

City of Waukesha, Wisconsin

Ordinance 2024 – __

**An Ordinance Repealing, ~~Re-Titling~~, and Recreating Section 8.18
and Amending Section 8.09 of the Waukesha Municipal Code,
Regarding Mobile Food Vendors**

Whereas the Common Council of the City of Waukesha finds that mobile food vendors are popular among the general public and are a desirable part of a vibrant atmosphere in the City; and

Whereas reasonable regulation of mobile food vendors is necessary to protect the health and welfare of the public and to maintain the cleanliness and attractiveness of the City; now, therefore

The Common Council of the City of Waukesha do ordain as follows:

Section 1. Existing Section 8.18 is repealed in its entirety.

Section 2. New Section 8.18 is created, titled Mobile Food Vendors, to read in its entirety as follows:

8.18 Mobile Food Vendors.

(1) Definitions.

- (a) Mobile Food Vendor.** Mobile Food Vendor means a wheeled conveyance that can be moved, whether by its own power or by outside force, from which items for human consumption are sold directly to consumers, and which remains in one location for at least 5 minutes while selling. Without limitation, conveyance includes push carts, pedal carts, wagons, trailers, vans, and trucks.
- (b) City Park.** City Park means any grounds under the management and control of the City Department of Parks, Recreation and Forestry.
- (c) Service Base.** Service Base has the meaning given in Wis. Admin. Code ATP 75 Appendix, §1.201.10(B), and successor provisions.

- (2) Permit Required.** Mobile Food Vendors may not operate on City streets or parking lots, ~~except those entirely within City Parks~~, in the City of Waukesha without a current, valid Mobile Food Vendor Permit issued by the City of Waukesha; except that Mobile Food Vendors may operate on City streets and parking lots that are entirely within City Parks

with a permit from the City Parks, Recreation and Forestry Department. Permits must be displayed on or in the Mobile Food Vendor at all times. Annual permits shall expire each year on December 31. Daily permits shall be valid ~~from 7:00 a.m. through 12:00 p.m. during the time periods specified in subsection (6)(c)~~ on the designated day.

- (3) **Fee.** The fee for a an annual Mobile Food Vendor Permit shall be \$350, except that for applications submitted after September 1 the fee shall be \$100. The fee for a daily permit shall be \$40.
- (4) **Application for Permit.** Mobile Food Vendors shall apply for a Mobile Food Vendor Permit at the City Clerk's office, using forms provided by that office. The application shall require the following information to be provided by the applicant:
- (a) The name, home address, business address, telephone number, and email address of the owner of the Mobile Food Vendor.
 - (b) The name, address, and telephone number of the Mobile Food Vendor's Service Base.
 - (c) The name and address of the state-certified food manager responsible for operation of the Mobile Food Vendor.
 - (d) A description of the Mobile Food Vendor, including the manufacturer, model, year, license plate number, VIN, serial number, and color, as applicable.
 - ~~(d)~~(e) Proof that the applicant holds all required state and county permits.

(5) **Areas of Operation.**

- (a) Mobile Food Vendors may operate in the following areas:
- (i) City streets and parking lots in the B-2 Central Business District, M-1, M-2, M-3, MM-1, and I-1 zones, but only in areas therein designated by the City. A map showing pre-designated areas shall be maintained by the City Clerk's office.
 - (ii) Regardless of subsection (5)(a)(i), City streets or parking lots for which a closure permit has been issued by the City under Municipal Code §6.17.
 - (iii) City Parks, pursuant to a permit issued by the City Department of Parks, Recreation and Forestry.
 - (iv) Private property, except in areas zoned RD-1, RD-2, RM-1, RM-2, RM-3, RS-1, RS-2, RS-3 or RS-4, as shown on the City's official Zoning Map.
- (b) Mobile Food Vendors may not operate in any areas zoned RD-1, RD-2, RM-1, RM-2, RM-3, RS-1, RS-2, RS-3 or RS-4, as shown on the City's official Zoning Map, except as provided in subsection (6)(e), or operation is within an area for which a closure permit has been issued by the City under Municipal Code §6.17.

