

November 27, 2018

TO: Managers, Intergovs, Attorneys, Assistant Attorneys  
FROM: Tom Savage, Legislative Associate; Christina Werther, General Counsel  
SUBJECT: **Final Draft - Food Truck Model Ordinance**

Laws 2018, Chapter 286 (HB2371) established a statewide food and health safety licensing standards for mobile food vending operations, intended specifically for food trucks. Of interest to cities and towns are the provisions of the new law that standardize the local regulation of food truck operations, including provisions related to use of public parking spaces, required fire and safety inspections, operations on private property and required spacing distances from existing bricks-and-mortar restaurants, among others. The sponsor of this legislation, Representative Kevin Payne (R-Peoria), asserted the necessity for uniformity across the state due to the recent growth and popularity of the industry and operations that extend beyond jurisdictional boundaries of many communities, where the industry claims there has been inconsistent enforcement of local codes and ordinances.

The League convened a small group of attorneys to draft a model ordinance to comply with the legislation and provide for consistent regulation the industry is seeking. The League included suggestions from the National League of Cities and other city codes from across the country, feedback from the National Food Truck Association, and met with local food truck vendors to discuss the draft ordinance and incorporate their feedback.

This model ordinance is intended for communities that do not have an existing ordinance in this area or would like to regulate mobile food vending separate from other types of mobile businesses. Other cities and towns will likely blend the provisions of this draft into their existing ordinance. **However, we highly encourage every city and town to adopt the provisions in section X-X-6 of the model ordinance** – the vendors expressed these provisions are the most important to their industry to have standardized and adopting these will most likely avoid further state regulation and preemption in this area.

Below are some highlights of the model ordinance:

#### **Licensing and Permitting**

The model ordinance provides some different options to choose from depending on how your city or town currently regulates mobile food vending. Also included is an option of no permit or license for communities that will rely only on the state/county licensing process.

Please note that the new law requires cities and towns opt to license mobile food vendors must also conduct fingerprint and background checks on the applicants – there is no similar requirement for cities and towns that have permit requirements.

### **Parking**

The ordinance will exclude parking in city-owned lots unless a vendor has permission from the city or town. Vendors are limited to use one space on a city-owned lot and must request permission to use more parking spaces.

Time limits on use of legal parking spaces is limited to no more than six (6) hours in a 24-hour period unless other restrictions apply. Vendors are prohibited from establishing an exclusive right to park at a particular street location.

Parking on private property will require proof of permission from the property owner and there is an option included to establish a 96-hour time limit with exceptions.

### **Operational Requirements**

This section contains the provisions that are most important to the industry to have standardized among all cities and towns, including requirements for fire inspections, utility hookups, site management, trash removal, noise, and parking and location restrictions, among others.

### **Fire and Safety Inspections**

Attached to this document is a form approved by the Arizona Fire Marshall's Association as their standard inspection protocol for food trucks.

### **Fingerprinting and Background Checks**

The vendors' preference is that cities and towns no longer require fingerprint and background checks but have tentatively agreed to it being limited to only the owners and controlling persons of the operation rather than everyone that is working on the truck. Their concern is the expense and the time it takes for all employees on the food truck to go through the process when it will be the owner or controlling person held responsible and have their license revoked if an issue arises.

**We encourage the cities with fingerprinting requirements to consider the provisions included in sections X-X-5 and X-X-6(E)** that require the vendor to designate a responsible person that has been background checked and fingerprinted and must be on site during operation. This may alleviate some of the concerns of the vendors and prevent future attempts to preempt cities from having these requirements.

### **Fees**

The fee amounts are left blank as to give the adopting city or town the opportunity to reference their existing fees schedule.

The vendors, however, expressed concerns with a few cities regarding the fees that are being charged for licenses/permits, some as high as a few hundred dollars for each location they want to conduct business. This may be an opportunity for cities and towns to review their existing fees for this activity to see if it is still commensurate with the resources needed to process and issue the licenses and permits or if the costs have been reduced.

## League of Arizona Cities and Towns

### Model Ordinance Relating to Mobile Food Vendors

#### Mobile Merchant v. Mobile Food Vendor

OPTION A – MOBILE MERCHANT: A city or town that seeks to regulate all mobile merchants (as defined in Sec. X-X-2 Definitions) and apply this model ordinance to a broader array of itinerant services may replace the terms “mobile food vendor” and “mobile food unit” with “mobile merchant” and “mobile sales unit” throughout the ordinance. It is recommended that the definitions of “mobile food vendor” and “mobile food unit” remain in Sec. X-X-2.

