

Draft Food Truck Legislation 1/22/2015

Note: This draft is for discussion purposes, it has not yet been introduced as proposed legislation. This proposal will not take effect until it has been approved by the City Council and signed by the Mayor.

Key Points:

1. New Chapter for food trucks/food trailers: Chapter 60 Article I
2. New Chapter for food carts: Chapter 60 Article 2
3. Chapter 62 will no longer apply to food truck/trailer or food cart vendors
4. Chapter 62 will be revised to cover non-food vendors
5. License is required for food truck or trailer vending
6. No change in Center City, Harbortown and Marina Vending Districts- vending is allowed only in locations approved by the City Clerk.
7. Food truck/trailer operation on private property regulated by the Zoning Code- Certificate of Zoning Compliance under Zoning Code Section 120-149.
8. Uses a modified version of Buffalo's model for on-street operation: allows on-street operation anywhere there is legal parking outside of Center City, Harbortown and Marina Vending Districts except vending is not allowed in R-1, R-2, or R-3 Districts. Certain distance requirements apply.
9. No trailers allowed to operate in street right of way
10. Each food truck must at all times carry on the vehicle a measuring device with a measuring capacity of no less than 500 feet as a condition of its licensure.
11. Includes hours restrictions: no on-street operation from 2AM-7AM in Center City, Harbortown and Marina Vending Districts, same as current Chapter 62.
12. Includes distance separation requirements from vending cart, sidewalk café, festival, special event.
13. All employees must wear an ID badge issued by the City.
14. Food trucks that do not have a City license that want to vend at a special event must get a Temporary Permit valid for the year or a 3-day Temporary Permit.
15. \$1,000,000 insurance requirement for food trucks.
16. Requires Police background check for license.

17. Requires Fire Department inspection and safety training.
18. Additional fire safety rules to be determined by Fire Marshall.
19. Commissioner of Recreation and Youth Services will approve vending in city parks,
Monroe County will approve vending in county parks.
20. Food truck operating as a caterer for a private event must follow certain requirements.
21. Fees:

Application- \$7

License \$330, Center City, Harbortown and Marina Vending Districts \$1,000

Temporary Permit full year- \$100 (good only for special events)

Temporary Permit 3 days- \$56 (good only at one special event)

ID badge \$24

Replacement badge or license \$10

Fee exemption for certain veterans

DRAFT 1/22/2015

Chapter 60

Article I.

Food Truck and Food Trailer Vendors

§ 60-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

FOOD TRUCK

A motorized vehicle registered and able to be operated on the public streets of New York State, in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution. Food trucks shall not exceed 28 feet in length.

FOOD TRUCK VENDOR

The owner or operator of a food truck or the owner's agent; hereinafter referred to as "vendor."

FOOD TRAILER

A non-motorized vehicle, designed to be towed by a motorized vehicle, registered and able to be operated on the public streets of New York State, in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution. Food trailers shall not exceed 28 feet in length.

FOOD TRAILER VENDOR

The owner or operator of a food trailer or the owner's agent; hereinafter referred to as "vendor."

CENTER CITY VENDING DISTRICT

Shall include all of the Center City Zoning District, as established pursuant to Chapter 120, Zoning Code, and in addition, as set forth in a map on file in the City Clerk's office, an area extending generally easterly from the Center City Zoning District which is bounded on the west and north by the Center City Zoning District boundary extending from the southerly side of East Avenue to the center of Alexander Street at approximately 417 Alexander Street, then continuing southerly down the center of Alexander Street to the center of University Avenue, then continuing easterly along the center of University Avenue to the center of Goodman Street, then continuing southerly along the center of Goodman Street to and including the southerly side of East Avenue, then continuing westerly along the southerly side of East Avenue to the Center City Zoning District boundary. The Center City Vending District shall also include both sides of Alexander Street southerly from Gardiner Park to the southerly side of Tracy Street and its extension westerly, as set forth in the map on file in the City Clerk's office.

HARBORTOWN VENDING DISTRICT

Shall include all of the H-V Harbortown Village Zoning District as established pursuant to Chapter 120, Zoning Code, which is north of the O'Rourke Bridge, and those lands zoned O-S Open Space which border the southern boundary of Ontario Beach Park and are east of Estes Street.

