

Introduced By: City Manager
Date: September 12, 2018
Public Hearing: September 26, 2018
Action: Enacted
Vote: 5 Yes, 0 No, 1 Absent

CITY OF SOLDOTNA
ORDINANCE 2018-029

AN ORDINANCE AMENDING SOLDOTNA MUNICIPAL CODE SECTION 17.10.380 - MOBILE VENDING UNITS AND 1.08.080 - MINOR OFFENSE FINE SCHEDULE, TO UPDATE DEFINITIONS AND STANDARDS FOR MOBILE VENDORS AND TO AMEND THE FINE SCHEDULE

WHEREAS, SMC 17.10.380 does not provide for the enforcement of the Mobile Vending Unit code on vending operations that do not meet the Soldotna Municipal Code (SMC) definition of a mobile vending unit; and

WHEREAS, the intent and definition sections of the Mobile Vending Unit code require additional language to clearly communicate that vendors whose operations do not meet the definition of a mobile vending unit are prohibited; and

WHEREAS, the general standards section of the Mobile Vending Unit code requires an additional standard to make it clear that mobile vendors must be self-contained, and requires the modification of the signage standard to clearly state sign allowances and limitations; and

WHEREAS, the Planning and Zoning Commission held a duly advertised public hearing on August 1, 2018 to consider these amendments to the Zoning Code; and

WHEREAS, the Soldotna Planning and Zoning Commission voted without objection to recommend adoption of the proposed amendments; and

WHEREAS, the Soldotna Planning and Zoning Commission made the following findings:

1. There have been a number of mobile vendors doing business in the City that do not qualify as a mobile vendor under the existing regulations; and
2. Ensuring that all mobile vendors are operating with a valid permit and according to SMC is in the best interest of the public and other businesses; and
3. Existing language in Section 17.10.380 of the SMC does not contain a mechanism to cite vendors that do not meet the SMC definition of a mobile vending unit; and
4. It is reasonable to consider vending operations that do not qualify as a mobile vending unit under SMC to be subject to the Minor Offense provisions of the Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA:

Section 1. That SMC, Section 17.10.380 – Mobile Vending Units is hereby amended, as follows:

- A. Intent. The intent of this section is to establish standards and procedures for mobile vending units, [AND] to establish a permit process authorizing the sale of goods and services from mobile vending units and to prohibit sales of goods and services by vendors that are not lawfully permitted mobile vending units in the City of Soldotna.

- B. Definition. "Mobile Vending Unit" includes box trucks, enclosed wagons or trailers, or similar units capable of moving easily daily from location to location and from which sales directly occur. Mobile vending units are not permanently affixed to any site and are self-contained [IN] with respect to utilities, merchandise and services. Aside from generators which may sit on the ground, all operations, merchandise and services provided by and related to the mobile vending unit must be contained in, attached or affixed to the unit. The following types of activities may be approved with the issuance of a mobile vendor [P]permit:
1. Food and drink sales.
 2. Retail sales, except sales of marijuana and marijuana products.
- C. Location. Mobile vending units may be operated as an accessory use in non-residential districts, with authorization by the property owner, and are prohibited in all other districts. Mobile vending [U]units are prohibited from carrying out business [ESTABLISHING LOCATIONS] within [THE] public rights-of-way, unless specifically authorized by other city ordinances or regulations [OF THIS JURISDICTION] or by specific authorization of the administrative officer.
- [D. APPLICABLE STATE LAW INCORPORATED. THE ALASKA FOOD CODE (AAC TITLE 18, CHAPTER 31), WITH PARTICULAR REFERENCE TO SECTIONS 18.31.620 AND 18.31.625, IS INCORPORATED BY REFERENCE AS THOUGH FULLY SET FORTH IN THIS CHAPTER AND SHALL APPLY TO ANY MOBILE VENDING UNITS INVOLVED IN FOOD OR BEVERAGE SERVICE.]
- [E]D. General Standards. The following general standards shall apply as requirements for the operation of mobile vending units in the City of Soldotna. The owner/operator of the mobile vending unit shall:
1. Be registered to collect sales tax with the Kenai Peninsula Borough;
 2. Have obtained permission from the property owner where operating;
 3. Not reduce available parking on developed lots below the required quantity for existing permitted uses;
 4. Not create hazardous traffic patterns for vehicles or pedestrians;
 5. Not diminish the ability of others to conduct business, through excessive noise, odor, or other occurrence;
 6. Not be out of operation or closed for business more than five consecutive days, without removal of the mobile vending unit from its location of operation or business;
 7. Provide for the collection and removal of all waste from the site at the end of each day of operation;
 8. Be in accordance with the regulations found in the City's Sign Code. Except for a sandwich board sign, all signage must be permanently applied to or painted on the vending unit;
 9. Post in a conspicuous place, able to be observed by the general public, both the permit issued from the Alaska Department of Environmental Health (for mobile vending units involved in the preparation of foods or beverages) and the mobile vendor permit issued by the City of Soldotna;
 10. Ensure that, with the exception of generators, all operations, merchandise and services provided by and related to the mobile vending unit be contained in or attached to the unit.
- [F]E. Approval Procedure. A valid permit is required prior to operating a mobile vending unit in the City. An application for a mobile vendor permit shall be submitted to, and approved by, the administrative officer and shall contain the following:
1. Completed application form, as provided by the City of Soldotna;
 2. \$50.00 fee plus applicable sales tax;