OPTION B – MOBILE FOOD VENDOR: For a city or town that selects to regulate only mobile food vendors (as defined by state law and this model ordinance), exclude any **highlighted** language in the draft ordinance.

#### Permit v. License

OPTION 1 – PERMIT ONLY: For a city or town that requires a permit (no license), exclude Sec. X-X-5 and Sec. X-X-7 (B). Replace “license” with “permit” and “licensee” to “permittee” in all sections of the Model Ordinance. In Sec. X-X-2 Definitions, strike the definition of “Licensee” and make the corresponding changes to the Table of Contents in Section 1. **Please note:** A city or town may not require a mobile food vendor to apply or receive any special permit that is not required for other temporary or mobile vending businesses in the same zoning district pursuant to A.R.S. § 9-485.01.

OPTION 2 – LICENSE ONLY: For a city or town that requires a license (no permit), exclude Sec. X-X-4 and Sec. X-X-7 (A). Strike the definition of “permittee” in Sec. X-X-2 and make the corresponding changes to the Table of Contents in Section 1.

OPTION 3 – PERMIT & LICENSE: For a city or town that requires a license and a permit, use all sections of the Model Ordinance, and add “permit” and “permittee” as appropriate in sections that list “license” and “licensee.” **Please note:** A city or town may not require a mobile food vendor to apply or receive any special permit that is not required for other temporary or mobile vending businesses in the same zoning district pursuant to A.R.S. § 9-485.01.

OPTION 4 – NO PERMIT, NO LICENSE: For a city or town that does not require a permit or license to operate in the municipality, and relies on the state and county licensing processes, include only Sec. X-X-1, Sec. X-X-2, Sec. X-X-3 and Sec. X-X-6, and make the corresponding changes to the Table of Contents in Section 1.

NOTE: The model ordinance is designed to provide a complete, ready-to-adopt ordinance relating to mobile food vendors and mobile food trucks. There are sections that may not need to be included in your city or town ordinance because of existing code provisions. **The provisions that are most important to the food vendor community are in Sec. X-X-6 and the League encourages every city and town to adopt the suggested language in these areas to avoid further state regulation and preemption in this area.**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE COMMON COUNCIL OF THE [CITY/TOWN] OF \_\_\_\_\_, ARIZONA, AMENDING THE CODE OF \_\_\_\_\_, ARIZONA, CHAPTER \_\_\_\_ [TITLE OF CHAPTER], BY ADOPTING A NEW ARTICLE \_\_\_\_ RELATING TO THE REGULATION OF MOBILE FOOD VENDORS; ESTABLISHING A PURPOSE; SETTING FORTH DEFINITIONS; PROVIDING FOR PERMIT REQUIREMENTS; [AND/OR SETTING FORTH LICENSING REQUIREMENTS;] ESTABLISHING OPERATIONAL REQUIREMENTS; IMPOSING FEES; SETTING FORTH VIOLATIONS; ESTABLISHING PENALTIES; AND PROVIDING FOR APPEALS.

WHEREAS, the [City/Town] is authorized to enact and enforce regulations and zoning codes on mobile food units or mobile food vendors that are not otherwise prohibited by law;

WHEREAS, the [City/Town] is authorized to regulate mobile food vendors pursuant to applicable law, including Arizona Revised Statutes Sections 9-485, 9-485.01, 9-485.02, and 36-1761;

WHEREAS, the [City/Town] recognizes that mobile food vendors create opportunities for economic development and can provide affordable, food [and goods] at a variety of locations and events;

WHEREAS, the [City/Town] seeks to protect public health, safety and welfare through a reasonable regulatory program of mobile food vendors that includes safety standards and parking regulations;

WHEREAS, with these regulations, the [City/Town] ensures that mobile food vendors comply with applicable law, including building, health, and sanitation codes, as applicable;

WHEREAS, the [City/Town] seeks to minimize potential traffic safety threats by mobile food vendors who may impede the free flow of traffic, distract vehicle operators from observing traffic regulations, obstruct the view of pedestrians and vehicle operators, and encourage pedestrians who wish to inquire about services to cross the street in an unsafe and illegal manner.

NOW THEREFORE, BE IT ORDAINED by the Common Council of the [City/Town] of \_\_\_\_\_, Arizona, as follows:

Section I. In General.

