

ORD-3594

1 AN ORDINANCE TO ADD SECTION 18-108.3
2 TO THE CITY CODE PERTAINING TO
3 CERTAIN MOBILE FOOD UNITS
4

5 SECTION ADDED: § 18-108.3
6

7 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VIRGINIA BEACH,
8 VIRGINIA:
9

10 1. That Section 18-108.3 is hereby added to the City Code and reads as follows:
11

12 **Sec. 18-108.3 – Mobile Food Units; New Business; Registration; Penalties.**
13

14 (a) For purposes of this business license sub-classification, the following definitions shall
15 apply:
16

- 17 1. “Mobile food unit” means a restaurant that is a self-propelled motor vehicle or
18 trailer and readily movable from place to place at all times during operation.
- 19 2. “New business” means a business that locates for the first time to do business
20 in a Virginia locality. A business shall not be deemed to be a new business
21 based on a merger, acquisition, similar business combination, name change,
22 or change to its business form.
23

24 (b) If the owner of a new business that operates a mobile food unit pays the license tax
25 required by another Virginia locality in which the mobile food unit is registered, such
26 owner shall not be required to pay a license tax in the city for a period of two license
27 years after the payment of the initial license tax in the Virginia locality in which the
28 mobile food unit is registered. The preferential business license tax treatment provided
29 by this section may apply to up to three mobile food units provided all three units are
30 registered in the same Virginia locality and there is a shared owner of the three units.
31

32 (c) At the conclusion of the two license year period described in subsection b, the mobile
33 food unit shall register for the business license set forth in section 18-108.2 and
34 complete all requirements set forth therein.
35

36 (d) Prior to operation in the City, any owner of a mobile food unit subject to this section
37 shall register with the commissioner of the revenue regardless of whether the owner
38 is exempt from paying the license tax pursuant to this section.
39

40 (e) The commissioner of the revenue shall assess a statutory assessment for meals taxes
41 for any owner that fails to register with the commissioner of the revenue prior to
42 conducting taxable meals tax transactions.
43

44 (f) Upon the second occurrence of a mobile food unit failure to register with the
45 commissioner of the revenue as required by subsection d, the commissioner shall levy

46 a penal fine of \$500 upon the owner of the mobile food unit. This fine shall be in
47 addition to any statutory assessment or other remedy for the failure to collect and remit
48 meals taxes.

49
50 (g) Upon the second or subsequent occurrence of a mobile food unit failure to register
51 with the commissioner of the revenue as required by subsection d, the commissioner
52 of the revenue shall require the mobile food unit post a bond with corporate surety to
53 insure the faithful performance of the mobile food unit's duties to the city as to meals
54 taxes collected and held in trust for the city. The bond, including corporate surety
55 thereon, shall be in a form deemed satisfactory to the city attorney. The bond shall
56 not be in an amount less than \$1000. The commissioner of the revenue may accept
57 an irrevocable letter of credit in lieu of a bond required by this subsection, provided
58 the letter must be reviewed and approved by the city attorney. The owner of a mobile
59 food unit required to obtain the bond described herein shall be guilty of a Class 1
60 misdemeanor for the failure to produce the evidence of compliance when demand for
61 same has been made by either an agent of the commissioner of the revenue or any
62 law enforcement officer.

63
64 (h) Any requirement imposed under the City's police power to require a criminal records
65 check or certain limitations upon parking set forth in Section 18-108.2 or elsewhere in
66 the City Code shall apply to any business subject to this section.

67
68 2. This ordinance shall be effective July 1, 2019.

Adopted by the City Council of the City of Virginia Beach, Virginia, on this 18th day
of June, 2019.