

**CITY OF NEVIS
PLANNING AND ZONING ORDINANCE NO. 36**

THE CITY COUNCIL OF THE CITY OF NEVIS, MINNESOTA DOES HEREBY ORDAIN:

**AMENDING ORDINANCE NO. 36
ADDING SECTION 96, REGULATING MOBILE FOOD UNITS
WITHIN THE CITY OF NEVIS**

- 96.01 Purpose and Intent.
- 96.02 Definitions.
- 96.03 Permit Required; Applications.
- 96.04 Locations.
- 96.05 Performance Standards.
- 96.06 Prohibited Conduct.
- 96.07 Inspections; Enforcement; Adverse Permit Action.
- 96.08 Penalty.

96.01 PURPOSE AND INTENT.

This ordinance is intended to describe the requirements for an establishment preparing and serving food from a self-contained readily moveable vehicle in the city and to regulate the conditions from which the establishment operates within the city for the promotion of business within the city and for the protection of customers and the general public. All mobile food units must comply with this ordinance in order to operate within the city. The purpose of the regulations in this ordinance is to protect the public health, manage potential conflicting uses of the public right of way, and minimize unfair competition with fixed-site prepared food vendors in the community.

96.02 DEFINITIONS.

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

- (A) *Gray Water*. Wastewater created through the operations of a mobile food unit, including, but not necessarily limited to, the term's definition in Minnesota Rules, 7080.1100, subp. 37, as it may be amended from time to time.
- (B) *Mobile Food Unit*. Either (i) a self-contained food service operation, located in a readily-movable motorized wheeled or towed vehicle that is readily movable without disassembling, and that is used to store, prepare, display, or serve food intended for individual portion service; or (ii) mobile food unit as defined in Minnesota Statutes, section 157.15, subd. 9.

96.03 PERMIT REQUIRED; APPLICATIONS.

- (A) Permit Required. No person shall operate a mobile food unit in the city without a permit to do so issued by the city. A permit will be issued administratively pursuant to the provisions of this ordinance, by city staff, provided that the applicant has met all requirements of this ordinance. Permits are non-transferrable and must be visibly displayed on the mobile food unit at all times while operating in the city.
- (B) Permit Types. A permit issued by the city under this ordinance will be for one of the following:

- (1) A Seasonal Permit allows mobile food unit operation in the city only between May 1 through October 15 of the year of issuance. This permit applies to those persons who own the property and unit placed within the designated B-1 and B-2 areas set by this ordinance.
- (2) A Special Permit allows mobile food unit operation in the city for no more than three (3) consecutive days, as specified in the application.
- (3) A Regular Permit allows mobile food unit operation in the city for no more than 21 days annually to be placed within the three (3) designated areas owned by the City of Nevis.

Notwithstanding the foregoing, all permits may be reviewed at any time by the city after the commencement of any term to determine whether the permit holder continues to be in compliance with this ordinance.

- (C) Permit Application and Renewal. The permit application or any renewal shall be made by the operator of the mobile food unit. Application forms are available from the city and must be completed in full and accompanied by the appropriate permit fee as established by the city council in its fee schedule. Applications must also be accompanied by the following:

- (1) A copy of a valid license issued by the Minnesota Department of Health if required under Minnesota State Law.
- (2) A certificate of insurance by an insurance company authorized to do business in the state, evidencing the following forms of insurance:
 - a. Commercial general liability insurance or its equivalent, with a limit of not less than one million dollars (\$1,000,000.00) each occurrence and an annual aggregate limit of not less than two million dollars (\$2,000,000.00);
 - b. Automobile liability insurance with a limit of not less than one million dollars (\$1,000,000.00) combined single limit covering the vehicle licensed as a mobile food unit, and if applicable, any vehicle used in conjunction with the mobile food unit; and
 - c. If the mobile food unit will be operated on public property, including public right-of-way, the city shall be named as a certificate holder and as an additional insured.

- (D) Exception. Existing licensed restaurants with brick-and-mortar physical sites within city limits shall be exempt from permit requirements for special events.

96.04 LOCATIONS.

A mobile food unit may only operate in the locations and under the conditions set forth in this section:

- (A) A mobile food unit may operate in a commercial or industrial parking lot (within the zoned area of B-1 and B-2) with the written consent of the property owner.
- (B) A mobile food unit may operate in a residential zoning district if on private property for catering purposes (such as a private graduation party or wedding) and not open for sales to the general public, with the written consent of the property owner.

- (C) No food unit shall be parked within 50 feet of a brick-and-mortar operational restaurant in the city unless it is owned and operated by that restaurant.
- (D) An out-of-service (not working properly, inoperable) mobile food unit may not be stored within city limits unless inside of a fully-enclosed structure.

