

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 17, THE LAND USE ORDINANCE OF THE CITY OF PLAINFIELD, BY ADDING ARTICLE IX, SECTION 17:9-30. A. “FOOD VEHICLES”:

WHEREAS, On December 2, 2002, the City Council of the City of Plainfield adopted Ordinances No. 2002-29 and 2002-29A repealing and replacing the existing Chapters 17 (Zoning), Chapter 14 (Subdivisions) and portions of Chapter 3 (Agencies, Boards, Commissions and Committees) and replaced them with a new Chapter 17 entitled Land Use Ordinance; and

WHEREAS, at multiple times since this initial adoption the Planning Board and City Council have amended the Land Use Ordinance to respond to new land use issues and concerns as they arise, and

WHEREAS, the Planning Board continues to review and refine the ordinance in order to identify necessary changes; and

WHEREAS, it is the intent of the City of Plainfield to regulate the location, hours and general use of food vehicles throughout the City, and

WHEREAS, the City Council has reviewed and considered the Planning Board’s recommendations to amend the Land Use Ordinance by adopting a “Food Vehicles” ordinance, and

WHEREAS, the City Council is required pursuant to N.J.S.A. 40:55D-26 to forward the proposed amendments to the Planning Board for their review and comment prior to the City Council adoption of the amendments to the Land Use Ordinance, and

WHEREAS, the Planning Board is scheduled to review this proposed land ordinance amendments at their September 16 meeting and submit their resolution of findings to the City Council in accordance with Section 40:55D-26 of the Municipal Land Use Law prior to second reading of this ordinance.

NOW, THEREFORE BE IT ENACTED By the City Council of the City of Plainfield, that:

Section 1.

The City Council has determined that the Food Vehicles ordinance amendment to the Land Use Ordinance is appropriate and hereby adopts this Ordinance amendment to the Land Use Ordinance as proposed.

Section 2.

The validity or enforceability of any provision of this Ordinance shall not affect the remaining provision of this ordinance, which shall remain in full force and effect.

Section 3.

A notice of this action shall be published in the official newspaper authorized to publish legal notices for the City.

Section 4.

A copy of the Land Use Ordinance as amended is to be filed with the Union County Planning Board in accordance with Section 40:55D-16 of the Municipal Land Use Law.

Section 5.

This ordinance shall take effect twenty (20) days after final passage and approval, as provided by law.

EXHIBIT A

SECTION 17:9-30.A.

ADD TO -17:1-6 – DEFINITIONS

FOOD CART

A cart or movable device not larger than two foot width, four foot length and four foot height including wheel height used on the public sidewalks or in public places in which ready to eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution and which is not licensed as a food truck or food trailer. Food carts shall refer to a cart or other movable device that is intended to remain in a stationary location for a period of time.

FOOD PUSH CART

A non-motorized vehicle not larger than two foot width, four foot length and four foot height including wheel height designed to be pushed, where a person goes from place to place by traveling on public sidewalks, selling ice cream products, frozen confectionary products, water ices, beverages, foods and foodstuffs which, prior to service, require only limited preparation or are prepackaged, where the purpose is to sell or attempt to sell these items to customers from such vehicle or push cart.

FOOD TRAILER

A non-motorized vehicle designed to be towed by a motorized vehicle that is registered and is able to be operated on the public streets of the State of New Jersey, in which ready to eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution.

FOOD TRUCK

A motorized vehicle that is registered and is able to be operated on the public streets of the State of New Jersey, in which ready to eat food is cooked, wrapped, packaged, processed or portioned for sale or distribution.

FOOD VEHICLE

Collectively, a food cart, food truck, food trailer or frozen dessert truck.

MOBILE FOOD VENDOR

The owner or operator of a food vehicle or pushcart, whether such food or beverages are prepared on-site or elsewhere and transported to the site of the sale.

FROZED DESSERT TRUCK

A motorized vehicle that is registered and is able to be operated on the public streets of the State of New Jersey, in which frozen desserts are carried for purposes of retail sale on public streets or in public places.

