AN ORDINANCE introduced by Councilmember Clark Duffy establishing a licensing fee for mobile restaurants, mobile food service units or push carts in the City of Topeka, amending City of Topeka Code §§ 30-302, 30-304, and 30-306, and specifically repealing said original sections.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TOPEKA, KANSAS:

Section 1. That City of Topeka Code § 30-302, Exemptions, is hereby amended to read as follows:

Exemptions.

The following organizations and their members and the following activities shall be exempt from the licensing and registration provisions of this division:

1. Exhibitions, street fairs, amusement enterprises, expositions, promotional ventures or other civic entertainment where a permit has been obtained, if applicable, or where such activity is sponsored in part by the city, civic organizations, not-for-profit organizations, public or private schools, or educational institutions.

2. Auctions as regulated by this Code or state statute.

3. Garage sales as regulated by this Code.

4. Sales of agricultural products, nursery products and foliage plants, including sales through an organized farmer's market, provided that such sales of agricultural products, nursery products and foliage plants shall comply with the prohibitions listed in this article with the exception that artificial lighting may be used.
5. Sales conducted within the following structures: trade centers, convention centers, shopping centers, and trade, exhibition or convention centers located in hotels and motels.

6. Sales conducted at Heartland Park Topeka.

7. Sales or displays at sales, bazaars or concessions sponsored or operated by public or private schools, educational institutions, civic organizations, or not-for-profit organizations.

8. Sales by any person who has had a permanent business location in this city for not less than six (6) months in this or the previous calendar year but who may carry on a transient business at locations in this city other than the person's permanent business location, provided that such sales shall comply with the prohibitions listed in this article with the exception that artificial lighting may be used.


10. Food vendors service establishments that are otherwise regulated and inspected by the county health agency Kansas Department of Health and Environment. Notwithstanding the foregoing, this exemption specifically excludes mobile restaurants and mobile food service units or push carts as included in the definition of food service establishments in K.S.A. 36-501.

11. Sales at wholesale to retail merchants by commercial travelers or selling agents in the usual course of business.

12. Sales to the owner or legal occupant of residential premises at such premises pursuant to an invitation by such owner or legal occupant. Such
invitation may be issued at the premises immediately preceding the sale.

Section 2. That City of Topeka Code § 30-304, Fees for license; transferability; exhibition, is hereby amended to read as follows:

Fees for license; transferability; exhibition.

a. The fee for the license required by this article shall be one hundred dollars ($100.00). There shall be no proration of this fee. No license issued under the provisions of this article shall be used by any person, other than the one to whom it was issued. Any person engaged in activities as described in section 30-286 shall exhibit their licenses at all times.

b. Notwithstanding the foregoing, the fee for the license required for each mobile restaurant, mobile food service unit or push cart shall be two hundred fifty dollars ($250.00). There shall be no proration of this fee. No license issued under the provisions of this article shall be used by any person, other than the one to whom it was issued.

Section 3. That City of Topeka Code § 30-306, Issuance of license, is hereby amended to read as follows:

Issuance of license.

Upon receipt of an application for certificate of registration and license, the city clerk shall forward the application to the planning agency and police department. Within ten (10) days of the application date the planning agency and police department shall review the application for compliance with appropriate zoning requirements (planning) and confirmation of the applicant's criminal record (police). The city clerk shall issue a license after receipt of approval from the planning agency and police department. Such
license shall contain the signature and seal of the issuing officer and shall show the
name and address of the license, the date of issuance and length of time the license
shall be operative, and the nature of the business involved. A transient
merchant/peddler license shall be valid for a period not to exceed thirty (30) consecutive
days and shall be valid only for sales at the site identified in the application. Not more
than one (1) license may be issued to any transient merchant during any one hundred
twenty (120-) day period of time. Licenses for mobile restaurants, mobile food service
units or push carts shall be valid for a period of six (6) months. The city clerk shall keep
a permanent record of all such licenses issued and submit a copy of such license to the
chief of police. The licensee shall carry the certificate at all times.

Section 4. That City of Topeka Code §§ 30-302, 30-304, and 30-306 are
hereby specifically repealed.

Section 5. This Ordinance shall take effect and be in force from and after its
passage, approval and publication in the official City newspaper.

Passed and approved by the City Council [JUL 2 0 2004]

[Signature]
James A. McClinton, Mayor

ATTEST:

[Iris E. Walker, City Clerk]

[Signature]

[Approved as to form and legality]

APPROVED AS TO FORM AND LEGALITY
DATE 7/3/04 BY
TO BE CODIFIED
NOT TO BE CODIFIED

VYORD/FOODVENDORLICENSING 07/01/04