MARINA VENDING DISTRICT

Shall include all of the M-D Marina District as established pursuant to Chapter 120, Zoning Code.

§ 60-2 General provisions.

- A. No food truck shall operate within the public rights-of-way within the City without first having obtained a valid food truck vending license as prescribed in this article.
- B. No food trailer shall conduct vending operations within the public right-of-way
- C. Operation of a food truck or food trailer on property that is not public right-of-way or a public park shall be regulated in accordance with all applicable provisions of Municipal Code Chapter 120: Zoning. Food trailers operating on private property shall comply with the same requirements as food trucks pursuant to Municipal Code Section 120-149.
- D. Food trucks shall not be greater than 28 feet in length and shall be licensed as a motor vehicle and able to be operated on the public streets of New York State.
- E. Each employee working on a food truck shall wear a visible employee identification badge issued by the City Clerk. The form of the badge shall be established by the City Clerk. Each employee working on a food truck shall complete a fire safety training program offered by the Rochester Fire Department within 60 days after commencing employment. At all times at least one employee on each food truck shall have completed the fire safety training program offered by the Rochester Fire Department. The City Clerk may issue a temporary employee identification badge for new employees.
- F. No food truck shall operate within any public right-of-way adjacent to property zoned Low Density Residential (R-1), Medium Density Residential (R-2), or High Density Residential (R-3).
- G. Each food truck must at all times carry on the vehicle a measuring device with a measuring capacity of no less than 500 feet as a condition of its licensure. The failure of any food truck to carry such a measuring device or abide by the proximity distance restrictions included in this article shall constitute a violation of this article.
- H. All food trucks must abide by all parking and vehicle and traffic laws, ordinances, rules and regulations at all times, including but not limited to any durational requirements in force and effect at that time and location. Except for locations within the Center City, Marina and Harbortown Vending Districts, a food truck may operate in any legal parking space except as restricted by any ordinance, law, rule or regulation, including Section 60-2(F). Locations within the Center City, Marina and Harbortown Vending Districts shall be limited to those approved pursuant to Section 60-7.
- I. No food truck or food trailer shall operate within 100 feet of an approved vending cart location.

- J. No food truck shall operate within 100 feet of the closest point of any sidewalk café seating area approved by the Department of Environmental Services.
- K. No food truck or food trailer shall operate within 500 feet of the boundary line of any festival, special event or civic event that is permitted or sponsored by the City, except when the vendor has obtained a permit to so operate from the City.
- L. No food truck or food trailer shall operate in a location that has the effect of obstructing access to or egress from any structure or the free flow of vehicular and pedestrian traffic.
- M. All food trucks and food trailers must be equipped with trash receptacles of a sufficient capacity that shall be changed as necessary to prevent overflow or the creation of litter or debris.
- N. No vendor shall cry out or make loud noises in any public street, sidewalk or place for the purpose of selling any food or merchandise.
- O. No vendor shall falsely or fraudulently misrepresent the quality, character or quantity of any article offered for sale or falsely or fraudulently represent services to be rendered or the cost thereof or offer for sale any unwholesome, tainted or diseased food or merchandise.
- P. No vendor shall sell or offer for sale any food or merchandise which does not materially conform to any samples or models demonstrated or brochures or pamphlets given to a prospective customer as to size, materials, use, application and quality of workmanship.
- Q. No vendor shall chain or otherwise attach any signs, goods, merchandise, chairs, stools or food cart or other equipment used in vending to any tree, parking meter, hydrant, sign or post, light pole, telephone pole or other street appurtenance or leave any such items unattended on a public street, sidewalk or place. Items left in violation of this subsection shall be seized by the police.
- R. No vendor shall dispose of any litter or trash generated from the vending operation in public trash receptacles. Vendors shall store such litter or trash during the day in a trash receptacle firmly attached to the vending unit and carry the same with them at the end of the day. Vendors shall also be responsible for keeping the immediate area of their food cart free and clear of any litter, trash or spillage from the unit.
- S. No vendor shall request or accept any tip or gratuity where no exchange of food or merchandise is made or no service is rendered.
- T. No vendor shall conduct any vending activities in violation of any rule or regulation promulgated by the Chief of Police, Commissioner of Environmental Services or Fire Marshal pursuant to this chapter or by the Monroe County Health Department with respect to vending of food or food products.

