

**CHAPTER VI.
PUBLIC HEALTH**

Section 600 - Food and Food Establishments

600.01 Provisions of the State Law adopted. The provisions of the State of Minnesota Food Code Chapter 4626, Minnesota Rules 4626.0010 through 4626.1870, and Food Manager Certification Minnesota Rules 4626.2000 through 4626.2010, in effect on the effective date of this ordinance are hereby adopted by reference subject to the amendments as set forth in section 4. Any future revisions of MN Rules Chapter 4626 are adopted by reference and are made part of this ordinance.

600.03 Health Authority/Regulatory Authority defined. This ordinance shall be administered by the City of Hopkins Community Service Department. The term “regulatory authority” where used in the Minnesota Food code, Minnesota Rules Chapter 4626, shall mean City of Hopkins and its designated health authority.

600.05 - 600.45 were deleted by Ordinance 2010-1019.

600.07 Subdivision 1. LICENSE REQUIRED. All persons who operate a food establishment must have a valid license or licenses, if more than one is required, of the applicable type(s) issued to him/her for the current calendar year through the City of Hopkins Customer Service Department.

Subd. 2. The food establishments required to be licensed are as follows:

- a) Level One Tier One: Level one, Tier One contains low-risk foods such as carts, day care snacks, hazardous food vehicles, limited food (grocery and convenience stores with mainly packaged food or other low risk foods), snack stands and warehouses that are under 5000 square feet.
- b) Level One, Tier Two: Level Two, Tier Two contains low-risk foods such as carts, day care snacks, hazardous food vehicles, limited food (grocery and convenience stores with mainly packaged food or other low risk foods), snack stands and warehouses that are over 5,000 square feet.
- c) Level Two, Tier One-Limited Facilities: Level two, Tier One contains medium-risk facilities such as boats, congregate dining, day care, rental kitchens, and test kitchens.
- d) Level Two, Tier Two-Small Menu and Limited Commercial Equipment: Level Two, Tier Two contains medium-risk facilities that are higher use facilities such as bed and breakfast kitchens, boarding house, catering food vehicle, food manufacturer, on sale baked goods, pizza carry out or order out, and short order snack stands.
- e) Level Three, Tier One-Small Facility: Level Three, Tier One includes high-risk establishments including cafeteria, caterer, commissaries, complex cuisine, delis, family restaurant, fast food, small institutions, and schools. (Grocery stores with delis, meats, or bakeries that are over 4500 square feet, restaurants that are less than 2,500 square feet, drive-in restaurants with seating for less than 25 people)
- f) Level Three, Tier Two-Medium Facility: Level Three, Tier Two includes high-risk establishments including banquet kitchens, cafeterias, caterers commissaries, complex cuisine, family restaurant, and fast food. (Grocery stores with delis, meats, or bakeries that are between 4501 and 8000 square feet, restaurants that are more than 2500 square feet, but less than 5000 square feet)

g) Level Three, Tier Three-Large Facility: Level Three, Tier Three includes high-risk facilities such those listed in Tier Two. (Grocery stores with delis, meats, or bakeries that are over 8000 square feet and restaurants that are over 5000 square feet)

h) Food Vending Machine

1) The term “vending machine” means any type of self service device which, upon insertion of a coin or bill of more than one cent, coins or other token, dispenses unit servings of food or beverage, either in bulk or in a package, without the necessity of replenishing the device between each vending operation.

2) A vending machine that dispenses soda pop shall be exempt.

3) all other provisions of this section shall apply to vending machines unless the context of such other provisions clearly has no application.

i) Temporary Food Stands

1) Temporary Food Stands must provide the following information prior to receiving a license:

1. Name of the establishment
2. Name and address of the owner or operator
3. Location where the food establishment will be placed
4. Proposed dates of operation
5. Copy of a state or county permit if you have one
6. Completed Food Service Information Form

2) Temporary Food Stands shall provide their own electrical power and dispose of all waste products in an approved waste receptacle. No oil or grease may be disposed of in city storm sewers. Temporary Food Stands shall also comply with the health requirements set out in Section 600. Temporary Food Stands are exempt from the provisions of Section 1145 of the Hopkins City Code.

3) Limitation on Number of Days. A temporary food stand license shall be necessary for each event, and an event shall be limited to a maximum of four (4) continuous days.

4) Limitation on Number of Licenses. No person shall be granted more than four (4) temporary food stand licenses in one calendar year.

j) Mobile Food Cart

1) Mobile food cart shall mean a food establishment authorized and operated according to the standards and conditions set forth in section 600.67 of this Code. Mobile food carts are exempt from the provisions of Section 1145 of the Hopkins City Code.

k) Special Event Food Stands

1) Special Events are defined as any parade, race, procession, carnival, community picnic, celebration, fund raiser, dance, concert, large assembly, or other special event on City property (except parkland) within the corporate limits of the City of Hopkins.