The Code of \_\_\_\_\_, Arizona, Chapter \_\_\_\_ [Title of Chapter], is hereby amended by adding a new Article \_\_, Mobile Food Vendors to read as follows:

- Chapter X [Could be under licenses or in a new chapter]**
- Article X-X**
- Sec. X-X-1 Purpose**
- Sec. X-X-2 Definitions**
- Sec. X-X-3 Compliance with State Licensing Requirements**
- Sec. X-X-4 Permit Requirements**
- Sec. X-X-5 Licensing Requirements**
- Sec. X-X-6 Operational Requirements**
- Sec. X-X-7 Fees**
- Sec. X-X-8 Violations; Suspension; Revocation**
- Sec. X-X-9 Fines; Penalties**
- Sec. X-X-10 Appeals**

**Sec. X-X-1 Purpose.**

This article is adopted to protect the health, safety and welfare of the community of the [City/Town] by enacting reasonable regulation for mobile food vendors, their employees, agents, lessees or independent contractors by requiring compliance with minimum standards for safety and security.

**Sec. X-X-2 Definitions.**

The below words and phrases, wherever used in this article shall be construed as defined in this section unless, clearly from the context, a different meaning is intended. Words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. “*Applicant*” means the person who applies for a license pursuant to this article.
- B. “*Controlling person*” means a natural person who either (A) has a ten percent (10%) or greater interest in the ownership or earnings of the business, or (B) is any of the following:
  - 1. An officer, director, or any stockholder who owns ten per cent (10%) or more, of a corporation licensee/applicant;
  - 2. A general partner of a limited partnership licensee/applicant or partner of a non-limited partnership licensee/applicant;
  - 3. An officer, president, or secretary of a limited liability company/corporation licensee/applicant; or
  - 4. The sole proprietor of a sole proprietorship licensee/applicant.

- C. “*Designated agent*” means the person designated by the licensee/applicant to receive notices from the [City/Town] pursuant to this article.
- D. “*Legal parking space*”:
1. Means an area designated for vehicle parking in the [City/Town] right-of-way that may be paved or unpaved and may be delineated by road surface markings.
  2. Does not include a parking space in a parking lot on property owned by the [City/Town].
- E. [OPTIONAL IF REQUIRING A LICENSE] “*Licensee*” means the person who applied for a license pursuant to this article and in whose name such license was issued by the [City/Town] pursuant to this article.
- F. “*Mobile food unit*” means a food establishment that is licensed by this state, that is readily movable and that dispenses food or beverages for immediate service and consumption and other incidental retail items from any vehicle as defined in Arizona Revised Statutes Section 28-101.
- G. “*Mobile food vendor*” means any person who owns, controls, manages or leases a mobile food unit or contracts with a person to prepare foods and vend from, drive or operate a mobile food unit.
- H. “*Mobile merchant*” means any person who sells any type of tangible personal property, including, but not limited to, food and drink, at or adjacent to the person’s mobile sales unit in which such tangible personal property is carried. This definition shall not include any person working or acting for a person holding a mobile merchant permit issued in accordance with this section.
- I. “*Mobile sales unit*” means any vehicle used for carrying tangible personal property for sale at or adjacent to the vehicle in which such tangible personal property is carried.
- J. [OPTIONAL IF REQUIRING A PERMIT] “*Permittee*” means the person who applied for a permit pursuant to this article and in whose name such permit was issued by the [City/Town] pursuant to this article.
- K. “*Person*” means an individual, partnership, corporation, association or any other entity of whatever kind or nature.
- L. “*Right-of-way*” means an area of land owned by the [City/Town] and is used for street or highway purposes.

OR

“*Right-of-way*” means as defined in Title \_\_\_\_, Chapter \_\_\_\_ of the [City/Town] Code.

- M. “*Semi-permanent structure*” means equipment, or any dining area, including, but not limited to, tables, chairs, booths, bar stools, benches, and standup counters.

**Sec. X-X-3 Compliance with State Licensing Requirements.**

- A. It shall be unlawful for any person to operate a mobile food unit or act as a mobile food vendor without having first obtained a valid license from the State of Arizona Department of Health Services pursuant to A.R.S. § 36-1761.
- B. [OPTIONAL IF NOT REQUIRING A PERMIT OR LICENSE] It shall be a class one misdemeanor to violate this section.