§ 60-3. License required; application.

- A. Any person desiring to operate a food truck or food trailer shall make a written application for such license to the City Clerk. The application for such license shall be on forms provided by the City Clerk, and shall include the following:
 - (1) Name and address of each applicant and each corporate officer of the food truck or food trailer vending corporation, or owner of an unincorporated business.
 - (2) Address of the commissary used in the supply and preparation of food for this food truck or food trailer

- (3) A valid copy of all necessary licenses, permits or certificates required by the County of Monroe, or the State of New York including, but not limited to, a valid New York State Department of Motor Vehicles registration and vehicle insurance and valid driver's licenses of all vehicle operators.
- (4) A copy of a valid certificate of authority issued by the New York State Department of Taxation and Finance empowering the applicant to collect both the New York State sales and compensating use taxes.
- (5) All license applicants shall be required to consent to a background check by the Rochester Police Department. A license application may be denied by the Chief of Police if the background check demonstrates that the applicant has been convicted of criminal offenses that have a direct relationship to the license or that would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. Any decision to deny an application for this reason shall be made in compliance with Article 23-A of the Correction Law after considering the factors set forth in that law. An applicant who is denied shall be entitled to a hearing in the manner provided for a revocation of a license by Chapter 68 of the Municipal Code.
- (6) All license applicants and applicants for renewals thereof shall present each vehicle to the Fire Department to determine that the vehicle meets all applicable New York State Fire Codes and rules and regulations required by the Fire Marshal. The Fire Marshal is hereby authorized to promulgate such additional rules and regulations as may be necessary to assure the fire safety of vending units.
- (7) License applicants must have a current permit from the Monroe County Department of Health and must comply with all laws, rules and regulations of said Department.

§ 60-4. Insurance.

Before any license authorized herein shall be issued, the applicant shall file with the City proof of insurance, issued by an insurance company licensed to do business in the State of New York and approved by the Director of Finance as to form, which insurance must be kept continuously in force during the term of the license. At the time of application, applicants shall provide proof of insurance that extends for the entire license period. The insurance shall be not less than \$1,000,000 comprehensive/general liability insurance. Such insurance shall not expire, nor be canceled, altered or amended except on 10 days' written notice to the City Treasurer served personally or by certified mail. Municipal operations, employees and property shall not be excluded from coverage. The insurance must name the City as an additional insured party.

§ 60-5. Form and condition of license.

Every food truck or food trailer vending license shall contain the following conditions:

- A. Each food truck or food trailer vending license shall expire on December 31 after their date of issuance. License fees shall not be prorated.

- B. The license shall not be transferable from person to person without the written approval of the City Clerk.
- C. The license is valid for one food truck or food trailer only.
- D. There shall be issued to each vendor a suitable decal or tag that shall be permanently and prominently affixed to the vehicle.

§ 60-6. Fees.

- A. Application- all applicants for food truck and food trailer licenses shall pay an application fee of \$7, which shall be credited against the cost of the license fee if a license is issued.
- B. License- all food truck and food trailer vendors shall pay an annual fee of \$330 for each license, except that vendors applying for a license that includes the Center City, Marina and Harbortown Vending Districts shall pay an annual fee of \$1,000.
- C. Temporary Permit- any food truck or food trailer wishing to vend at one or more Special Events and that does not have a license shall apply to the City Clerk for a Temporary Food Truck or Food Trailer Permit and pay a fee of \$100 for a permit valid for the calendar year. Any food truck or food trailer wishing to vend at a single Special Event and that does not have a license shall apply to the City Clerk for a Three Day Temporary Food Truck or Food Trailer Permit and pay a fee of \$56 for a permit valid for that event. Such a permit shall allow vending only during and at the location of a Special Event.
- D. Employee identification badge- all food truck and food trailer vendors shall pay a fee of \$24 for each employee identification badge except that one badge shall be issued with the license at no cost.
- E. Replacement license employee identification badge- all food truck and food trailer vendors shall pay a fee of \$10 for each replacement license or employee identification badge.
- F. Vendors who are eligible veterans and who have a Soldiers' and Sailors' Certificate issued by the Monroe County Clerk pursuant to Section 32 of the General Business Law or who are disabled veterans as defined by Section 35 of the General Business Law holding such a Certificate are shall be exempt from the fees contained in this section.