2) Special Event Food Stands must provide the following information prior to receiving a license:

1. Name of the establishment
2. Name and address of the owner or operator
3. Location where the food establishment will be placed
4. Proposed dates of operation
5. Copy of a state or county permit if you have one
6. Completed Food Service Information Form

3) Special Event Food Stands shall provide their own electrical power and dispose of all waste products in an approved waste receptacle. No oil or grease may be disposed of in city storm sewers. Special Event Food Stands shall also comply with the health requirements set out in Section 600. Special Event Food Stands are exempt from the provisions of Section 1145 of the Hopkins City Code.

Subd 3. Display of Licenses. Licenses shall be conspicuously displayed at all times, readily available for inspection, in licensed food establishments. All food vehicles shall be identified with the name and location of the licensee in plain letters not less than one inch high prominently displayed on each side of the vehicle.

600.09 Section 4626.1760 is amended to read as follows: An applicant shall submit an application for a license for a food establishment on forms furnished by the City of Hopkins and shall set forth the general nature of the business, the location, and other information as the City shall require. Application and issuance of licenses, their fees, and termination, and administration shall be in accordance with and subject to all conditions of Chapter 10 of the City of Hopkins Code, unless otherwise provided herein.

600.11, Subdivision 1. Section 4626.1785 is amended to read as follows: The health authority shall inspect each food establishment prior to issuing a license for a new food establishment or change of ownership. A license shall not be issued until the corrections required by the health authority as a result of the pre-licensing inspection have been made to the satisfaction of the health authority.

Subd. 2. The City shall inspect every food establishment as frequently as it may deem necessary to insure compliance with this ordinance, but not less than the minimum frequency for food establishments established by Minnesota Statutes.

Subd. 3. The health authority shall officially notify the person-in-charge or licensee of the inspection report by one of the following methods:

- a) by delivering the report to the person-in-charge, or
- b) by posting it upon an inside wall of the food establishment, and such report shall not be defaced or removed by any person except the health authority, or
- c) by mailing the report by certified or registered mail.

600.13. Subdivision 1. Section 4626.1790 is amended as follows: After the regulatory authority presents official credentials and provides notice of the purpose of and an intent to conduct an inspection, the person in charge shall allow the regulatory authority to determine if the food establishment is in compliance with the Code by allowing access to the establishment, allowing inspection, and providing information and records specified in the Code and to which the regulatory authority is entitled according to law, during the food establishment's hours of operation and other reasonable times. No persons shall interfere with or hinder the health authority in the performance of his/her duties, or refuse to permit the health authority to make such inspections.

Subd. 2. Access to records. The person operating a food establishment shall, upon request of the health authority, permit access to and shall exhibit and allow copying of any and all books of accounts, paper and records relative to purchases of food for purposes of ascertaining sources of foods.

600.15. Subdivision 1. LICENSE FEES. Fees for licenses issued hereunder shall be those set by City Council Resolution from time to time and recorded in chapter 10 of the Hopkins City Code.

Subd. 2. Fee exemptions, license required. Food establishments in governmental subdivisions, houses of worship, child-care homes with ten or less children, and charitable and nonprofit hospitals must obtain a license, but shall not be charged a fee therefore and are subject to all other requirements of this section. Temporary- special event food establishments, which are operated by licensed food establishments, must obtain a license, but shall not be charged a fee therefore and are subject to all other requirements of this section. (Amended Ord. 2003-899)

Subd. 3. Penalty for failure of a new business to obtain a license or for an existing business to obtain a license by January 1st. The penalty is equal to and in addition to the cost of the license.

600.17. LICENSE EXPIRATION. Licenses issued pursuant to this ordinance shall expire on June 30 each year. License applications shall be filed with the Community Service Department 60 days prior to the expiration date. The fees are not pro-rated. (Amended Ord. 2003-899)

600.19. Subdivision 1. LICENSE SUSPENSION AND REVOCATION. LICENSE SUSPENSION The health authority with approval of the City Manager may immediately suspend the license of any food establishment which does not comply with the requirements of this Section or if the food establishment otherwise constitutes a public health hazard. Suspension is effective upon notice and/or posting of the report at the time of inspection and the licensee must immediately cease operations.

Subd. 2. The licensee may appeal the suspension in writing to the City Council. Upon notification in writing by the licensee to the health authority that all violations have been corrected for which the suspension was invoked, the health authority must re-inspect the food establishment within a reasonable length of time. If all violations rendering the temporary suspension have been corrected, the health authority must terminate the suspension.

