

Chapter 60. Food Trucks, Trailers and Carts

[HISTORY: Adopted by the Rochester City Council 2-18-2015 by Ord. No. 2015-28. Amendments noted where applicable.]

GENERAL REFERENCES

Public market — See Ch. 91.

Zoning — See Ch. 120.

Article I. Food Truck and Food Trailer Vendors

§ 60-1. Definitions.

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

CENTER CITY VENDING DISTRICT

Includes 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.

FOOD TRAILER

A nonmotorized 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."

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."

HARBORTOWN VENDING DISTRICT

Includes all of the H-V Harbortown Village Zoning District as established pursuant to Chapter 120, Zoning Code, which is north of the O'Rorke 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

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

§ 60-2. General provisions.

- A. No food truck vendor 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.
[Amended 10-18-2016 by Ord. No. 2016-325]
- B. No food trailer shall be operated within the public right-of-way, except to the extent that vending is authorized in a specified space as part of either a special event pursuant to § 60-9A or serving a private event pursuant to § 60-10.
[Amended 10-18-2016 by Ord. No. 2016-325]
- 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 § 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 individual designated as an operator on a vendor's license pursuant to § 60-3 shall wear a visible identification badge issued by the City Clerk when working on a food truck or food trailer. The form of the badge shall be established by the City Clerk.
[Amended 10-18-2016 by Ord. No. 2016-325]
- F. Each person working on a food truck or food trailer shall complete a firesafety training program offered by the Rochester Fire Department within 60 days after commencing employment. At all times at least one worker on each food truck and food trailer shall have completed the firesafety training program offered by the Rochester Fire Department. When the worker has completed the safety training program, the Rochester Fire Department shall present him or her with a written notice confirming that the employee has completed the training and specifying the worker's name and the date that training was completed. At all times when working on a food truck or food trailer that is vending, each person who has completed the safety training program shall carry and be prepared to present the training confirmation notice, and for purposes of verifying his or her identity, the worker shall also carry a New York State driver's license, New York State nondriver's identification card, police identification card or other means of identification approved by the Chief of Police; provided, however, that a worker who has not been issued a suitable form of identification shall not be required to obtain, carry and present one for purposes of this article.
[Amended 10-18-2016 by Ord. No. 2016-325^[1]]
[1] *Editor's Note: This ordinance also provided that former Subsections F through Q be redesignated Subsections G through R, respectively.*
- G. No food truck or food trailer shall operate within any public right-of-way within 100 feet of any property zoned Low-Density Residential (R-1), Medium-Density Residential (R-2), or High-Density Residential (R-3).
[Amended 10-18-2016 by Ord. No. 2016-325]
- H. Each food truck and food trailer 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 or food trailer to carry such a measuring device or to abide by the proximity distance restrictions included in this article shall constitute a violation of this article.
[Amended 10-18-2016 by Ord. No. 2016-325]
- I. All food trucks and food trailers 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 § 60-2G. Locations within the Center City, Marina and Harbortown Vending Districts shall be limited to those approved pursuant to § 60-7.

[Amended 10-18-2016 by Ord. No. 2016-325]

- J. No food truck or food trailer shall operate within 100 feet of an approved vending cart location.
- K. No food truck shall operate within 100 feet of the closest point of any sidewalk cafe seating area approved by the Department of Environmental Services.
- L. 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.
- M. 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.
- N. 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.
- O. 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.
- P. 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.
- Q. 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.
- R. 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 article 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 obtain from the City Clerk and place on prominent display during vending activities either an annual license obtained in accordance this section or a temporary permit obtained in accordance with § 60-6C. The application for a license shall be on forms provided by the City Clerk and shall include the following:
[Amended 10-18-2016 by Ord. No. 2016-325]
 - (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. If the applicant is an individual, he or she shall be designated as the vendor's operator, and the individual applicant may also designate one or more additional operators during or after the application process. If the applicant is not an individual, it shall specify and provide the name, address and telephone number of at least one person who shall be the designated operator. A designated operator shall be a person who is directly responsible for supervising the operation of the food truck or food trailer. At least one designated operator shall be present at all times that a food truck or food trailer is being set up and used for food vending. Every designated operator shall be required to obtain a vendor's identification badge. In the event that a vendor's designated operator is no longer serving in that capacity and the vendor has no additional designated operator to serve in that capacity, the vendor shall promptly (and no later than the latter within five business days after the individual operator has ceased service or at least three business days prior to the next date at which the licensee operates the food truck or food trailer) notify the City Clerk, designate a replacement individual operator and submit to the City Clerk the replacement's application for an identification badge.