§ 60-7. Additional Center City, Marina and Harbortown Vending District provisions.

In addition to the general provisions set forth in Chapter 60 of the Municipal Code, the following regulations shall also apply to food truck vendors in the Center City, Marina or Harbortown Vending District:

- A. No food truck shall operate from a parking space on a public street except in parking spaces reviewed by the Traffic Control Board and approved by the City Clerk and in accordance with regulations established by the Traffic Control Board. The Traffic Control Board may establish the hours that each parking space shall be available for a

vending, which hours shall not be greater than between the hours of 7:00 a.m. and 2:00 a.m. No vendor shall be parked in a specific parking space for more than four consecutive hours.

§ 60-8. Parades and special events; parks.

- A. The Chief of Police is authorized to promulgate rules and regulations governing vending during parades and special events in the City. Such rules and regulations may require vending activities to be conducted in areas located so that citizens may be able to have unobstructed views of the parade or special event. In conjunction with such activities, including any street closing for a special event, the Chief of Police may suspend the applicability of the regulations found in this chapter to allow for the operation of the special event.
- B. The Commissioner of Recreation and Youth Services shall establish requirements for food trucks and food trailers in parks regulated by the City. Any food truck or food trailer operating in such a park shall have a valid license pursuant to this Chapter.
- C. The County of Monroe shall establish requirements for food trucks and food trailers in parks regulated by the County.

§ 60-9. Food trucks or food trailers vending at Special Events.

- A. Any food truck or food trailer vending at a special event that is sponsored by the City or granted a permit by the City ("a Special Event") shall have either a license issued pursuant to this Chapter or a Temporary Food Truck or Food Trailer Permit issued by the City Clerk, or a Three Day Temporary Food Truck or Food Trailer Permit issued by the City Clerk.
- B. Any Temporary Food Truck or Food Trailer Permit applicant shall be required to complete a fire safety inspection and fire safety training by the Rochester Fire Department and also submit a valid copy of all necessary licenses, permits or certificates required by the County of Monroe, or the State of New York including, but not limited to, a valid New York State Department of Motor Vehicles registration and certificate of inspection and valid driver's licenses of all vehicle operators, and a copy of a valid certificate of authority issued by the New York State Department of Taxation and Finance empowering the applicant to collect both the New York State sales and compensating use taxes, and a current permit from the Monroe County Department of Health and must comply with all laws, rules and regulations of said Department, and shall submit proof of insurance coverage that meets the requirements of Section 60-4.

§ 60-10. Food trucks or food trailers operating as a caterer or serving private events.

Any food truck or food trailer operating within the public right of way as a caterer or on a contracted basis to serve food to guests at a private event shall notify the Licensing Unit of the Rochester Police Department at least 72 hours before the event. Such a food truck shall serve only the guests at the private event and shall not make sales to the public during that period. A sign shall be prominently displayed on the truck indicating that it is serving a private event and is not open for public sales. This provision shall not apply to a food truck or food trailer operating on private property that has obtained a Certificate of Zoning Compliance pursuant to Municipal Code Section 120-149.

§ 60-11. General licensing provisions; revocation of licenses.

- A. The provisions of City Code Chapter 68: Licenses-Business and Trades, being general licensing provisions relating to business and trades, shall be applicable to all licenses under this chapter the same as if specifically set forth herein.
- B. The Chief of Police shall revoke, without a hearing, the license of any person found guilty of five or more violations of this chapter during any period of two years. Nothing herein shall prevent the Chief of Police from revoking a license of any person with fewer than five violations, on written charges and an opportunity for a hearing thereon, pursuant to City Code Section 68-10: Revocation of Licenses and Permits.

§ 60-12. Penalties.

A person violating any section of this chapter shall be subject to the penalties set forth in City Code Section 13A-11: Penalties for Offenses.

§ 60-13. Severability.

If any provision of this chapter is declared invalid or unconstitutional for any reason, the remaining provisions shall be severable and continue in full force and effect.