**Sec. X-X-4 Permit Requirements.**

- A. It shall be unlawful for a person to operate a mobile food unit at any location within the [City/Town] without obtaining a permit from the [City/Town] clerk in accordance with [City/Town Code]. The mobile food vendor shall comply with the requirements of this article.
- B. A permit issued pursuant to this article, including a renewal of a permit, is valid for a period of one (1) year from the date of issuance if the mobile food vendor is in compliance with this article. The permit is nontransferable.

**[AND/OR]**

**Sec. X-X-5 Licensing Requirements.**

**[SPECIAL NOTE: Cities and towns with a population of more than 50,000 persons shall make license applications available online in an electronic format and may not require a mobile food vendor to apply in person. See A.R.S. 9-485.01(C)]**

- A. It shall be unlawful for a person to operate a mobile food unit at any location within the [City/Town] without obtaining a license from the [City/Town] in accordance with this article and any other licenses required for the lawful operation of business.
- B. A license issued or renewed pursuant to this article is valid for a period of one (1) year from the date of issuance so long as the mobile food unit is in compliance with this article. The license is nontransferable.
- C. Application Requirements; Procedure. Any person desiring to obtain a new or renewal license must apply to the [City/Town] by presenting a complete application, the applicable fee, and fingerprint records to the [City/Town Licensing Office].

1. The application shall include, but not be limited to, the following information:
    - a. The names, addresses, and contact information for the applicant, including all controlling persons and designated agents;
    - b. A general description of the goods to be sold by the mobile food vendor;
    - c. A description, license plate number and photograph of the mobile food unit;
    - d. A valid driver's license; and
    - e. Copies of required certificate(s) from the health services department in \_\_\_\_\_ County.
  2. Fingerprint records are required:
    - a. On all new applications, for all applicants and controlling persons; and
    - b. On all renewal applications, for any new controlling persons, and for the licensee.
  3. Fingerprints shall be submitted in a form approved by the [City/Town]. The fingerprints shall be submitted to the Arizona Department of Public Safety to be used to obtain a state and federal criminal records check in accordance with A.R.S. § 41-1750 and Public Law 92-544. The Arizona Department of Public Safety is authorized to exchange this fingerprint data with the United States Federal Bureau of Investigation.
- D. Following receipt of the required documents and fees, all applications shall be submitted to the [City/Town] Police Department for investigation and criminal record review on behalf of the [City/Town Licensing Office]. The Police Department shall receive and review the criminal history record information resulting from the criminal records check, including conviction and non-conviction data, of license applicants and controlling persons for the purpose of evaluating the fitness of licensees and controlling persons in connection with the issuance, renewal, suspension or revocation of a license. The Police Department evaluation and the criminal information obtained shall be used only for the purpose of supporting and defending a denial, non-renewal, suspension, or revocation of a license.
- E. Complete renewal applications shall be submitted to the [City/Town Licensing Office] no later than \_\_\_ calendar days prior to the expiration of a license; otherwise the license shall be deemed expired and non-renewable. If the renewal application is not received as stated above, the licensee shall submit an application for a new license and provide all information and fees required for a new license application.

F. A new or renewal license shall be issued to an applicant pursuant to this article unless:

1. The applicant fails to provide a completed application, the required application fee, or the fingerprint records;
2. The applicant fails to pay the applicable license fee for a new or renewal license when the application is approved;
3. The applicant or a controlling person is currently in violation of this article, [OPTIONAL: include references to other code violations such as failure to pay transaction privilege taxes, zoning violations, etc.];
4. The application contains false or misleading information;
5. The applicant has a current debt related to any open or closed account maintained or formerly maintained with the [City/Town];
6. The applicant or controlling person failed to comply with any federal and state laws, regulations promulgated by the Arizona Department of Health Services or \_\_\_\_\_ County, or the [City/Town] Code; or
7. The applicant or controlling person, within the \_\_\_\_\_ year period immediately preceding the submission of the application, was convicted of any of the following:
  - a. Felony involving trafficking in stolen property, fraud, forgery, theft, burglary, robbery, extortion, conspiracy to defraud, or any preparatory offenses of the aforementioned crimes;
  - b. Felony involving a fraudulent or dishonest act;
  - c. Felony involving the sale, manufacture or transportation of any dangerous drug as defined under A.R.S. § 13-3401, a “violent crime” under A.R.S. Title 13, Chapters 11, 12, 13 or a “sexual offense” under A.R.S. Title 13, Chapter 14, or for conduct in another jurisdiction which if carried out in Arizona would constitute an offense under one of the statutory provisions enumerated in this subsection; or
  - d. Misdemeanor involving moral turpitude.

