THE CITY OF CRANSTON

ORDINANCE OF THE CITY COUNCIL

IN AMENDMENT OF TITLE 5 CHAPTER 44 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED “BUSINESS LICENSES AND REGULATIONS”

(Itinerant Food Vendors)

No.

*As amended in Committee 12/2/2013

Passed:

__________________________________________
John E. Lanni, Jr., Council President

Approved:

__________________________________________
Allan W. Fung, Mayor

An Ordinance Promoting Economic Development and the Food Truck Industry in the City of Cranston

WHEREAS, The food service industry is a fast growing industry, including restaurants establishments such as fast-food eateries, formal dining and mobile trucks; and,

WHEREAS, According to the U.S. Bureau of Labor Statistics, the food services and drinking places industry ranks among the Nation's leading employers with nearly 10 million wage and salary jobs; and,

WHEREAS, Recently, mobile food units have become extremely popular and profitable in urban settings such as, New York, Philadelphia, and Boston to name a few; and,

WHEREAS, The mobile food industry has the unique potential to create new employment opportunities, small business growth and favorable conditions for culinary entrepreneurs in Cranston and its neighborhoods; and,

WHEREAS, According to the National Restaurant Association, there is an increasing demand, particularly among people 18 to 44, for freshly prepared, restaurant-quality food that can be had quick and cheap; and,

WHEREAS, Research has revealed that cities around the country have, at best, made incremental strides in regulating the complexities of the mobile food vendor industry, including efforts to find solutions to problems created by the industry, such as issues around parking, traffic and waste disposal; and,
WHEREAS, Vendors in the mobile industry have faced complex rules and regulations in other communities, the following language is being set forth to streamline administrative processes, effectively work with the industry and secure the highest quality of life for all Cranstonians; NOW,

It is ordained by the City Council of the City of Cranston as follows:

Section 1. Chapter 5.44, entitled "Itinerant Food Vendors" is hereby amended by deleting it in its entirety and substituting the following:

Permitting and Regulations of Mobile Food Trucks

5.44.010 Definitions

When used in this section, unless the context otherwise requires, the following terms shall have the following meanings:

a. The Health Department shall mean the State of Rhode Island Department of Health Food/Victualers Licensing Unit.

b. Director shall mean the Director of Public Works of the City of Cranston or his or her designee.

c. Departments shall mean the Transportation Department, Traffic Engineer, Fire Department, the Inspectional Services Department, Police Department, Tax Assessors, and the Clerk.

d. Food Establishment shall mean a business operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption as set forth in the State Health Code.

e. Mobile Food Vehicle shall mean a food establishment that is located upon a vehicle, or which is pulled by a vehicle, where food or beverage is cooked, prepared and served for individual portion service, such as a mobile food kitchen;

f. Mobile Food Truck shall mean a mobile food vehicle.

g. Mobile Food Commissary shall mean a licensed food establishment that a mobile food truck reports to twice daily for all food and supplies and for all cleaning and sanitizing of units and equipment.
5.44.020 Scope

a. The provisions of this section shall apply to mobile food operations engaged in the business of cooking, preparing, and distributing food or beverage with or without charge from mobile food trucks on or in public, private or restricted spaces. This section shall not apply to canteen, coffee, or ice cream trucks that move from place to place and are stationary in the same location for no more than thirty (30) minutes at a time or food vending push carts and stands.

b. The provisions of this section shall not apply to mobile food operations that receive a temporary event permit issued by the Public Works Department.

5.44.030 Mobile Food Trucks Committee

a. The Safety Services Committee of the City Council with assistance from the Public Works Department, the Transportation Department, the Inspectonal Services Department, the Police Department, the Fire Department, the Director of Food Initiatives and the Assessing Department for the purpose of reviewing applications for mobile food truck permits and establishing rules and regulations as appropriate.

b. The City Council will develop acceptable routes of operation throughout the city and establishing industry standards, such as the use of global positioning system (GPS) devices and other matters and creates Zones or areas for the establishment of locations for food trucks.

c. The Committee may work with applicants for Mobile Food Truck permits and renewals to encourage the following:

i. Sustainable and environmentally friendly practices, including the use of energy-efficient vehicles,

ii. Charitable components to the business of operation,

iii. School nutrition programs or healthy food choices,

iv. Programs for children or the homeless,

v. Other socially responsible practices and programs,

vi. Routes that provide access to underserved neighborhoods of the city, and

vii. The use of food commissaries within the city.

5.44.040 Mobile Food Truck Permit Required

a. No person or business entity, including a religious or charitable organization, shall operate a mobile food truck in any public, private or restricted space without a permit issued by the Committee.
b. A mobile food truck permit is required for each and every mobile food truck.

