

**AN ORDINANCE PERTAINING TO FOOD SERVICE ESTABLISHMENTS,
SPECIAL FOOD HANDLERS, MOBILE UNITS AND CLASS A LOUNGES**

THE CITY OF LEWISTON HEREBY ORDAINS:

Chapter 22 of the Code of Ordinances of the City of Lewiston, Maine are hereby amended as follows:

CHAPTER 22

BUSINESSES

Article VI. Food Service Establishments, Special Food Handlers, Mobile Units and Class A Lounges

Sec. 22-2. Definitions.

Food means any raw, cooked or processed edible substance, ice, beverage, alcoholic beverage or ingredient used, or intended for use, or for sale, in whole, or in part, for human consumption.

Mobile unit means a mobile vehicle designed and constructed to transport, prepare, sell or serve food at a number of sites and is capable of being moved from its serving site at any time. This type of establishment is a self-contained food service operation, located in a vehicle or a moveable stand on wheels, used to store, prepare, display or serve food intended for individual portion service. The term mobile units shall include but not be limited to food trucks, food trailers, pushcarts and stick built joints.

Pushcart means a self-propelled mobile unit that is limited to preparing and serving non-potentially hazardous foods or foods that are deemed low risk by the health inspector/sanitarian.

~~Roving diner means any portable, and any vehicle, food truck, trailer, cart, wagon, conveyance or carrier of any kind, capable of being moved from its serving site at any time from which food is sold or caused to be sold, at retail, from house to house, store to store, building to building, or along or upon any sidewalk, street, park or other public property in the city; lunch wagons. The term "roving diner" shall not be construed to include caterers, vendors of dairy products, ice, bakery products, or similarly employed route salesmen while engaged in making deliveries to their regular customers or persons making deliveries on order from customers of retail stores in the city.~~

Stick built joints are a type of mobile unit containing food service equipment that may be assembled and disassembled for storage or transportation and may only operate at a fixed location for the duration of an approved community event.

Sec. 22-41. Duration of licenses; expiration date.

All licenses, except when otherwise provided, shall be for 12 months' duration and shall expire according to the following schedule:

Mobile units.....April

Roving diner..... April

Sec. 22-49. Adoption of State of Maine Rules.

For the purpose of protecting the public health the City hereby adopts and enacts the following State of Maine Rules:

- (1) ~~State of Maine Food Code 2001~~ The U.S. FDA food code as adopted and amended by the Maine Department of Human Services 10-144 CMR 200 in the enforcement of all Food Service Establishments, Special Food Handlers, Mobile Units and Class A Lounges licensed by the City of Lewiston as if fully set forth herein, except for the changes set forth in this Article. and the Maine Department of Agriculture, Food and Rural Resources 01-001 CMR 331 May 1, 2001.
- (2) The rules relating to Lodging Establishments, adopted and amended as set forth by the Department of Health and Human Services, Maine Centers for Disease Control and Prevention, Division of Environmental Health 10-144 CMR 206 January 1, 2003.
- (3) The rules relating to the Administration and Enforcement of Establishments licensed and adopted and amended by the Health Inspection Program, Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health Inspection Program 10-144 CMR Chapter 201 October 7, 2012.

ARTICLE VI. FOOD SERVICE ESTABLISHMENTS, SPECIAL FOOD HANDLERS, MOBILE UNITS, CLASS A LOUNGES*

***State law references:** Food and food handlers generally, 7 M.R.S.A. § 401 et seq., ~~22~~ M.R.S.A. §§ 2491—2501 22 MRS §§ 2491-2502, 30-A M.R.S.A. § 3931, 32 M.R.S.A. §§ 1751-1854.

DIVISION 1. GENERALLY

Sec. 22-146. ~~Definitions. Reserved.~~

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Food* means and includes all liquid or solid substances intended for human consumption.~~

Sec. 22-147. License required.

No person shall engage in, operate or conduct the business of the manufacture, preparation, sale or service of food in the city unless such person has first acquired a license in accordance with the provisions of this article and articles I and II of this chapter.

Sec. 22-148. Suspension of license; appeal.

- (a) A license granted pursuant to this article may be temporarily suspended at any time by the health ~~officer~~ inspector/sanitarian of the city upon satisfactory evidence that food is being manufactured, prepared, sold or served in an unsanitary manner or in a manner not conducive to public health. The licensee shall have the right to appeal such suspension to the council, such appeal to be heard at the next regular meeting of the council.
- (b) The health ~~officer~~ inspector/sanitarian shall have discretion to remove the suspension and reinstate the license under this article prior to the hearing of the appeal upon finding that the unsanitary conditions have been remedied.