Create Section 17:9-30.A

The purpose of this article is to define the process, licensing, location, and general operations for vendors engaged in the preparation and sale of food from mobile, non-permanent vehicles, but at stationary locations within the City of Plainfield. It is not the purpose of this article to regulate peddlers/vendors with carts or push carts who travel from place to place making their sales and are already regulated by Section 9:7-1 et. Seq.

A. GENERAL PROVISIONS

A. Any individual/corporation who wishes to operate as a mobile food vendor must obtain zoning approval from the Zoning Officer, Certificates of Approval from the Fire and Health Departments, an acceptable background check from the Police Department, and a license from the City Clerk. All applications are first to be submitted to the Zoning Officer, and only upon an acceptable finding as to the proposed location, advance on to obtain other approvals. Zoning, fire, police and health approvals shall be obtained prior to the submission of license application to the City Clerk. No mobile food vehicle, pushcart or frozen Dessert Truck shall sell or offer for sale and goods, wares or merchandise without first obtaining these written approvals.

B. The application form for the zoning approval shall be the Development Permit Application used for all zoning applications. The forms for the Police, Fire and Health Division are available in their respective offices. The form for the City Clerk License application shall be the same as the requirements for a Peddler's Permit as defined in Article 9:7 of the City Ordinance. All approved certificates are to be brought to the City Clerk at the time of license application.

C. All applicants attempting to apply or renew a license shall provide the following to the Zoning Officer at the time of initial application submission:

- a. Business Registration Certificate issued by the New Jersey Division of Taxation.
- b. Proof of ownership or rental of the food vehicle.
- c. Proof of motor vehicle insurance. A license shall not be issued unless proof of insurance is provided for:
 - (1) Motor vehicle insurance as per N.J.S.A. 39"6B-1
 - (2) Proof of general liability insurance providing a minimum of \$1,000,000 coverage per occurrence
- d. A satisfactory motor vehicle inspection report issued no more than 30 days prior to the license application being filed with the City Clerk.
- e. The make and model of the food vehicle, state license plate number, driver's identification number, and a copy of the state vehicle registration.

D. The city clerk issued license, the police background check, and the Health and Fire Department Certificates of Approval shall be valid for one year and expire on May 31, regardless of the month the license was issued. The applicant shall submit a new license application to be reviewed annually by the end of May of each calendar year with the City Health, Police, and Fire Departments, and obtain a new license from the City Clerk. Annual zoning approval, provided the site location has not changed is not required; a new site will require the submission of a new zoning application. Licenses/permits are not transferable.

E. Background checks will be conducted by the Plainfield Police Department on an annual basis for each holder of a license or permit, and their employees who will be working the vehicle. The Police Director or designee shall have the power to deny the license/permit, based on the findings of the background check, should the background check indicate the applicant would be a danger to the health, safety and welfare of the community.

F. It is the responsibility of the license/permit holder to ensure that each new employee who engages in the activities regulated by this article completes and receives a permit prior to operating any vehicle.

H. Holders of special licenses from the State of New Jersey pursuant to the regulations of N.J.S.A. 45:24-p as supplemented and amended (honorably discharged veterans and exempt members of volunteer fire departments, volunteer fire engine, hook and ladder, hose supply company or salvage corps, of any municipality in the State of New Jersey who hold exemption certificate issued to them) must complete an application and pay for any background checks with the New Jersey Division of State Police but shall be exempt from any of the City's administrative fees for background checks hereunder. Only honorably discharged veterans who have resided in the State of New Jersey for at least six months and in Union County for at least three months shall qualify for this exemption.

I. All annual licenses/permits shall expire on May 31 (or the first regular business day thereafter if the 31st falls on a weekend or holiday) of the following year.

J. Upon termination of an employee, all permits of terminated employees must be returned to the City Clerk within 10 days of such termination.