G. [OPTIONAL IF NOT PUBLISHED SEPARATELY] Timeframes for Issuance of Licenses.

1. Administrative timeframe: Unless the license has already been issued, within fifteen (15) days after receiving a license application under this article, the [City/Town] shall determine whether the application is administratively complete, and notify the applicant as set forth in this article.

2. Substantive timeframe: Within forty-five (45) days after the [City/Town] notifies the applicant that the application is administratively complete, the [City/Town] will complete its substantive review of the license application.
3. Overall timeframe: Within ninety (90) days after receiving an application under this article, the [City/Town] will grant or deny a license.
4. An application is deemed withdrawn if, within thirty (30) days after the date of a request for additional information during the substantive timeframe, the applicant does not supply the requested information or provide justification for delay. On receipt of justification, the [City/Town] shall allow the applicant thirty (30) additional days to provide the requested information before deeming the application withdrawn.
5. Except as otherwise provided, the timeframes in this section shall be extended and suspended as provided by state law.

**Sec. X-X-6 Operational Requirements.**

- A. It is unlawful for any person to operate a food truck that does not meet the requirements in this section.
- B. Fire Safety and Inspection. A mobile food vendor must ensure that all mobile food units comply with the version of the International Fire Code in effect at the time when the license is issued, state law, and the [City/Town] code relating to fire and explosion safety standards.
- C. A mobile food unit(s) shall be inspected by the [City/Town]'s Fire Department, or the mobile food vendor shall provide evidence that the mobile food unit passed a fire inspection by another city or town fire department in this state within the preceding twelve (12) months.
- D. Refuse, Trash and Litter Maintenance. A mobile food unit shall:
  1. Provide a minimum of one fifteen (15) gallon trash receptacle within fifteen (15) feet of each individual mobile food unit for customers and employees;
  2. Maintain an area around the mobile unit clear of litter, garbage, rubble and debris; and
  3. Transport the trash from the area of operation to an authorized waste disposal location.
- E. Noise Restrictions.
  1. Noise levels from mobile food units shall not exceed the [City/Town's] noise ordinance standards pursuant to [reference code provision].

OR

A mobile food vendor shall not use, play, or caused to be used or played any amplifier, loudspeaker, microphone, amplified music, or any other amplified instrument or device used for the production of sound in a vending area when the motor vehicle or mobile food unit from which mobile food vendor is vending is stationary or mobile upon any right-of-way, park or other public place. For the purposes of this subsection, the factors for determining whether a sound is amplified include, but are not limited to, the following:

- i. The proximity of the sound to sleeping facilities, whether residential or commercial;
- ii. The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
- iii. The time of day or night when the sound occurs; it shall be presumed that any amplified noise between 10:00 p.m. and 6:00 a.m. is reasonably disturbing;
- iv. The duration of the sound; and
- v. Whether the sound is recurrent, intermittent, or constant.

F. Security.

1. The mobile food unit and the surrounding vending area shall be maintained in a safe and clean manner at all times.
2. A mobile food unit shall have adequate lighting to ensure customer safety in the vending area. Lighting shall be directed downwards and away from rights-of-way and adjacent properties.
3. The mobile food unit and its customers shall not obstruct the movement of pedestrians or other vehicles using the sidewalk, street, alley, or other public right-of-way.
4. [OPTIONAL IF REQUIRING LICENSING] The mobile food unit shall have at least one person onsite who has been fingerprinted pursuant to this article.

G. Insurance.

1. If the mobile food unit operates an event sponsored by the [City/Town] or operates on public property, including rights-of-way or property owned by the [City/Town], the mobile food vendor shall obtain insurance naming the [City/Town] as an additional insured in amounts as required by the [City/Town] and in accordance with the requirements of A.R.S. Title 9, Chapter 4, Article 7.2.