~~Sec. 22-149. Sanitary conditions required. Reserved.~~

~~Every person owning, managing or operating an establishment or business where food is manufactured, prepared, sold or served to the public in the city shall at all times keep the premises and all fixtures, appliances and utensils in a clean and sanitary condition. (Code 1982, § 12-4)~~

~~Sec. 22-150. Running water, toilet facilities required.~~

~~Every establishment or business where food is manufactured, prepared, sold or served to the public in the city shall be provided with an adequate supply of hot and cold running water under pressure from the public mains where such is available, and shall be equipped with proper lavatory and toilet facilities convenient, accessible and sufficient to ensure the comfort and cleanliness of its employees; and where both male and female help are employed, the health officer may require separate toilets, lavatories and dressing rooms to be installed for the use of either sex.~~

Sec. 22-150. Right to Enter.

The health inspector/sanitarian shall be permitted to enter any licensed City establishment as described in Article VI of the code of ordinances during operating hours for the purpose of making inspections and of copying any and all records of food purchases and payrolls. It shall be the duty of every person responsible for the management or control of such establishment to afford free access to every part of such establishment and to render all aid and assistance necessary to enable the health inspector/sanitarian to make a full, thorough and complete examination thereof to determine compliance with this article and Section 22-49 of this code of ordinances. Records of purchases of food shall be held for a period of 3 months following the date of purchase either at the licensed establishment or at another place where they are customarily kept and shall be made available to the health inspector at the establishment within a reasonable time upon request.

Sec. 22-151. Certified Food Protection Managers.

(a) A food service establishment, special food handlers, mobile units and Class A lounges must have at least one employee granted supervisory and management responsibility designated a Certified Food Protection Manager (CFPM) as defined in the latest adopted and amended State of Maine Food Code.. Proof of CFPM certification is required as follows:

1. Prior to the issuance of any new license required by Chapter 22; Section 147.
2. Prior to the renewal of any license required by Chapter 22; Section 147.
3. Within 60 days of the date when a CFPM leaves employment.
4. At the time of any inspection by the City's health inspector/sanitarian.

(b) Proof of compliance with the requirements of this section shall be provided to the city health inspector/sanitarian. Prior to the issuance of any license required by Chapter 22, the city health inspector/sanitarian must certify that the requirements of this Section have been met. Failure to provide proof of compliance with the requirements of this Section will be subject to a denial, suspension or revocation of a license in accordance with the provisions of Chapter 22. In addition to license suspension or revocation, violations of subsection Sec. 22-151, above, shall result in a penalty to the violator and may result in a temporary suspension of the Food Service or Food Handler's license until compliance is met.

(c) An eating establishment may be deemed CFPM exempt by the city health inspector/sanitarian if the licensed establishment does not or minimally handle or prepare Potentially Hazardous Foods as defined by the FDA Food Code. The exemption will be documented on the health inspection/sanitarian report(s).

Sec. 22-151. Diseased and unhealthy employees.

~~No person afflicted with any eruptions, ulcerations or running sores, and no person afflicted with any communicable disease, shall be employed in any establishment where food is manufactured, prepared, sold or served to the public.~~

Sec. 22-152. Certificate of health required.

~~Every person employed in any establishment where food is manufactured, prepared, sold and served to the public shall, when required by the health officer, file with such health officer, as evidence of good health, a certificate of examination by a reputable and competent physician, attesting to the fact that such person is not afflicted with active tuberculosis, any venereal disease or other communicable disease.~~

~~Sec. 22-153. Physician's duty.~~

~~It shall be the duty of every physician attending a case of venereal disease, tuberculosis or any other communicable disease, in any person employed in or about any establishment where food is manufactured, prepared, sold or served to the public, to notify at once, in writing and over his signature, the health officer. Such notification in the case of a venereal disease shall not be made part of any record accessible to the general public, but may be used as evidence in any prosecutions initiated by the health officer for failure to comply with the provisions of this article.~~

~~Sec. 22-154. Exceptions to article.~~

- (a) ~~The requirements of section 22-150 may be waived if the health officer determines that such a waiver will not create a hazard to public health.~~
- (b) ~~The provisions of this article shall not apply to any person who makes delivery of foodstuffs to customers on order from an established and regular place of business located in the city or to route salesmen while making deliveries of foodstuffs to their regular customers.~~

~~Secs. 22-152--22-165. Reserved.~~

~~Secs. 22-155--22-165. Reserved.~~

~~DIVISION 2. SPECIAL FOOD HANDLERS AND ROVING DINERS~~ MOBILE UNITS

Sec. 22-166. Intent and purpose.

It is the intent and purpose of this division to establish minimum regulations for mobile units ~~special food handlers and roving diners~~, where food is sold within the corporate limits of the city.

Sec. 22-167. Approval of health inspector/sanitarian, license required.

No person shall operate a ~~roving diner~~ mobile unit ~~nor maintain, or otherwise engage in, any business as a special food handler or food service establishment~~ without having first secured the approval of the health inspector/sanitarian and obtained a license in accordance with the provisions of this article and those of articles I and II of this chapter.

Sec. 22-168. Display of license or permit.