- (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 drivers.
 - (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) A description, including, where applicable, the make, model and production year, of the food truck or food trailer that the applicant will use. An additional license shall be required for each additional truck or trailer from which the applicant proposes to vend.
- B. All license applicants and their designated operators 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 or designated operator 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.
[Amended 10-18-2016 by Ord. No. 2016-325]
- C. 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 firesafety of vending units.
- D. 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 fees:
[Amended 10-18-2016 by Ord. No. 2016-325]
- (1) All food truck 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.
 - (2) All food trailer vendors shall pay an annual fee based on one of the following three options:
 - (a) For vending at private events pursuant to § 60-10 and at events conducted on private property pursuant to a temporary zoning permit issued pursuant to Zoning Code § 120-149A(10): \$100;
 - (b) For vending only at special events authorized in accordance with § 60-9: \$100; or
 - (c) For vending at all events fitting within either of the two categories described in Subsection B(2)(a) and (b) above: \$150.
- C. Temporary permits. Any food truck or food trailer vendor wishing to vend at one or more special events, private events pursuant to § 60-10, or on private property pursuant to a temporary zoning permit issued pursuant to Zoning Code § 120-149A(10) and that does not have a license shall apply to the City Clerk for one of the following two types of temporary food truck or food trailer permits:
[Amended 10-18-2016 by Ord. No. 2016-325]
- (1) Pay a fee of \$100 for a permit valid for vending only at the aforementioned special events, private events, and temporary zoning permitted events for the remainder of the calendar year; or
 - (2) Pay a fee of \$56 for a three-day temporary permit valid only during the remainder of and at the location of a particular special event, private event, or temporary zoning permitted event.
The temporary permit shall be placed on prominent display on the food truck or food trailer during the vending activities that it authorizes.
- D. Vendor identification badge: All food truck and food trailer vendors shall pay a fee of \$24 for each identification badge, except for one badge issued with the license at no cost.
[Amended 10-18-2016 by Ord. No. 2016-325]
- E. Replacement license or identification badge: All food truck and food trailer vendors shall pay a fee of \$10 for each replacement license or identification badge.
[Amended 10-18-2016 by Ord. No. 2016-325]
- F. Vendors who are eligible veterans and who have a Soldiers' and Sailors' Certificate issued by the Monroe County Clerk pursuant to § 32 of the General Business Law or who are disabled veterans as defined by § 35 of the General Business Law holding such a certificate 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 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 article 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 article.
- 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.

[Amended 10-18-2016 by Ord. No. 2016-325]

- 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 article 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. No vending operation may be conducted from a food trailer located within the public right-of-way unless operating at such location is explicitly authorized in a special event permit, in a temporary permit, or by the Chief of Police.
- B. Any temporary food truck or food trailer permit applicant, its operators and all workers who will participate in vending from a food truck or food trailer shall be required to complete a firesafety inspection and firesafety 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 drivers, 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 § 60-4.
- C. The Director of Communications may approve a permit to allow food truck vending at special events on streets in the vicinity of the Rochester Riverside Convention Center and the Blue Cross Arena, as provided in § 111-54.1 of the Municipal Code, but no more than 10 such events per calendar year, per location, may be approved. The applicant must be an authorized representative of the Rochester Riverside Convention Center or the Blue Cross Arena. Applications from other persons or for other locations may be approved by the Director of Communications after consultation with the Chief of Police and City Clerk, but no more than four such events per calendar year, per location, may be approved. Temporary parking locations for such food truck vending shall be approved by the City Clerk after review and approved by the City Engineer.

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

[Amended 10-18-2016 by Ord. No. 2016-325]

Any food truck or food trailer vendor who intends to operate 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. The vendor shall specify where it proposes to operate the food truck or food trailer, and the Rochester Police Department reserves the right to prohibit vending in that location and/or require relocation to another space in order to preserve traffic flow and safety or on advice of the City Engineer. Such a food truck or food trailer 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 or trailer 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 temporary zoning permit pursuant to Municipal Code § 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 article 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 article 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 § 68-10, Revocation of licenses and permits.

