



CITY OF SACO, MAINE

CITY COUNCIL APPROVED CODE SUPPLEMENT

Approved on June 3, 2024, with an effective date of July 4, 2024

CHAPTER 153 OUTDOOR FOOD VENDING ORDINANCE DRAFT AND AMENDMENT TO CHAPTER 230 §XX13 DEFINITIONS: OUTDOOR SALE ASSOCIATED WITH PRINCIPAL USES

Councilor Johnston moved, Councilor Hatch seconded, be it ordered that the City of Saco hereby ordains Chapter 153 Outdoor Food Vending Ordinance and Amendment to Chapter 230 §XX1, Section 230-2103: Outdoor Sales Associated with Principal Uses be amended as presented in Exhibit #4. The motion passed with six (6) yeas.

Amendment #1 – Councilor Johnston moved, Councilor Burman seconded, to amend Article #2, Section 153-2.3 Additional Requirements for Units Located on Public Property, item #F by adding a letter #C - Saco Transportation Center, and #D – Diamond Park, and further amend item #G to read “Units are allowed only in a non-residential district except as provided for under item #F above and for special events” The motion passed with six (6) yeas.

Amendment #2 – Councilor Johnston moved, Councilor Hatch seconded, to amend Article #3 Sidewalk Vending, add a letter #J which would read “Any establishment wishing to allow the consumption of alcohol in the sidewalk operations area must have a current on premises liquor license and extension of license privileges from the State of Maine Bureau of Alcohol Beverages and Lottery Operations. The motion passed with six (6) yeas.

Deputy Mayor Archer called for a vote on the main motion as amended. The motion passed with six (6) yeas.

NEW PROPOSED ORDINANCE

Chapter 153

OUTDOOR FOOD VENDING ORDINANCE

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ARTICLE I: GENERAL PROVISIONS

§153-1.1. Purposes

This ordinance entitled “Outdoor Food Vending Ordinance” is enacted pursuant to the City’s home rule authority, as provided in 30-A M.R.S. § 3001, et seq; the Maine Constitution, Article VIII, Part Second; and, 7 M.R.S. § 284, all as may be amended from time to time.

The provisions relating to mobile food vending units, more commonly called “food trucks,” are intended to provide opportunities for the operation of mobile food vending units in the City while assuring that these units locate and operate in a manner that protects the public safety and does not create unreasonable burdens on the community.

The provisions relating to sidewalk vending are intended to provide opportunities for downtown businesses to expand their retail and restaurant uses to the public sidewalk abutting their property while assuring that vendors locate and operate in a manner that protects public safety and accessibility and does not create unreasonable burdens on the community.

§153-1.2 Definitions

As used in this chapter, the following words shall have the meanings stated below:

LICENSE

License means a limited, temporary and wholly revocably authorization from the City to use a portion of its public property. It is expressly not a lease of space.

MOBILE FOOD VENDING UNIT (FOOD TRUCK)

A motor vehicle or trailer that is licensed to operate on public roads and that is designed, constructed and/or used to sell or otherwise dispense food or beverages directly to consumers.

§153-1.3 Insurance and Liability

- A. Assumption of Risk. All License Holders assume all the risks of operating and conducting their business under any License issued by the City.
- B. Indemnity. License Holders shall defend, indemnify, and hold the City harmless from and against any and all liabilities, losses, suits, claims, costs, expenses, judgments, fines or demands arising by reason of injury to or death of any person or persons or damage to any property of any nature whatsoever, arising out of or in any way related to this License and/or the Licensee’s use, occupancy, conduct, or management of the premises.
- C. Workers Compensation. The License Holder hereby expressly waives any and all immunity it may have under Maine’s Workers Compensation Act in regard to such claims made or asserted against the City by the License Holder’s agents or employees. The License Holder also expressly waives any charitable immunity it may have under applicable law as to any and all claims of any person made or asserted against the City arising out of the License Holder use and occupancy of the premises or other activity of the License Holder under this License.

D. **Insurance.** The License Holder, during the entire term of this License must maintain, at its sole expense, insurance in the type and amount below with companies authorized to do business in the State of Maine for the protection of the City against any and all liability, including wrongful death, against all claims, losses, costs or expenses arising out of injuries to persons whether or not employed by the License Holder or damage to property whether resulting from acts, omissions, negligence or otherwise of the License Holder, its directors, officers, clients, employees and agents and arising from the License Holder's use of the premises or any part or portion thereof: 1) commercial general liability insurance with a minimum limit of \$1,000,000.00 combined single limit per occurrence; and 2) workers compensation and employers liability insurance with a minimum limit of \$500,000.00 per occurrence.