2. The insurance company issuing the policy shall be authorized to issue commercial liability policies in Arizona by the Arizona Department of Insurance.
  3. The policy shall designate by manufacturer's serial or identification number all mobile food units for which coverage is granted.
  4. The policy shall insure the person named in the policy and any other person using the mobile food vendor with the express or implied permission of the named insured against any liability arising out of the ownership, maintenance or use of the mobile food unit in Arizona.
- H. Location. A mobile food vendor shall operate a mobile food unit only in [Commercial/Retail] zoning districts in accordance with the [City/Town Zoning Code] and subject to the following limitations and conditions:
1. Residential Area. A mobile food vendor shall not operate in an area zoned for residential use or within two hundred fifty (250) feet of an area zoned for residential use, except:
    - a. A mobile food vendor selling only ice cream [INSERT ANY OTHER EXCEPTIONS HERE] may operate on public rights-of-way in areas zoned for residential use; or
    - b. Subject to applicable laws and the [City/Town Code], a mobile food vendor may operate on private property in a residential area if the mobile food vendor obtains a separate agreement with the property owner to operate a mobile food unit for a maximum of six (6) hours within a twenty-four (24) hour period on the private property.
  2. [City/Town]-Owned Property. A mobile food vendor shall only operate in a legal parking space. If the mobile food vendor desires to operate on [City/Town] property other than a legal parking space in a right-of-way, the mobile food vendor shall obtain from the [City/Town]:
    - a. A separate licensing for use, services contract, or similar agreement, which will be entered into at the [City/Town's] sole discretion and applicable law; or
    - b. A special event permit or similar permission in accordance with the [City/Town Code].
  3. Private Property: A mobile food vendor shall obtain written permission to use any private property where a mobile food unit is operating and shall provide proof of such written permission on demand by the [City/Town].

[OPTIONAL] Notwithstanding the permission of a person owning or having lawful control of private real property, a mobile food unit shall not remain in one location on private property for longer than ninety-six (96) consecutive hours, unless the [City/Town] grants permission

for a permitted event greater than four (4) days. "One location" within this subsection means a location within a parcel of land and includes movements from different parked positions within the same parcel.

4. [OPTIONAL] Airports/Public Transit. Mobile food vendors shall not operate at any [City/Town] airport or public transit facility unless the mobile food vendor has entered into a separate licensing for use agreement or similar services agreement with the [City/Town], which the [City/Town] will enter in its sole discretion and applicable law.
- I. Parking. A mobile food unit shall comply with this subsection and applicable law as it pertains to parking, unless parking is governed by a separate subsection in this article.
1. A mobile food unit shall only operate in a legal parking space.
  2. A mobile food unit, including any semi-permanent structure used or associated with the mobile food unit, may use no more than one (1) legal parking space, unless the mobile food vendor has a separate agreement with the [City/Town] to use additional legal parking spaces or parking spaces on [City/Town] property other than right-of-way.
  3. No mobile food unit exceeding twenty-four (24) feet may park diagonally in a diagonal parking space or park in any manner that occupies more than one (1) diagonal parking space.
  4. No mobile food unit shall operate with the serving window facing street traffic.
  5. A mobile food unit shall abide by all parking regulations, including posted time limits. If there are no other time restrictions on the use of a legal parking space, a mobile food unit shall not occupy a legal parking space for more than six (6) hours in a twenty-four (24) hour period. "Occupy" within this subsection means within one hundred (100) feet of the place in which the mobile food unit was initially parked.
  6. A mobile food unit shall not occupy a legal parking space with insufficient parking capacity as prescribed by [City/Town Zoning Code] and applicable law, and includes occupying a legal parking space that reduces the number of available parking spaces surrounding the area which is required for the principal use or uses of the property associated with the parking spaces as set forth in A.R.S. Title 9, Chapter 4, Article 7.2.
  7. A mobile food vendor shall not claim or attempt to establish any exclusive right to park at a particular street location, unless the parking space is part of a permitted event.
- J. [OPTIONAL] Signs. A mobile food vendor shall comply with the [City/Town] Sign Code pursuant to [City/Town Code].

**[OPTIONAL IF NOT INCLUDED IN A SEPARATE FEE SCHEDULE]**

**Sec. X-X-7 Fees.**

- A. [FOR PERMITS] The fee for the permit shall be established by [RESOLUTION OF THE CITY/TOWN COUNCIL/FEE SCHEDULE].

OR

The permit fee for each mobile food unit is (\$\_\_\_\_\_) annually.

- B. [FOR LICENSES] The fee for the license shall be established by [RESOLUTION OF THE CITY/TOWN COUNCIL/FEE SCHEDULE]

OR

The following licensing fees shall be paid for each mobile food unit that is designated on the license:

1. \_\_\_\_ dollars (\$\_\_\_\_) for an initial application fee and annual license and reporting fee.
2. \_\_\_\_ dollars (\$\_\_\_\_) for an annual license renewal and reporting fee.