§ 60-12. Penalties for offenses.

A person violating any section of this article shall be subject to the penalties set forth in City Code § 13A-11, Penalties for offenses.

§ 60-13. Severability.

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

Article II. Food Cart Vendors

§ 60-14. Definitions.

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

CENTER CITY VENDING DISTRICT

Includes 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.

FOOD CART

A cart or other movable device, 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 CART VENDOR

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

HARBORTOWN VENDING DISTRICT

Includes all of the H-V Harbortown Village Zoning District as established pursuant to Chapter 120, Zoning Code, which is north of the O'Rorke 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

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

§ 60-15. General provisions.

- A. No food cart shall operate on a public sidewalk or public place within the City without first having obtained a valid food cart vending license as prescribed in this article.
- B. No food cart shall operate within the public street right-of-way.
- C. Operation of a food cart on property that is not a public sidewalk or a public park shall be regulated in accordance with all applicable provisions of City Code Chapter 120, Zoning. Food carts operating on private property shall comply with the same requirements as food trucks pursuant to Municipal Code § 120-149.
- D. No food cart or food cart vendor shall:
 - (1) Operate a food cart without procuring and prominently displaying on his or her cart a license.
 - (2) Stop, stand or park a food cart on any roadway, except when actually loading or unloading.
 - (3) Operate within any public sidewalk within 100 feet of any property zoned Low-Density Residential (R-1), Medium-Density Residential (R-2), or High-Density Residential (R-3).
 - (4) Place any goods, tables, blankets, booths or any type of food or merchandise for sale or any vending unit or other equipment used in vending on any public place or sidewalk, except a licensed food cart which meets all the following requirements:
 - (a) A food cart when fully opened for business shall not exceed, including all peripheral equipment and food and merchandise for sale, six feet in width by 10 feet in length and five feet in height, excluding only a canopy, awning or umbrella, with the top surface of the food cart and any seating for the person(s) tending the unit(s) at least 28 inches above the ground. Shopping carts shall not be allowed as vending units.
 - (b) Separate carts may be used in one operation, provided that when they are fully opened for business the total space occupied by said units does not exceed the maximum set forth in Subsection (4)(a) above, and provided further that the carts are kept adjacent to each other and that each separate cart is at all times tended by at least one person.
 - (c) All food carts shall be on rubber-tired wheels, at least four inches in diameter, with a leg or legs or brakes which shall keep the cart stationary when it is not intended to be moved, and which is fully mobile and able to be immediately moved by a single person tending the cart.
 - (d) Food carts shall have all peripheral equipment attached thereto, including seating, if desired, for the person tending the unit.
 - (e) Food carts shall have a self-contained and secure storage place for all food and merchandise and peripheral equipment used in the vending operation, so that the same can be quickly and safely stored if the vending unit has to be moved.
 - (f) No canopy, awning or umbrella shall be placed on a sidewalk in conjunction with vending activities, except that a food cart may have attached to it a canopy, awning or umbrella which is no greater in size than the maximum size set in Subsection (4)(a) above for a vending unit, and which is a minimum of 7 1/2 feet above the level of the sidewalk when opened if it extends beyond the sides of the cart itself and a maximum of nine feet above the level of the sidewalk when opened, provided that no canopy, awning or umbrella shall extend into a street tree or within two feet of the curbline.