The License Holder shall cause to be furnished to the City prior to issuance of City License, evidence in the form of certificates of insurance. Said certificates shall name the City as an additional insured and loss payee. The License Holder shall cause to be furnished to the City replacement certificates of insurance whenever the insurance policies are renewed. The City shall be notified prior to any changes or discontinuances of coverage.

§153-1.4. **Enforcement/Violations.**

This ordinance shall be enforced by both the Code Enforcement Department and the Police Department, each of whom can issue citations. Violation of this ordinance shall be a civil offense subject to a fine of not less than \$100.00 dollars nor more than \$2500.00 dollars for each violation. Each violation and every day that any such violation shall occur, shall constitute a separate offense. In addition to the fines provided herein, the City may seek any other relief or remedy available, including but not limited to injunctive relief or abatement regarding any violation of this ordinance. The owner or operator of a mobile food vending unit that has been found to be in violation of the ordinance more than twice shall be denied future licenses to locate or operate a mobile food vending unit in the City of Saco. As to sidewalk sales, the City reserves the right, in its sole discretion, to suspend a Licensee's use of public property at any time.

§153-1.5 **Independent Party.**

License Holders shall at all times be regarded as an independent entity conducting its own business and operations, and shall not at any time be considered as, act, or purport to act as an agent, contractor, co-partner, joint venturer or employee of the City.

§153-1.6 **Severability.**

Should any section or provision of this ordinance be declared to be invalid by a court of competent jurisdiction, such decision shall not invalidate any other section or provision of this ordinance.

§153-1.7 **Fees.**

A License Applicant shall submit to the City Clerk with their license application the fee established by the City Counsel, from time to time.

§153-1.8 **Revocability.**

Licensee holds a revocable License, not a lease of public space. Licensee agrees, understands, and consents that it holds no right in or to public space and that this License may be revoked at any time by the City.

ARTICLE II: MOBILE FOOD VENDING UNIT/FOOD TRUCK

§ 153-2.1. **General Requirements.**

The owner or operator of any mobile food vending unit must first obtain a license from the City Clerk prior to operating a food truck within the City of Saco. The City Clerk shall issue a license only if they find that the location and operation of the mobile food vending unit will be in conformance with the requirements of this Chapter, the Land Use Code if applicable, and that the owner/operator has obtained all required state and local approvals and/or licenses. In addition, and not lieu thereof;

A. A mobile food vending unit that locates and/or operates in the City of Saco must meet all requirements outlined in Chapter 219 for a Victualers Licenses, and always have and maintain such license.

B. All licensing fees must be paid in accordance with the Section 153-1.7.

C. Locations will be occupied on first come first served on a weekly (daily?) basis from April 1 – December 1.

D. Special Events - Units placed on City property in conjunction with a City approved festival or event shall meet and follow the additional policies and requirements of the event organization, including insurance that names the City as an additional insured.

E. Must follow the Water Resource Recovery requirements, including having an authorized wastewater disposal plan, which addresses wastewater, grease, and other residuals, and which complies with the Best Management Practices.

F. Size of Unit Allowed—Food trucks may occupy up to two legal parking spaces, but must not encroach on travel lanes or violate parking regulations of the City. See Chapter 211 §211-18.

§153-2.2. Additional Requirements for Units Located or Operated on Public Streets.

A mobile food vending unit that is located and/or operated on a public street shall conform to the following additional requirements:

- A. The owner/operator of the unit shall provide the City Clerk Department with evidence of liability insurance coverage in an amount of at least \$1,000,000.00. If the unit is located or operated on a public street or other public property when it sells food, the owner/operator must provide the City Clerk Department with evidence that the City is named as an additional insured on the liability insurance ordinance.
- B. The unit that operates from a location shall be located in a conforming parking space or spaces on one of the following streets: (should vehicles be parked in a designated vendor space, please contact Saco PD Parking Control Department.
 - a. Downtown on Main Street between Beach Street and Thornton Avenue
 - b. Water Street
 - c. Storer Street (in front of Police Department)
 - d. Diamond Riverside Park
 - ee. Reserved
- C. The owner/operator shall provide covered, watertight receptacles for the collection of trash and other wastes and remove from the premises. A returnable waste deposit fee as listed in the fee schedule is required with license and will be refunded upon inspection of site.
- D. The owner/operator shall remove and dispose of all trash, garbage and other waste on a daily basis in a sanitary and safe manner. No trash, garbage or other wastes shall be stored outside of the unit. (carry-in, carry-out)
- E. The owner/operator shall not broadcast amplified music or commercial messages from the unit while the unit is parked.
- F. The location of the unit shall comply with all applicable parking requirements. (See City Codes §211-18)
- G. The placement or stopping of a unit shall not obstruct normal traffic flow on the street nor require vehicles to deviate from normal traffic lanes.
- H. A unit shall be parked or stopped so that customers can be served while standing on a sidewalk or otherwise outside of the travel-way of the street.
- I. A unit shall not be in place or operated between the hours of 11:00 PM and 6:00 AM and shall be removed from public streets in the City of Saco every night.
- J. A unit or customers patronizing a unit shall not obstruct pedestrian movement on any sidewalk or pedestrian path.
- K. The site shall be broom-cleaned when the unit is removed. All trash or debris shall be picked up and removed.

