
2. Unacceptable conduct of the licensee (owner) or employees.
3. Violation of Law. The licensee (owner) has violated this chapter or has otherwise conducted the business in an unlawful manner.
4. Endangered Public Welfare, Health or Safety. The licensee (owner) has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

**122A.12 NOTICE.** The City Clerk shall send a notice to the owner (licensee) at the owner's (licensee's) local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

**122A.13 HEARING.** The City Clerk shall conduct a hearing at which both the owner (licensee) and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the owner (licensee), or authorized representative, fail to appear without good cause, the City Clerk may proceed to a determination of the complaint.

**122A.14 RECORD AND DETERMINATION.** The City Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the City Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

**122A.15 APPEAL.** If the City Clerk revokes or refuses to issue a license, the City Clerk shall make a part of the record the reasons therefor. The owner (licensee) shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the City Clerk by a majority vote of the Council members present and the City Clerk shall carry out the decision of the Council.

**122A.16 EFFECT OF REVOCATION.** Revocation of any license shall bar the owner (licensee) from being eligible for any license under this chapter for a period of one year from the date of the revocation.

**122A.17 LICENSE EXEMPTIONS.** The following are excluded from the application of this chapter.

1. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
2. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
3. Students. Students representing the Alburnett, Cedar Rapids and Linn-Mar Community School Districts and other private schools in the metro area conducting projects sponsored by organizations recognized by the school.
4. Route Sales. Routine route delivery business owners.
5. Resale or Institutional Use. Business owners customarily calling on business owners or institutions for the purposes of selling products for resale or institutional use.

**122A.18 CHARITABLE AND NONPROFIT ORGANIZATIONS.** Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the City Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the mobile food merchant and the amount thereof. If the City Clerk finds that the organization is a bona fide charity or nonprofit organization the City Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the City Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.