- (5) Place, stop, operate or sell from a food cart on a public sidewalk, except on the curbside of the sidewalk and at least two feet from the curb.
- (6) Place, stop, operate or sell from a food cart on a public sidewalk in such a manner that a portion of the sidewalk at least four feet in width is not maintained free and clear of obstructions to pedestrian traffic.
- (7) Place, stop, operate or sell from a food cart on a public sidewalk:
 - (a) Within 10 feet of any other vending unit on a public sidewalk;
 - (b) Within 10 feet of a curb cut;
 - (c) Within five feet of a crosswalk;
 - (d) Within 10 feet of a fire hydrant;
 - (e) Which abuts or obstructs a bus stop zone or shelter or is located within 60 feet in advance of a bus stop or shelter (on the side of the stop or shelter from which a bus approaches) or within 10 feet beyond a stop or shelter (on the side of the stop or shelter from which a bus leaves the stop or shelter);
 - (f) Within 10 feet of a street tree;
 - (g) Within two feet of a trash receptacle;
 - (h) Within two feet of a newspaper vending machine;
 - (i) Within two feet of an historic marker;
 - (j) Within five feet of a pedestrian bench;
 - (k) Within two feet of a sidewalk planter;
 - (l) Within two feet of a sidewalk grate or opening;
 - (m) Within two feet of a fire alarm box; or
 - (n) Within one foot of a light pole.
- (8) Cry out or make loud noises in any public street, sidewalk or place for the purpose of selling any food or merchandise.
- (9) 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.
- (10) Place, stop, operate or sell from a food cart on a public street, sidewalk or place unless that food cart, including any canopy, awning or umbrella and all peripheral equipment, is maintained in a clean and neat condition, free of all stains, holes and rust, and with all wood surfaces painted, treated or varnished.
- (11) 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.
- (12) 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 article or by the Monroe County Health Department with respect to vending of food or food products.
- (13) Sell, offer for sale or deliver goods or services from a sidewalk or alongside a roadway to an operator or occupant of a motor vehicle that is stopped, standing or parked on a street where stopping, standing or parking is prohibited.

- E. Each food cart 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.
- F. No food cart shall operate within 100 feet of an approved food truck or food trailer location within the Center City, Marina and Harbortown Vending Districts.
- G. No food cart shall operate within 100 feet of the closest point of any sidewalk cafe seating area approved by the Department of Environmental Services.
- H. No food cart 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.
- I. No food cart 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.
- J. All food carts 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.
- K. Nothing herein contained shall be construed so as to prevent any person having an established place for the transaction of business within said City from soliciting orders in such line of business from customers at such place of business or from taking orders by telephone when telephone orders are received at such place of business and from filling and delivering the same, nor so as to prevent the sale of newspapers or milk, the sale of the latter to be governed by the provisions of the law and ordinances applicable thereto.
- L. The owner of a food cart shall be responsible for the acts of any person working at that food cart, and a license holder shall be responsible for the acts of any person while engaged in the operation of the food cart.
[Amended 10-18-2016 by Ord. No. 2016-325]
- M. Each person designated as an operator pursuant to § 60-16 shall wear a visible identification badge issued by the City Clerk when working on a food cart. The form of the badge shall be established by the City Clerk.
[Amended 10-18-2016 by Ord. No. 2016-325]
- N. Each person working on a food cart shall complete a firesafety training program offered by the Rochester Fire Department within 60 days after commencing employment. At all times at least one worker on each food cart shall have completed the firesafety training program offered by the Rochester Fire Department. When the worker has completed the safety training program, the Rochester Fire Department shall present him or her with a written notice confirming that the worker has completed the training and specifying the worker's name and the date that training was completed. At all times when working on a food cart, each person who has completed the safety training program shall carry and be prepared to present the training confirmation notice, and for purposes of verifying his or her identity, the worker shall also carry a New York State driver's license, New York State nondriver's identification card, police identification card or other means of identification approved by the Chief of Police; provided, however, that a worker who has not been issued a suitable form of identification shall not be required to obtain, carry and present one for purposes of this article.
[Added 10-18-2016 by Ord. No. 2016-325]

§ 60-16. License required; application.

- A. Any person desiring to operate a food cart 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 cart vending corporation or owner of an unincorporated business. If the applicant is an individual, he or she shall be designated as the vendor's operator, and the individual applicant may also designate one or more additional operators during or after the application process. If the applicant is not an individual, it shall specify and provide the name, address and telephone number of at least one person who shall be the designated operator. A designated operator shall be a person who is directly responsible for supervising the operation of the food cart. At least one designated operator shall be present at all times that a food cart is being set up and used for food vending. Every designated operator shall be required to obtain a vendor's identification

badge. In the event that a vendor's designated operator is no longer serving in that capacity and the vendor has no additional designated operator to serve in that capacity, the vendor shall promptly (within five business days after the individual operator has ceased service or at least three business days prior to the next date at which the licensee operates the food cart) notify the City Clerk, designate a replacement individual operator and submit to the City Clerk the replacement's application for an identification badge. [Amended 10-18-2016 by Ord. No. 2016-325]