§ 153-2.3 Additional Requirements for Units Located on Public Property.

A mobile food vending unit that is located and/or operated on public property other than a public street shall conform to the following additional requirements:

- A. A unit shall be placed on public property other than a street only with prior approval of the Code Enforcement

Department and shall be placed in the location designated by this ordinance.

- B. A unit shall be parked so that customers can be served while standing outside of the travel-way of the street, access road or parking lot aisle.
- C. A unit shall not be in place between the hours of 11:00 PM and 6:00 AM and shall be removed from public property every night.
- D. A unit or customers patronizing a unit shall not obstruct pedestrian movement on any sidewalk or pedestrian path and shall comply with all ADA requirements.
- E. The site shall be cleaned daily and when the unit is removed. All trash or debris shall be picked up and removed.
- F. The unit that operates from a location for an extended period shall be located in a conforming parking space or spaces on one of the following public areas:
 - a. Camp Ellis (pier) (2-3 vendors)
 - b. Free Street Parking Lot
- G. Units are allowed only in a non-residential district except for special events.

§153-2.4. Additional Requirements for Units Located on Private Property.

A mobile food vending unit that is located and/or operated on private property shall conform to the following additional requirements:

- A. Must be in a business zone and comply with all code ordinances.
- B. The owner or operator of the unit must have the written permission of the property owner.
- C. A unit may be located in an off-street parking space(s) on the lot.
- D. If a unit is not located in an off-street parking space or other part of a parking lot, the placement of the unit shall conform to the setback requirements of the district in which it is located.
- E. The unit shall not be open for business between 11:00 PM and 6:00 AM.

ARTICLE III: SIDEWALK VENDING

§153-3.1 Terms and Eligibility

To continue to support economic development in downtown Saco, sidewalk retail and restaurant operations is available from April 1 - December 1 annually. Any street-level retail or restaurant business in the Downtown Zoning District that abuts a City sidewalk is eligible.

§153-3.2 General Requirements

Sidewalk vending in the City of Saco shall conform to requirements as outlined in Chapter 132 License and Registration, Chapter 219, Victualers' Licenses, other applicable City policies and ordinances, and the following:

- A. The area occupied shall be that portion of abutting sidewalk which least infringes on public use, passage, and traffic as determined by, and at the complete discretion of, the City of Saco.
- B. The sidewalk operations area may not extend in front of an adjoining establishment without written permission from the neighboring property owner. Businesses may be permitted to expand onto the sidewalk in front of adjacent establishments provided sufficient documentation of an agreement with the property owner is provided.
- C. Consumer-grade extension cords cannot be used to deliver electricity to an outside area; establishments wishing to extend electricity to an outside area are strongly recommended to consult with a qualified electrician.
- D. All sidewalk operations areas shall be under the responsible direction and control of the restaurant or retail business as identified in this application.

- E. All temporary outdoor areas must be as continuous as possible by locating the outdoor area in a single portion of an establishment's frontage; it must be located adjacent to the building or near the curb.
- F. Sidewalk operations areas must be clearly marked and maintain at a safe path at all times of at least 4 feet in width, to allow for unimpeded, unobstructed pedestrian traffic.
- G. Building entrances, accessible parking spaces, firetruck access, dumpster access, and any furniture or fixtures related to outdoor areas must remain completely unobstructed.
- H. All improvements (i.e., furniture, fixtures) used in the designated area must be temporary in nature and there shall be no penetration of public walkway surfaces.
- I. The establishment must comply with all applicable City, state, and federal laws and regulations, including the Americans with Disability Act.

CHAPTER 230 §XX13

OUTDOOR SALE ASSOCIATED WITH PRINCIPAL USES

The regular display by a retailer of stock-in-trade outside of an enclosed structure. The term includes, but is not necessarily limited to, businesses which involve an outside parking or display area for the sale of cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, or mobile homes; businesses involved in the outdoor sale of used merchandise, other than at flea markets, which is separately defined; and similar outdoor sales activities. For purposes of this chapter, the serving of consumable food from a mobile food unit (“Food Truck”) and by an eating and drinking place at outside tables, as permitted under Chapter 153, shall not constitute outdoor sales.