- (6) **General Regulations.** All Mobile Food Vendors operating anywhere in the City of Waukesha, including City Parks and private property, must comply with all of the following, except as specifically provided:
- (a) Mobile Food Vendors are not exempt from, and must observe, all parking regulations.¹
 - (b) Mobile Food Vendors operating on City streets or parking lots and that are motor vehicles or are towed by motor vehicles shall not exceed 25 feet in overall length. Mobile Food Vendors that are propelled by pedal or by hand shall not exceed 4 feet in overall width and 8 feet in overall length. Mobile Food Vendors may not occupy more than two parking spaces, and are not allowed in angle parking spaces. Mobile Food Vendors may not occupy any part of a sidewalk or hinder pedestrian traffic on sidewalks in any way.
 - (c) Mobile Food Vendors may operate only between 7 a.m. and 11 p.m. Sunday through Thursday, and between 7 a.m. and 12 a.m. on Friday and Saturday; except that if a Mobile Food Vendor is operating within a City-sponsored event or an event for which a street closure permit has been issued by the City, the Mobile Food Vendor shall end operations when the event ends, but in no event later than ~~11~~10 p.m. If the street closure is within an area designated for Mobile Food Vendors pursuant to subsection (5)(a)(i), the Mobile Food Vendor may continue operations after the special event ends, subject to all other provisions of this section.
 - (d) Mobile Food Vendors that are parked on City streets may serve customers only from the curb side and not from the street side.
 - (e) Owners of a residential property may obtain a permit from the City Clerk three times per calendar year for a Mobile Food Vendor to operate at the residential property for a private event, and to park on a public street adjacent to the residential property. Written consent of the Common Council member representing the district is required for the issuance of the permit. Provided the owner has obtained such a permit, the Mobile Food Vendor may operate there, subject to all other applicable regulations except the location restrictions in subsections (5)(a)(i) and (5)(b), and no separate signage is allowed. Sales are to be to attendees of the private event only, and sales to the general public are prohibited.
 - (f) The City shall at all times have the authority to order a Mobile Food Vendor to relocate or suspend operations if the Mobile Food Vendor's operations are impeding vehicle or pedestrian traffic or for other public safety reasons.
 - (g) No separate signage, tables, tents, or chairs are allowed, except that a single A-frame sign complying with Municipal Code §27.04(7) may be placed within 10 feet of the Mobile Food Vendor, not blocking any pedestrian way or traffic lane.
 - (h) Alcoholic beverage sales by Mobile Food Vendors are prohibited, unless operation is within a City Park pursuant to a valid alcohol-beverage retail license or permit.

¹ See Municipal Code §7.04(14) regarding parking trailers on streets.

- (i) Use of loudspeakers on the exterior of the Mobile Food Vendor is prohibited.
 - (j) Mobile Food Vendors shall provide adequate solid waste and recyclables receptacles for use by customers, and shall dispose of all collected waste and recyclables only at Mobile Food Vendor's Service Base or in waste-disposal receptacles provided by an owner of private property on which the Mobile Food Vendor operates. Mobile Food Vendors shall not dispose of any solid waste or recyclables in City waste receptacles or private waste receptacles without express permission of the owner.
 - (k) Mobile Food Vendors shall not dispose of any wastewater, other liquid waste, oil, or grease by dumping into City sanitary sewers, storm sewers, street gutters, or curb drains. All wastewater, other liquid waste, oil, and grease shall be disposed of by the Mobile Food Vendor only at its Service Base.
 - (l) Any electrical generators must be mounted on the Mobile Food Vendor, and sound of the operating generator cannot exceed 70 dB(A) SPL measured at 50 feet.
 - (m) Mobile Food Vendors shall at all times while operating in the City of Waukesha have all required county and state licenses and permits present in or on the Mobile Food Vendor, in addition to the Mobile Food Vendor Permit required by this Section 8.18.
 - (n) Mobile Food Vendors must comply at all times with the regulations in the Wisconsin Food Code, Wisconsin Administrative Code Chapter ATCP 75 Appendix.
 - (o) Mobile Food Vendors must comply at all times with all applicable provisions of the City Fire Code, Municipal Code Chapter 21.
- (7) **Penalties.** Violation of the provisions of this Section 8.18 may result in any or all of the following penalties:
- (a) Forfeiture of \$50 plus all court costs and fees for each violation, with each day of continued violation deemed a separate violation.
 - (b) An order to cease operations immediately until the violation is corrected, if the violation presents an immediate threat to public safety or welfare.
 - (c) Revocation of, suspension of, or refusal to renew the Mobile Food Vendor Permit.

Section 3. Subsection (2)(b) of Section 8.09 of the Waukesha Municipal Code is amended to read in its entirety as follows:

- (b) "Transient Merchant." Any individual, whether principal, agent or employee, who engages, does or transacts any temporary or transient business in this City, either in one location or by moving his place of business from place to place in the City, selling goods, wares, merchandise or services, and whether or not for the purpose of carrying on such business such individual hires, leases, occupies or uses a building, structure, vacant lot or vehicle for the exhibition or sale of such goods,

wares, merchandise or services. Transient Merchant does not include Mobile Food Vendors as defined in Municipal Code §8.18(1)(a).

Section 4. This Ordinance shall be effective the day after its publication.

Passed the _____ day of _____, 2024.

Shawn N. Reilly, Mayor

Attest: Sara Spencer, Interim City Clerk