- (2) Address of the commissary used in the supply and preparation of food for this food cart.
 - (3) A valid copy of all necessary licenses, permits or certificates required by the County of Monroe or the State of New York.
 - (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) A description of the food cart that the applicant will use. An additional license shall be required for each additional food cart from which the applicant proposes to vend. [Added 10-18-2016 by Ord. No. 2016-325]
- B. All license applicants and their individual operators 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 or operator 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. [Amended 10-18-2016 by Ord. No. 2016-325]
- C. All license applicants and applicants for renewals thereof shall present each food cart 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 firesafety of vending units.
- D. 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.

§ 60-17. 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.

§ 60-18. Form and condition of license.

Every food cart vending license shall contain the following conditions:

- A. Each food cart vending license shall expire on December 31 of every year.
- 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 cart only.

- D. There shall be issued to each vendor a suitable decal or tag that shall be permanently and prominently affixed to the food cart.

§ 60-19. Fees.

- A. Application: A nonrefundable fee of \$7 shall be required for the receipt of application materials. Said fee shall be credited toward the license fee upon submission of an application.
- B. License: All food cart vendors shall pay an annual fee of \$250 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 \$750. Vendors that operate a business in the Center City, Marina and Harbortown Vending Districts shall be entitled to a one-third discount of the license fee to vend in an approved location outside their business.
- C. Temporary permits: Any food cart 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 cart permit and pay a fee of \$100 for a permit valid for the calendar year. Any food cart 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 cart 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. Vendor identification badge: All food cart vendors shall pay a fee of \$24 for each identification badge, except for one badge issued with the license at no cost.
[Amended 10-18-2016 by Ord. No. 2016-325]
- E. Replacement license or identification badge: All food cart vendors shall pay a fee of \$10 for each replacement license or identification badge.
[Amended 10-18-2016 by Ord. No. 2016-325]
- F. Vendors who are eligible veterans and who have a Soldiers' and Sailors' Certificate issued by the Monroe County Clerk pursuant to § 32 of the General Business Law or who are disabled veterans as defined by § 35 of the General Business Law holding such a certificate shall be exempt from the fees contained in this section.

§ 60-20. Food cart vending locations.

- A. No food cart shall be operated in the Center City, Marina or Harbortown Vending District except in a location approved by the City Clerk through a lottery.
- B. No food cart shall be operated in a location outside the Center City, Marina or Harbortown Vending District except in a location approved by the Rochester Police Department.

§ 60-21. 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 article to allow for the operation of the special event.
- B. The Commissioner of Recreation and Youth Services shall establish requirements for food carts in parks regulated by the City. Any food cart operating in a park regulated by the City shall have a valid license or temporary permit pursuant to this article.
- C. The County of Monroe shall establish requirements for food carts in parks regulated by the county.

§ 60-22. Food cart vending at special events.

- A. Any food cart 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 article or a temporary Food Cart permit issued by the City Clerk, or a three-day temporary Food Cart permit issued by the City Clerk.
- B. Any temporary Food Cart 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 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 § 60-17.

§ 60-23. 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 article 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 article 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 § 68-10, Revocation of licenses and permits.

§ 60-24. Penalties for offenses.

A person violating any section of this article shall be subject to the penalties set forth in City Code § 13A-11, Penalties for offenses.

§ 60-25. Severability.

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

Article III. Food Vending from Tables

[Added 4-20-2016 by Ord. No. 2016-96]

§ 60-26. General provisions.

A food vendor may vend from a table only at a special event. Such vending must be approved by the sponsor of said event.

§ 60-27. Penalties for offenses.

A person violating this article shall be subject to the penalties set forth in City Code § 13A-11, Penalties for offenses.

§ 60-28. Exemption.

The following activity shall be exempted from the requirements of this article: The sale of homemade food or drinks at a residence by the owner or occupant thereof, provided that a commercial vending unit is not used and the

aggregate size of any table or tables or other display, preparation and storage areas shall not exceed four feet wide by eight feet long.

§ 60-29. Severability.

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