3. Certification by the Kenai Peninsula Borough Finance Department in a tax compliance certificate (provided on application materials) that the applicant is current in the payment of any sales tax to the City of Soldotna and the Kenai Peninsula Borough;
 4. Copy of valid permit issued by the Alaska Department of Environmental Health, for mobile vending units involved in the preparation of foods or beverages;
- [G]E. Term of Permit. The mobile vendor permit shall expire at the end of the calendar year of issuance.
- [H]G. Revocation for Noncompliance. The administrative officer may revoke a Mobile Vendor Permit if it is determined that the conduct of the operation(s) is not in compliance with either the terms and conditions of the permit, or the provisions of the Municipal Code. The permit may be revoked immediately, including during the operation of the mobile vending unit.
- [I]H. Violations and Penalty. The [FAILURE TO OBTAIN A REQUIRED MOBILE VENDOR PERMIT OR THE OPERATION OF A MOBILE VENDING UNIT IN VIOLATION OF THE GENERAL STANDARDS OF THIS SECTION IS] following actions are unlawful and considered a minor offense as defined in SMC 1.08.030.
1. Operating a mobile vending unit without obtaining a valid city mobile vending unit permit;
 2. Operating a mobile vending unit in violation of any of the general standards set forth in subsection E of this section;
 3. Selling or attempting to sell food and/or beverage, merchandise or other services on foot or from a motor vehicle, trailer, tent or other temporary facility that does not qualify as a mobile vending unit.
- The owner, agent, or contractor of a mobile vending unit where a violation has been committed or exists, shall be punished by a fine as provided in SMC 1.08.080, or if no fine is there established, of not more than \$500. Each and every day that the violation continues shall be deemed a separate and distinct violation. All remedies and penalties provided for in this chapter shall be cumulative and not exclusive.
- [J]I. Appeal of Decision. Any appeals of decisions made under this section with respect to the issuance or denial of a mobile vending unit permit shall follow the guidelines set forth in 17.10.430, Administrative appeals.

Section 2. That SMC, Section 1.08.080, General Provisions – Enforcement -- Minor Offense Fine Schedule, be amended as follows:

Soldotna Municipal Code Reference	Offense	Fine
17.10.380 C	Operating a mobile vending unit in an unauthorized location	\$50.00
17.10.380[F] <u>H. 1</u>	Operating a mobile vending unit without a permit	\$75.00
17.10.380[E] <u>H. 2</u>	Violating general standards for mobile vending units	\$75.00
<u>17.10.380 H. 3</u>	<u>Illegal temporary vending</u>	<u>\$75.00</u>

Section 3. This ordinance shall become effective immediately upon its enactment.

ENACTED BY THE CITY COUNCIL THIS 26TH DAY OF SEPTEMBER, 2018.

Nels Anderson, Mayor

ATTEST:

Michelle M. Saner, MMC, City Clerk

Yes: Cox, Cashman, Parker, Whitney, Ruffridge
No: None
Absent: Murphy



TO: STEPHANIE QUEEN, CITY MANAGER
FROM: JOHN CZARNEZKI, DIR. ECONOMIC DEVELOPMENT & PLANNING
DATE: AUGUST 2, 2018
SUBJECT: ORDINANCE 2018-029, AMENDING SMC 17.10.380, MOBILE VENDING UNITS

At their meeting on August 1, 2018, the Planning and Zoning Commission conducted a public hearing and approved without objection Substitute Resolution PZ 2018-007, which recommends minor amendments to sections of Soldotna Municipal Code (SMC) that pertain to mobile vendors (i.e. food trucks). Ordinance 2018-029 was drafted based on those recommendations, and is submitted for the City Council's consideration.

Staff worked with the city attorney to draft these amendments as we continue to refine this section of Soldotna code. Recent issues with unauthorized vendors brought to our attention that the mobile vending code did not provide the ability to enforce the code on vendors that operate without a permit and in a way that is not consistent with city standards.

The proposed changes amend both the mobile vendor code and the minor offense section to address this issue. Our department policy is always to contact people first, to explain the permit process and give them a chance to correct the violation or apply for a permit.

There is also a minor change to the sign standards for mobile vendors. One sandwich board would be allowed under this provision, and would also require that any other advertising be directly painted on, or applied to, the mobile vending unit.

Thank you for your consideration.