**5.44.050 Application for a Mobile Food Truck permit**

a. Single Application. There shall be made available by the City Clerk a single application form to apply for each mobile food truck permit. The application shall provide the following:

1. A description of necessary inspections and fees, *including food service safety certification*.

2. A description of areas of the City where the operation of mobile food trucks are limited or prohibited;

b. Submission of Materials. Each application shall indicate on its face, in addition to other requirements as may be determined by the Committee, that the following materials must be submitted by the applicant:

c. 1. The name of the business and its owner or owners and the mailing address of the business,

2. A description of the proposed business plan for the mobile food truck operation,

3. A proposed service route and hours of operation with a detailed schedule of times and locations where the mobile food truck will be stationary and serving food,

4. Certification that the vehicle has passed all necessary inspections required by the Cranston Fire Department and RI Motor Vehicle Registry,

5. Proof that the Mobile Food Truck will be serviced by a mobile food commissary,

6. Proof of access to restroom facilities with flushable toilets and access to hand washing facilities for the use of the mobile food truck employees within five hundred (500) feet of each location where the mobile food truck will be in operation for more than one (1) hour in any single day, and
7. A certificate of insurance providing general liability insurance listing the City as additionally insured. A food truck permit shall be issued only for the explicit time period covered by the effective dates of the general liability insurance policy.

d. Approval Process. An application must be submitted to the City Clerk of, who shall then forward the application to the Safety Services Committee for review. The application must receive the approval of each of the Departments, based on duly published criteria established by the Committee, prior to its final approval and the issuance of a permit by the City Clerk.

1. The Committee may work with the applicant or permit holder to modify a service route or location at any time (i) before the issue of a permit or (ii) after the issue of a permit, if the grant of a permit or approval of a service route has led to the creation of a nuisance or otherwise endanger the public health, safety, or order or by request of the permit holder.

2. Within sixty (60) days of the submission of a completed application, the Safety Services Committee City Council shall review and either approve or deny the application and send their recommendation to the full Council.

3. If the application is denied in whole or in part, the Committee shall state the specific reasons for the denial.

5.44.60 Limitation on the Number of Permits

The Committee may from time to time set a limit on the number of total permits that may be issued or renewed per year; provided, however, that no more than ten percent (10%) of total permits or five (5) permits, whichever is greater, may be issued to a single person or business entity or both. Upon receipt of application, the Commissioner or his or her designee shall advise the applicant whether or not the limitation has been met.

5.44.070 Permit Renewal

a. Every mobile food truck permit, unless suspended or revoked by the Committee for a violation of any provision of this section or other rule or regulation promulgated for the implementation of this section, shall be renewed annually given that a renewal fee is paid within thirty (30) days after its one year expiration, at which time the permit holder shall forfeit the right
to renew and the permit may be made available to another applicant for new permit if the limitation on the number of permits has not been reached.

b. The renewal of a permit does not also guarantee renewal of the previously approved route. The Committee reserves the right to add, remove, and reapportion available locations among mobile food truck operations at renewal.

5.44.080 Rules and Regulations

a. General. The Committee members are hereby authorized to promulgate, both jointly and within their respective departments, additional rules and regulations appropriate for the implementation of this section, and, if necessary, work with other agencies and departments of the city and state to establish a streamlined process for the permitting of mobile food trucks; provided, however, that such rules and regulations are not inconsistent with the following limitations and restrictions:

1. No operator of a mobile food truck shall park, stand, or move a vehicle and conduct business within areas of the city where the permit holder has not been authorized to operate;

2. No permit holder shall possess a permit for a mobile food truck that is not in operation for a period of more than fourteen (14) days without duly notifying and obtaining approval from the Committee.

3. The issuance of a permit does not grant or entitle the exclusive use of the service route, in whole or in part, to the mobile food truck permit holder, other than the time and place as approved for the term of the permit;;

4. No mobile food truck shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, unless a proposal for such seating arrangements is submitted with the permit application and approved by Committee.

5. Consumers shall be provided with single service articles, such as plastic forks and paper plates, and a waste container for their disposal. All mobile food trucks shall offer a waste container for public use that the operator shall empty at his own expense.
6. The permit holder must keep an accurate log indicating that the mobile food truck is serviced at least twice daily by a mobile food commissary for all food, water and supplies and for all cleaning and servicing operations, including the emptying and cleaning of waste containers.