**Sec. X-X-8 Violations; Suspension; Revocation.**

- A. It is a violation of this article for any person to provide false information on any license application.
- B. It is a violation of this article for a person to operate a mobile food unit that either fails to meet all the requirements in this article.
- C. It is a violation of this article for a mobile food vendor to fail to display the license or other required documents, including proof of insurance or fire inspection, to a peace officer or [City/Town] inspector on demand.
- D. The [City/Town] shall give written notice of a violation to the licensee or designated agent that may result in the suspension or revocation of the license. The notice shall include a description of the violation, the statutory or code reference, how the licensee can comply with the requirements, a description of the process whereby a hearing may be requested, the time limit for requesting a hearing, and a warning that failure to timely request a hearing may result in suspension or revocation of the license. The notice shall be served on the licensee or designated agent by either personal service or registered/certified mail. Service of the notice shall be deemed complete upon mailing to, or personal service on, the licensee or designated agent.
- E. The licensee or designated agent receiving a notice under this section may request a hearing pursuant to [INSERT REFERENCE TO ADMINISTRATIVE HEARING/MUNICIPAL COURT HEARING

PROCESS OR OTHER PROCESS HERE]. If the licensee fails to comply with the requirements of this article by the date provided in the notice, the [City/Town] may suspend or revoke the license as provided in this section.

- F. In addition to any penalties set forth in this article, a licensee shall be suspended if, during the term of the license, the licensee or a controlling person has violated any of the provisions of this article. During the suspension period, the licensee shall not operate any mobile food unit associated with the suspended license. If a fine is associated with the violation that is the basis for suspension, the suspension may continue beyond the period set forth in this subsection until such time as the licensee pays the fine. The penalty for a suspension of a license shall be:
1. For the first suspension of a license during a \_\_\_\_month period, the license shall be suspended up to fourteen (14) calendar days and a fine of \$\_\_\_\_\_will be imposed.
  2. For the second suspension of a license during a \_\_\_\_month period, the license shall be suspended to a minimum of fifteen (15) calendar days up to a maximum of thirty (30) calendar days and a fine of \$\_\_\_\_\_ shall be imposed.
  3. For the third suspension of a license during a \_\_\_\_month period, the license shall be revoked.
- G. In addition to a revocation for a third suspension as set forth above, the [City/Town] may revoke a license issued pursuant to this article if the [City/Town] determines that:
1. A mobile food unit associated with the suspended license was operated in the [City/Town] during the suspension period;
  2. A licensee or designated agent or controlling person, following the issuance of a license, is convicted of any offense listed in Sec. X-X-5(F)(7) ;
  3. The licensee or designated agent operated, or attempted to operate a mobile food unit without a license;
  4. The [City/Town] previously issued three (3) or more notices of suspension or violation within a six (6) month period;
  5. The licensee or controlling person has not complied with a provision of this article or has failed to provide information as required by this article;
  6. The application fee, license fee, or any transaction privilege tax has not been paid; or
  7. The licensee fails to pay outstanding fines or resolve any violations.

- H. If a license is revoked pursuant to this section, the license and its controlling person(s) may not apply for a license under this article for a period of one (1) year from the date of revocation.

**Sec. X-X-9 Fines; Penalties.**

- A. Each day any violation of any provision of this article shall continue shall constitute a separate offense.
- B. Civil Penalty: Violations of any provision of this article shall be civil code offenses which may be adjudicated and enforced by the [City/Town] civil hearing process set forth in subsection \_\_\_\_ or [City/Town] Court under Section \_\_\_ of the [City/Town Code].

**[AND/OR]**

- C. Criminal Penalty: Among other penalties that may apply, including revocation or suspension of a license (when applicable), any person who violates any provision of this article, whether or not he act is specifically stated as being unlawful, shall be guilty of a class \_\_\_\_ misdemeanor and upon conviction shall be punished as provided in Section \_\_\_\_\_ of the \_\_\_\_\_ [City/Town Code].

**Sec. X-X-10 APPEALS.**

[INSERT REFERENCE TO EXISTING CODE RELATING TO APPEALS (INCLUDING FOR DENIAL OF LICENSES).]

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Recitals.

The recitals above are fully incorporated in this Ordinance by reference.

Section IV. Effective Date.

The effective date of this Ordinance shall be \_\_\_\_ days following adoption by the [City/Town] Council.

Section V. Preservation of Rights and Duties.

This Ordinance does not affect the rights and duties that matured, penalties that were incurred, or proceedings that were begun before the effective date of this Ordinance.