K. (1) A maximum of 6 licenses/permits shall be available each year for both the Church Street and Milt Campbell Field areas for food vehicles operated by vendors who do not have a brick and mortar restaurant or store within the City of Plainfield.

(2) A maximum of 6 licenses/permits shall be available each year for food vehicles operated by businesses which, already prior to the application for a license/permit have a brick and mortar eating and drinking establishment or restaurant, including restaurants with a plenary retail consumption license/permit within the City of Plainfield.

(3) Without amendment to this Ordinance, the City Clerk may issue additional licenses for brick and mortar operations where circumstances outside business owner's control – such as executive orders which limit occupations on indoor dining, natural disaster, and other similar extreme circumstances - prevent or significantly diminish the operating ability of the brick and mortar establishment.

L. All of the above licenses, approvals and permits must be displayed in full view on the food vehicle during the course of business.

M. Special Event License

(1) A mobile food vendor operating at a one-time special event (fair, party, festival, movie production, etc.) is required to comply with this section unless already licensed through this article,

(2) An application for a special event license – which shall include the location and specific duration of the special event - must be filed no later than two weeks before the event. Applications made less than two weeks before the event may be accepted up to the day of the event at the discretion of the Health Officer, Fire Official and City

Clerk. A service fee may be charged not to exceed double the standard fee. In no case may a food vehicle operate without the approval of the Fire or Health Official. The special event license shall expire at the end of the special event.

(3) Special event licenses shall not be subject to the license maximums stated on Section K above.

N. Food vehicle operators are encouraged to register with the City Special Improvement District.

B. INSPECTIONS

DEPARTMENTS OF HEALTH AND FIRE

1. All food vehicles shall be inspected annually by the City Departments of Health and Fire Prevention Bureau and applicants shall present valid certificates of approval from each office at the time of application submittal to the City Clerk. No food vehicles shall operate without City Health or Fire Department Certificates of Approval. Any mobile food vendor operating without a valid motor mobile food vendor license and/or health certificate shall be deemed a public safety hazard and may be ticketed and/or impounded under the direction of the Police Department or Health Officer.

2. New or replacement food vehicles shall be inspected by both the Health Department and Fire Prevention Bureau before operating. Operators shall submit specifications related to equipment types, manufacturers, model numbers, locations, dimensions, performance capacities, and installation specifications at least one week prior to the scheduled inspection. Additionally, operators shall submit information related to the layout, mechanical schematics, construction materials, and finish schedules. The City Health and Fire Departments may request additional information required for a complete review of the food vehicle.

3. No changes shall be made to approved food vehicles without re-inspection by the City Health and Fire Departments.

(4) No food vehicle that utilizes propane shall operate with the City of Plainfield without first having been inspected and approved by the Plainfield Fire Department Fire Prevention Bureau. Applicants are advised that they must comply with all National Fire Protection Association codes specifically regarding general safety, fuel and power sources, propane system integrity operational safety and solid fuel safety as applicable.

(5) Compliant food vehicles shall receive a Certificate of Approval valid as stated in I above.

(6) Food vehicles failing either inspection may be re-inspected at any time. No additional fee will be charged for the first re-inspection if application for re-inspection is requested within 30 days of the first inspection. The full inspection fee is required for re-inspections after that date and for any additional inspections.

C. OPERATIONAL REGULATIONS AND RESTRICTIONS

1. All products sold or offered for sale from such vehicles shall comply with all the laws and local ordinances relating to food and food products.

2. Food vehicle vendors shall not:

- a. Offer to sell products in streets where the permitted speed limit is 30 miles per hour or greater.
- b. Offer to sell or sell products to a person standing in a roadway.
- c. Allow any unauthorized person to ride in or on the vehicle.
- d. Offer to sell or sell food to a motorist or occupant of any vehicle,
- e. Provide in-vehicle dining services or sidewalk tables or chairs.

f. Vacate any location without first removing all solid waste and debris which has been caused by the occupancy of the vehicle or its patrons.