96.05 PERFORMANCE STANDARDS.

A mobile food unit permit holder is subject to the following performance standards, and said permit holder is responsible for the adherence to said standards by any of their employees and agents while said employees and agents are operating the mobile food unit:

- (A) Mobile food units must meet all requirements of the Minnesota State Fire Code.
- (B) Mobile food units may only conduct sales between seven o'clock (7:00) A.M. and eleven o'clock (11:00) P.M.
- (C) Waste generated by the mobile food unit must be transported out of the city daily and disposed of in accordance with all Federal, State, and local regulations. Grey water may not be drained into city stormwater drains.
- (D) A mobile food unit is not required to obtain a sign permit from the city. However, no additional signage is permitted beyond that which is on the mobile food unit unless it meets the following requirements:
 - (1) One single sandwich board style sign is permitted per mobile food unit;
 - (2) The maximum sign size is eight (8) square feet;
 - (3) The sign must be placed on the ground and within ten feet (10') of the mobile food unit;
 - (4) The sign must not be placed in a manner that hinders passage upon any sidewalk;
 - (5) The sign must not be placed within the improved travel surface of the public right-of-way except with the express written permission of the city; and
 - (6) The sign cannot project from the mobile food unit or be mounted to the roof of the mobile food unit.
- (E) The mobile food unit may have a maximum bumper to bumper length of no more than 20 feet.
- (F) A mobile food unit must provide an independent power supply that is screened from public view.
- (G) A mobile food unit must have at least one 2A:20BC fire extinguisher in the mobile food unit. If deep frying occurs in the mobile food unit, then the mobile food unit must have at least 1 Class K fire extinguisher in the mobile food unit. Each fire extinguisher must display an inspection tag dated within the past 12 months.
- (H) Propane tanks must be attached or secured to the mobile food unit and must be adequately ventilated.
- (I) A permit holder must comply with all laws, ordinances, regulations, parking zones and posted signs

96.06 PROHIBITED CONDUCT.

It is unlawful for any person engaged in the business of mobile food unit operation to do any of the following:

- (A) Call attention to a mobile food unit by crying out, blowing a horn, ringing a bell or by any loud or unusual noise, or by use of any amplifying device;
- (B) Fail to display proof of permit and produce valid identification when requested by city staff or law enforcement;
- (C) Remain on the property of another when asked to leave;
- (D) Claim endorsements by the city based on permit;
- (E) Conduct business in any manner as to create a threat to the health, safety and welfare of a specific individual or the general public; and
- (F) Mobile food units are prohibited from operating within city limits during city festivals and events (e.g. Muskie Days) without written permission from the city festival or event coordinator (e.g., Nevis Civic and Commerce).

96.07 INSPECTIONS; ENFORCEMENT; ADVERSE PERMIT ACTION.

- (A) A mobile food unit operating in the city is subject to inspection by city officials at all times to ensure adherence to this ordinance.
- (B) A failure to meet any of the requirements outlined in this ordinance may result in an immediate written order to correct the violation(s) or cease operations by city staff or local law enforcement. A failure to abide by such order is considered a violation of this ordinance.
- (C) Additionally, any permit requested or issued pursuant to this ordinance may be denied, suspended, or revoked by a city official if the permit holder has violated any part of this ordinance or is otherwise conducting business in such a manner as to constitute a breach of peace, fraudulent conduct, or any other conduct that is prohibited by local, state or federal laws or regulations. Falsification of information required for a permit is also grounds for denial, suspension or revocation of a permit. The adverse action will become final if the holder does not file an appeal pursuant to this section. When taking adverse action on any permit requested or issued under this ordinance, the city official shall provide the applicant or permit holder, as the case may be, with written notice of the adverse action and reasons for said adverse action. The notice shall inform the person of their right to be heard before the City Council by requesting a hearing within 10 calendar days. The City Council shall only conduct a hearing on an adverse action if such request is made by the aggrieved party in writing within that 10-day period. If a request for a hearing is properly made, the City Council shall conduct the hearing at the next available City Council meeting, and following such hearing, the City Council shall issue a decision based on its findings.

96.08 PENALTY.

Any person who violates any provision of this section shall be guilty of a misdemeanor, and upon conviction shall be subject to no more than the maximum penalties provided in Minnesota Statutes, section 609.02, subd. 3, as amended. Each day a violation continues to exist shall constitute a separate offense.

Passed by the City Council of the City of Nevis, Minnesota, on the 8th day of May, 2023 and to be published on the ____ of _____, 20____. This ordinance shall take effect and be in force upon its adoption and publication.

Mayor, Jeanne Thompson

Dawn M. Veit, City Administrator