7. No mobile food truck shall make or cause to be made any unreasonable or excessive noise in violation of City Code.

8. A mobile food truck may not operate on public property unless the Safety Services Committee and the Departments have otherwise granted approval on the permit application for its operation at the particular location during specific times.

9. All mobile food trucks must be equipped with a permanently mounted global positioning system (GPS) device that meets rules and regulations established by the Committee or its members.

10. For mobile food trucks on public property, the City reserves the right to temporarily move a mobile food truck to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit.

b. Inspectional Services. The City Department shall ensure compliance with all state and local ordinances.

c. Fire Department. The Cranston Fire Department shall promulgate rules and regulations for the inspection of mobile food trucks and to ensure compliance with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and codes.

5.44.090 Permit Fees

a. Application Fee. The application fee for a permit or a renewal of a permit granted by the Committee for the operation of a mobile food truck shall be five hundred dollars ($250.00).

b. Annual Fee. An annual fee shall be required for the issuance or renewal of a mobile food truck permit based on a taxable market valuation of city property by the Assessing Department, including sidewalks, from which mobile food trucks will stand according to a route of operation submitted with an application for a mobile food truck permit. Nothing in this section shall
prohibit the Committee from designating zones throughout the city for the
purposes of establishing fees and rates.

5.44.100 Prohibition Against the Transfer of a Permit.

a. Transfers for value prohibited. No person holding a permit for a mobile food
truck shall sell, lend, lease or in any manner transfer a mobile food truck
permit for value.

b. Nonvalue transfers as part of the sale of a business. Notwithstanding
subsection 1.10(a), a permit holder may transfer a permit as part of the sale of
a majority of the stock in a corporation holding such permit, as part of the sale
of a majority of the membership interests of a limited liability company
holding such permit, or as part of the sale of a business or substantially all of
its assets; provided that there shall be no allocated or actual value for the
transfer of the permit.

1. Prior to any such transfer, the transferor shall notify the Committee in
writing and the transferee shall submit a food truck permit application
for approval to the Committee pursuant to the process set forth in
subsection 17-10.5 and any additional rules and regulations
promulgated by the Committee.

2. Any such transfer shall be subject to the terms and conditions of the
original permit.

c. Unauthorized transfer voids permit. Any unauthorized transfer or attempt to
transfer a permit shall automatically void such permit. Whoever violates this
provision, including both the transferor and transferee, shall be subject to a
fine of three hundred ($300) dollars, pursuant to section 17-10.12(a). The
unauthorized transfer or attempt to transfer of each permit shall constitute a
separate violation.

5.44.110 Operation of Mobile Food Trucks

a. Operation without permit. Any mobile food truck being operated without a
valid mobile food truck permit issued by the Commissioner shall be deemed a
public safety hazard and may be ticketed and impounded.
b. Unattended Vehicles prohibited. No mobile food truck shall be parked on the street overnight, or left unattended and unsecured at any time food is kept in the mobile food truck. Any mobile food truck which is found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

c. A mobile food truck operating outside of an approved route, at an unauthorized location, or beyond the hours for which the operation has been permitted shall be deemed operating without a permit in violation of this section and may be subject to enforcement under subsection 17-10.12.

5.44.120 Enforcement

a. Fine for Violation. Any permit holder operating a mobile food truck or service in violation of any provision of this section or any rules and regulations promulgated by the Committee may be subject to a fine of three hundred ($300.00) dollars per day. Each day of violation shall constitute a separate and distinct offense.

Revocation, Suspension, Modification. Once a permit has been issued it may be revoked, suspended, modified, or not renewed by the Committee for failure to comply with the provisions of this section or any rules and regulations promulgated by the Committee.

c. Revocation, Suspension, Modification. Once a permit has been issued it may be revoked, suspended, modified, or not renewed by the Commissioner for failure to comply with the provisions of this section or any rules and regulations promulgated by the Committee.

1. No permit shall be revoked, suspended, modified, or not renewed without a hearing before the Council.

d. Removal. Any permit holder found in violation of this section or any rules and regulations promulgated by the Committee may be issued a ticket for violation and the mobile food vehicle may be impounded.

e. Enforcement. The provisions of this section or any rules and regulations promulgated by the Committee may be enforced jointly by the Cranston Police Department and the Cranston Transportation Department.
5.44.130 Severability

If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

Section 2. This Ordinance shall take effect upon thirty days following its final adoption.

Positive Endorsement

Negative Endorsement (attach reasons)

______________________________   ________________________________
Christopher Rawson, City Solicitor Date  Christopher Rawson, City Solicitor Date

Sponsored by: Councilman Favicchio and Councilman Botts

Referred to Safety Services & Licenses Committee October 7, 2013