Any person authorized to do business in accordance with this division as a ~~roving diner~~ mobile unit shall have displayed in a conspicuous place on the right-hand side of each vehicle, cart, conveyance or carrier used in such business a plate showing that a license or permit has been obtained. ~~Food trucks and trailers~~ All mobile units shall submit an application on a form provided

by the City Clerk's Office with colored pictures of at least two different angles of the unit and a description that includes the length and width, when in its widest configuration.

Sec. 22-169. ~~Roving diners~~ Mobile units in streets and public places.

- (a) Pushcarts licensed as ~~roving diners~~ mobile units may be operated in the streets, ways and public places in accordance with the provisions of this section. For the purpose of this section, the term "public places" shall include public parks and grounds.
- (f) Food trucks, stick built joints and food trailers
 - (1) Food trucks and trailers may operate on City owned property from 6:00 a.m. to 10:00 p.m. and 6:00 a.m. to 1:00 a.m. on private property in zoning districts where restaurants are a permitted use as per Appendix A, Article XI, Section 22(c) of the Code of Ordinances of the City of Lewiston with the permission of the property owner.
 - (2) Police Department has the right to close down or request a food truck or trailer to relocate, where in the opinion of the Department, the food truck or trailer is causing or contributing to an imminent public safety hazard.
 - (3) Food trucks, stick built joints and food trailers shall not be permitted on the grounds of any school unless as part of a school authorized function.
 - (4) Food trucks, stick built joints and food trailers shall not be permitted in cemeteries, parking garages, city owned parking lots, on Lisbon Street, and within the boundaries of a City park unless part of a permitted event.
 - (5) In locations on public property where food trucks and trailers are permitted to operate, food trucks and trailers shall comply with all parking rules outlined in Chapter 70, Article IV of the City Code of Ordinances, except that food trucks otherwise operating lawfully and actively offering food for sale on public property may, in any twenty-four (24) hour period, "feed" any parking meter once in order to extend the maximum parking time to 4 hours. Hourly parking food trucks or trailers may have a maximum of 4 hours at any timed spot.
 - (6) Separation Requirement:
 - a. Except when operating in connection with a festival or special event, food Trucks, stick built joints and food trailers shall not locate within 100 feet, measured by the most direct line, of occupied space of a food service establishment having a fixed location.
 - b. No minimum measured space is required between food trucks, stick built joints and food trailers.
 - (7) In addition to complying with the City's ordinances related to ~~roving diners~~ mobile units and these regulations, the owner and operator of a food truck, stick built

joints or food trailer is responsible for applying for and obtaining all other necessary city licenses required for the service of food and beverages. The food truck or trailer itself shall be in compliance with the motor vehicle laws of the State of Maine, securing State of Maine Mobile Vendor license, and the food truck or trailer owner is responsible for verifying that a specific location does not violate an ordinance of the City.

- (8) Food trucks, stick built joints and food trailers may not be parked overnight on city streets or in city parking lots.
- (9) Size limitations: Food trucks and trailers shall not exceed ten (10) feet in width, including any side extensions or awnings. Food trucks and trailers parking in metered parking spaces on city-owned property shall not exceed twenty (22) feet in length including the length of any trailer hitch, trailer, or other extension. Food trucks and trailers parking in non-metered parking spaces on city-owned property shall not exceed twenty-four (24) feet in length, including the length of any trailer hitch, trailer, or other extension.
- (10) Food trucks and trailers shall be self-contained when operating, except for the required trash and/or recycling receptacles, which shall be in contact with the food truck, in a safe location and in no event shall impede the free movement of automobiles or pedestrians. Owner is responsible for all clean up and waste.
- (11) Food trucks and trailers shall serve to the sidewalk or esplanade next to a sidewalk when parked in spaces parallel to City sidewalks.
- (12) Food trucks and trailers shall park parallel to sidewalk or esplanade.
- (13) Food trucks and trailers shall be in a timed, metered or legal parking spot.
- (14) Only food and/or non-alcoholic beverages are allowed to be sold on City property.
- (15) Each food truck, stick built joint or food trailer vendor shall provide the City of Lewiston with a certificate of insurance to cover public liability in the amount of at least \$400,000.00.
- (16) The food truck, stick built joint or food trailer shall be inspected and properly licensed. If food is prepared outside of the truck, stick built joint or trailer base station it shall be prepared in a State of Maine licensed food service establishment.
- (17) Food trucks, stick built joint and food trailers shall comply with the City's noise requirements.
- (18) A license to operate a food truck, stick built joint or food trailer in the streets, ways and public places pursuant to this division may be suspended by the city clerk upon three days' written notice and hearing, for a period of five days, for a violation of

any provision of this section and may be revoked by the municipal officers upon five days' written notice and hearing, for repeated violations of the provisions of this section.

- (19) Stick built joints shall not be permitted in City streets.

NOTE: Additions are underlined; deletions are ~~struck-out~~.