Section VI. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference, is for any reason held to be invalid or unconstitutional by

the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Common Council of the [City/Town] of \_\_\_\_\_, Arizona, this \_\_\_\_ day of \_\_\_\_\_, 201\_, by the following vote:

AYES: \_\_\_\_\_

NAYES: \_\_\_\_\_ ABSENT: \_\_\_\_\_

EXCUSED: \_\_\_\_\_ ABSTAINED: \_\_\_\_\_

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 201\_.

\_\_\_\_\_

\_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_

\_\_\_\_\_, [City/Town] Clerk

APPROVED AS TO FORM:

\_\_\_\_\_

[City/Town] Attorney

I, \_\_\_\_\_, [CITY/TOWN] CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. \_\_\_\_\_ ADOPTED BY THE COMMON COUNCIL OF THE [CITY/TOWN] OF \_\_\_\_\_ ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 201\_, WAS POSTED IN THREE PLACES ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 201\_.

\_\_\_\_\_

\_\_\_\_\_, [City/Town] Clerk



Business Name: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

City: \_\_\_\_\_

Zip Code: \_\_\_\_\_

AHJ: \_\_\_\_\_

<b>GENERAL OFF-SITE</b>		<b>YES</b>	<b>NO</b>	<b>N/A</b>
1.	Portable fire extinguisher(s) 2A:20B:C are installed in kitchen cooking areas. [NFPA 96:10.9.3]			
2.	Cooking appliances that produce grease-laden vapors protected by listed fire extinguisher (Class K). [NFPA 96:14.7.1]			
3.	Flexible connector is installed between the regulator outlet and the fixed piping system. [NFPA 58:6.26.5.1(B)]			
4.	Cooking equipment that produces grease-laden vapor shall be provided with kitchen exhaust hood in accordance with 2018 IFC Section 607 [2018 IFC 319.3].			
5.	The exhaust system including, hood, grease-removal devices, fans, ducts and other appurtenances, shall be inspected and cleaned in accordance with 2012 IFC Section 607.3 [2018 IFC 319.10.1].			
6.	Cooking equipment shall be protected by automatic fire extinguishing system in accordance with 2018 IFC Section 904.12 [2018 IFC 319.4.1].			
7.	Fire protection system and devices shall be maintained in accordance with 2018 IFC Section 906.1 [2018 IFC 319.10.2].			
8.	LP gas containers installed on the vehicle shall be securely mounted and restrained to prevent movement. [2018 IFC 319.8.2]			
9.	LP gas system piping, including valves and fittings, shall be adequately protected to prevent tampering, impact damage, and damage from vibration [2018 IFC 319]			
10.	Maximum aggregate capacity of LP gas containers transported on the vehicle and used to fuel cooking appliances only shall not exceed 200 pounds propane capacity. [2018 IFC 319.8.1]			
11.	A listed LP gas alarm shall be installed within the vehicle in the vicinity of LP gas system components , in accordance with the manufacturer's instruction. [2018 IFC 319.8.5]			
12.	LP gas containers installed on the vehicle and fuel gas piping system shall be inspected annually by an approved inspection agency or a company that is registered with the US Department of Transportation to requalify LP gas cylinders , to ensure that system components are free from damage, suitable for the intended service and not subject to leaking.			

<b>SOLID FUEL OPERATIONS:</b>		<b>YES</b>	<b>NO</b>	<b>N/A</b>
1.	Solid fuel is not stored above any heat-producing appliance or vent. [NFPA 96:14.9.2.2]			
2.	Solid fuel is not stored closer than 3 ft from any cooking appliance. [NFPA 96:14.9.2.2]			
3.	Solid fuel is not stored near any combustible flammable liquids, ignition sources, chemicals. [NFPA 96:14.9.2.7]			
4.	Solid fuel is not stored in the path of the ash removal or near removed ashes. [NFPA 96:14.9.2.4]			
5.	Ash, cinders and other fire debris should be removed from the firebox at regular intervals and at least once a day. [NFPA 96:14.9.3.6.1]			
6.	Removed ashes, cinders and other removed debris should be placed in a closed, metal container located at least 3 feet from any cooking appliance. [NFPA 96:14.9.3.8]			

Mobile Food Vendor Operator Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Inspector Name: \_\_\_\_\_ Title/Rank: \_\_\_\_\_

Inspector Signature: \_\_\_\_\_ Date: \_\_\_\_\_