Subd. 3. LICENSE REVOCATION. Any license issued under this Section may be revoked in the same manner provided in Chapter 10 of the Hopkins City Code.

600.21 REMOVAL AND CORRECTION OF VIOLATIONS. Upon notification of one or more violations, the person-in-charge or licensee must correct each violation within the specified time period as noted on the inspection report or as indicated by the health authority. Failure to remove or correct each violation within the specified time period will constitute a separate violation of this section.

600.23 Subdivision 1. EMERGENCY CLOSURE OF LICENSED FOOD ESTABLISHMENTS. The health authority may summarily close any licensed food establishment if any one of the following conditions exist on, or result from, the operation of the licensed premises:

- a) Evidence of a sewage backup in a food establishment to such an extent that the floor in food preparation, storage or ware washing areas has been flooded;
- b) No potable hot or cold water under pressure to a food establishment to such an extent that hand washing, ware washing, food preparation, or toilet facilities are not operational;
- c) A lack of electricity or gas service to a food establishment to such an extent that hand washing ware washing, food preparation, or toilet facilities are not operational,
- d) Where there is an ongoing food-borne illness caused by the operation of the establishment;
- e) Lack of adequate cold or hot holding facilities
- f) Lack of an accessible hand washing facility.
- g) An infestation of insect or rodents to such an extent that contamination of food, equipment, and other supplies exists, or flies are found breeding in the establishment indicated by the presence of eggs or maggots,
- h) Lack of an approved ware washing facility or sanitizing agent in the establishment
- i) Failure to possess a license required by this ordinance.

Subd. 2. Procedure for Emergency Closure

- a) Order to be issued. If the health authority, following an on-site inspection, determines that any of the grounds for emergency closure exist in a licensed food establishment, an order for emergency closure may be summarily issued on such forms the City shall provide. Such order shall identify the licensed food establishment; describe the specific grounds upon which the closure is based; state by what time the patrons must vacate, state that a hearing on the emergency closure can be requested by owner or person-in-charge by informing the City Manager or health authority. Such order shall be served on the owner or person-in-charge of the premises who shall thereupon close the premises. The establishment shall remain closed pending abatement of the condition(s) giving rise to the emergency closure as determined by the health authority, or by final order of the City after a hearing.
- b) Hearing. Upon written request, a hearing to consider whether the establishment may reopen, and the condition, if any, to be imposed for such reopening, shall be commenced no_later than three (3) business days after receipt of the written request. The City manager or health authority shall render a written decision within two (2) business days after conclusion of the hearing.

Subd. 3. Violation. Any of the following is punishable as a misdemeanor:

- a) Failure of the owner or person-in-charge to close a licensed food establishment and/or vacate the patrons from the establishment after service of an order for emergency closure,
- b) Failure Of any person to leave a licensed food establishment subject to an order for emergency closure upon being ordered to leave by the health authority,
- c) Any violation of this section by an owner or person-in-charge of a food establishment.

600.25. Mobile food cart vendors. A maximum of three licenses per year may be issued pursuant to section 600 for mobile food cart vendors for the sale of specified food and beverage items from mobile food carts on public property, which shall be operated and conducted in accordance with the following conditions:

(1) Each mobile food cart shall be separately licensed and may operate only at the location specified in the license. No licensee may trade carts or locations with another licensee; however, should a licensee apply for and be granted a different location for a cart during the licensing year and chooses to surrender the original location for that cart, a new license fee shall not be charged but a new Property Use Agreement must be entered into with the City of Hopkins prior to operation.

(2) Application procedure:

- a. Each applicant shall file an application with the City Clerk on forms provided by the Clerk. In addition to the requirements of section 600 of this Code, the City Clerk may require such information on the application as the Clerk considers reasonable and necessary.
- b. No application for a license shall be accepted for filing unless the applicant files therewith plans and specifications for the cart which have been approved by the Environmental Health Officer. If the cart is not ready and available for inspection sixty (60) days after the application is filed, the applicant's proposed operating location shall be available to other applicants.

A single applicant, for the purposes of this section, shall mean an individual person, or any member of that person's immediate family and shall also include a corporation and any corporation with substantially the same ownership or ownership by persons of the immediate family of the stockholders of that corporation or partnership.

c. Each applicant shall include in the application a proposed operating location. The proposed location shall be referred to the director of public works for the approval or disapproval. The director of public works shall not approve a location where a mobile food cart would substantially impair the movement of pedestrians or vehicles, or pose a hazard to public safety. Further, the director of public works shall not approve any location which is adjacent to a bus stop, taxi stand, or handicap loading zone, within fifty (50) feet of an intersection, within three (3) feet of a curb, or directly in front of a commercial entryway. If the applicant's proposed location is disapproved, the applicant shall be so notified, and the applicant may select an alternate location, which shall also be referred to the director of public works for approval or disapproval. If the holder of a valid license for the previous license year timely renews that license for the following license year, the license holder may reserve the location for the new license year.