2. Locations Notwithstanding anything herein to the contrary, a food vehicle, other than a frozen Dessert truck as defined in this ordinance, shall ONLY occupy city designated spaces within the public right-of-way strictly in compliance with the conditions imposed by this article and where applicable, the special conditions set forth below. No mobile food vendor's vehicle shall occupy street space blocking the passage of traffic. All food vehicles must abide by all traffic and parking regulations. Stationary food vehicles are not permitted on private property. Stationary Food Vehicles shall only be permitted at the following locations:

1. On the east or west side of Church Street between East Front and East Third streets; and

2. In the parking lot of Milt Campbell Field on the South Side of East Third Street between Wiley Avenue and Terrill Road.

3. Plainfield residents may request authorization to have a licensed food vehicle on the driveway of their premises or in the public parking space directly in front of their residence on the public street for special events. These requests shall be filed with the City Clerk who shall approve such application unless public health and safety concerns are apparent. Any such application shall include the number of food vehicles and allowed hours of operation. In no case shall the City Clerk allow hours for this special event prior to 8:00am or after 9:00pm. In no event shall the food vehicle be permitted on the sidewalk or elsewhere in the public right-of-way or on the private residential property.

4. No motorized food vehicle shall operate or be parked in any area where parking of motor vehicles is prohibited, restricted or regulated unless written authorization is issued by the Police Director or designee.

5. Food vehicle parking on public streets is limited to the hours of 6:00am to 9:00pm Sunday through Thursday; and 6:00am to 10:00pm Friday and Saturday. Food vehicles are not permitted to remain at these locations outside of these hours or overnight.

6. Each food vendor operator shall place a trash can and recycling can of adequate size within ten feet of the food vehicle. Vendors are required to remove trash and properly dispose of all trash and recycling material within 25' of their vehicle before leaving the site. The vendor shall not dispose of trash or recyclables in or alongside city receptacles.

7. Nothing in this chapter shall limit the City from hiring food vendors for special events. The City, at its own discretion, may determine the number of food vehicles, the allowed hours of operation, and may utilize public property, public recreation facilities, streets and or sidewalks for such events.

8. The Police Director or designee, the Health Director or designees, or Fire Official or Zoning Officer designee may cause the City Clerk to revoke or rescind any license granted under this ordinance if the person or organization granted such license shall be found:

1. Using false or fraudulent statements in obtaining such license or permit
2. Using false or fraudulent statements or other misrepresentation in the course of carrying on business or employment under such license or permit.
3. Conducting the business of mobile food vending contrary to the certificates of approval issued, in an unlawful manner or in such a manner as to constitute a breach of the permits granted, or the peace, or nuisance or a menace to the health, safety, and welfare of the citizens of Plainfield.

Summonses for violations may also be issued by the above individuals

D. FEES

- 1) The license fee for food vehicles shall be \$1,000 annually, inclusive of the zoning Officer review, Health, and Fire Department certificates per food vehicle, except that holders of special licenses pursuant to Section H above shall be exempt. This

payment can be made quarterly, but is then to be paid at the rate of \$400.00/ quarter. This is to be paid to the City Clerk upon application for the Food Vehicle License or if being paid by instalment before the period quarter ends.

- 2) Each applicant is separately responsible for the cost of fingerprinting.
- 3) For special events licenses:
 - a. Businesses with a license/permit with the City and based in Plainfield - \$50.00
 - b. Plainfield based Non-Profit or charitable organization \$25.00
 - c. All other entities - \$100.00
- 4) The fee for issuance of a duplicate license to replace a lost license or an amended license shall be \$25.00.

VIOLATIONS AND PENALTIES

Any person who violates any provision of this ordinance shall, upon conviction thereof, be punished by a fine not exceeding \$2,000.00 per day for each violation, or by imprisonment not exceeding 90days or both. Each offense shall be deemed a separate offense committed on each day that the violation occurs or continues. Violations must be abated within 48 hours of violation issuance. Failure to comply will result is a summons of \$150.00 per day