Any license not renewed by April fifteenth shall cause that location to become available to other applicants. Licenses may be renewed between April first and April fifteenth by the payment of a late fee in addition to the license fee. All licensees shall be notified of the availability of locations which have been vacated or for which licenses have not been renewed. The notification shall include a due date for applicants for these locations and a date upon which a lottery will be held to choose among multiple applicants.

- (3) All mobile food cart food vendor licenses shall expire on April first of each year, but may be renewed year to year thereafter.
- (4) No mobile food cart shall have dimensions exceeding four (4) feet in width, eight (8) feet in length and eight (8) feet in height. However, a cart may be equipped with an awning which overhangs by not more than twelve (12) inches in any direction. Each mobile food cart shall be self-propelled and capable of being moved and kept under control by one (1) person traveling on foot. A special license may be granted to a handicapped person to operate a mobile food cart propelled by electric motor, provided that the applicant shall meet all other conditions for a license.
- (5) Location restrictions:
 - a. Mobile food cart food vendors may operate only within the downtown district defined as the south side of First Street North to north side of First Street South; the west side of 6th Avenue to the east side of 13th Avenue.
 - b. A mobile food cart food vendor licensed under this section may operate only on publicly owned property, within the boundaries described in subparagraph (1) above, with the approval of the director of public works.
 - c. Mobile food cart vendors must enter into a Property Use Agreement with the City of Hopkins prior to operation.
- (6) A mobile food cart food vendor license shall not be transferable from person to person or from place to place without approval of the City Manager or his or her designee.
- (7) Every licensee shall maintain a permanent location within the City of Hopkins for the storage and preparation of food and beverages carried by the licensee's mobile food carts, and for the cleaning and servicing of those carts. Such permanent location shall possess a Level Three Hopkins food license and comply in all respects with the requirements of the Food and Beverage Ordinances. Each mobile food cart shall return to the permanent location at least once daily for cleaning and servicing.
- (8) Each mobile food cart shall meet National Sanitation Foundation (NSF) standards for food storage, preparation and dispensing. Toilet facilities shall be required at the permanent location but not on each cart.
- (9) Each cart shall carry adequate hand-washing facilities for the employees of the licensee. A waste retention tank with fifteen (15) percent larger capacity than water supply tank shall be provided.
- (10) All waste liquids, garbage, litter and refuse shall be kept in leakproof, nonabsorbent containers which shall be kept covered with tight-fitting lids and properly disposed of at the permanent location. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles or any other place except at the permanent location. When leaving the sales area the licensee or the licensee's employees shall pick up all litter resulting from the licensee's business and shall deposit such litter in an approved container located on the cart.

- (11) The Environmental Health Officer shall publish, and may from time to time amend, a list of approved food and beverage items which may be sold by mobile food cart food vendors. No items of any kind, other than approved food and beverage items, shall be sold or dispensed from mobile food carts.
- (12) There shall be issued to each licensee a suitable decal for each licensed pushcart. Every pushcart licensed under this chapter shall at all times have the decal permanently and prominently fastened on the pushcart.
- (13) Affixed permanently and prominently to each pushcart shall be a sign no smaller than twelve (12) inches by twelve (12) inches displaying the name, address and telephone number of the pushcart owner.
- (14) Each licensee shall provide proof of liability insurance in the amount of one hundred thousand dollars (\$100,000.00) for individuals, three hundred thousand dollars (\$300,000.00) for any single incident and ten thousand dollars (\$10,000.00) for property damage. A certificate of insurance shall be delivered to the City Clerk prior to issuance of a license. The city shall be named an additional insured.
- (15) No mobile food cart operator shall use lights or noisemakers, such as bells, horns or whistles, to attract customers. A mobile food cart operator may use battery-operated lights with protective shielding for the purpose of illuminating food and utensils.
- (16) No mobile food cart shall operate before 7:00 a.m. or after 11:00 p.m. on any day.
- (17) No mobile food cart shall operate, park, stand or stop in any street or alley except to cross at designated street crossings.
- (18) The city council shall establish a reasonable fee, not to exceed two hundred fifty dollars (\$250.00) per year, to be charged to each mobile food cart food vendor, to defray the cost of cleanup and maintenance and other policing in connection with the operation of the food cart.
- (19) Any mobile food cart operator who shall fail to operate at any licensed location for thirty (30) consecutive days between May first and October first shall forfeit that location. The City Clerk shall notify all licensees of the vacation of said location and shall set a date for a lottery, if necessary, to choose among multiple applicants.

This section was amended by Ordinance 2000-848, 2010-1014, 2010-1019.