

DRAFT PROPOSED MOBILE FOOD VENDING ORDINANCE

01/14/22

Chapter ___ - MOBILE FOOD VENDING

ARTICLE I. – In General

Sec. ____ - Mobile Food Vending.

- (a) The provisions of this Chapter shall apply to all businesses or individuals engaged mobile food vending activities covered by this Chapter on any public or private properties or within any public right-of-way located within the City.
- (b) This does not apply to mobile food vendors that move from place to place and do not remain in the same location for more than fifteen (15) minutes at a time.
- (c) Except as otherwise provided in City Ordinances, preparation, distribution, or sale of alcoholic beverages, marihuana, or alcohol or marihuana infused beverages or food items is prohibited from mobile food vending covered by this Chapter.
- (d) For the purposes of this Chapter, the term “mobile food vending” shall mean any cooking, preparation, serving, distribution and/or sale of food or beverages or offering for free any food or beverages from a mobile food unit and any use that meets the definition of a food service establishment under Michigan Public Act 92 of 2000, which shall include the ancillary sales of branded items of mobile food vending including items of clothing or personal apparel.
- (e) For the purposes of this Chapter, “mobile food vending unit” shall mean any motorized or non-motorized vehicle, trailer, cart, portable stand, portable cooking device, any means of transportation or other instrument of device designed to be portable.
- (f) All mobile food vendors shall be subject to and must comply with all other provisions of the City’s Ordinances, including but not limited to Chapter 38, Article II – Nuisances, Article II - Division 2 – Litter; Chapter 58 - Article IV – Offenses Against Property, Chapter 58 - Article V – Offenses Against Public Peace; Chapter 62- Parks and Recreation; Chapter 66 – Peddlers and Solicitors; Chapter 76 – Signs; Chapter 86 – Streets, Sidewalks and Other Public Places; and Chapter 98 – Traffic and Vehicles.
- (g) In addition to satisfying the requirements of this Chapter, evidence of approval from the Berrien County Health Department shall be provided to the City Clerk prior to issuance of any mobile food vending permit.

ARTICLE II - Permits.

Sec. ____ - Permit Requirement.

No vendor shall engage in mobile food vending without a permit from the City Clerk authorizing such vending. The City Clerk shall prescribe the form of such permit and application for such permit. All permits shall be prominently displayed on the mobile food vending unit. No vending through a mobile food vending unit of food and/or other human consumables shall be permitted unless it meets the definition of mobile food vending as defined by this Chapter.

Sec. ____ - Permit Duration and Non-transferability.

(a) Permits shall be issued by the Clerk for a period not to exceed _____. Any permit issued under the Chapter shall not be transferred from the original applicant to another person or entity. Permit transfer is prohibited by means of sale or assignment of business or business assets. No person or entity shall hire or subcontract any other person or entity to attempt or actually evade the provisions of this Chapter.

(b) A single-event application is also available from the City Clerk for vendors wishing to operate a mobile food vending unit during a City-sponsored or City-endorsed special event or to operate at a public or private event held on public or private property. The application for a single event permit shall be accompanied by payment of a fee established under this Chapter.

Sec. ____ - Permit Application.

(a) Every individual or entity desiring to engage in mobile food vending shall make a written application to the City Clerk for a permit under this Chapter on a form to be provided by the City. The applicant shall truthfully state, in full, all information required by the application and submit the required fee.

(b) The amount of any application fee shall be established by resolution of the City Commission. There shall be no proration of fees. Fees are non-refundable once a permit application has been filed with the City Clerk. No fee shall be charged to any honorably discharged veteran of the United States Military who is a resident of the State of Michigan and submits official documentation evidencing such to the City Clerk. If operating on non-City property, no application fee shall be charged to a business that is on the city's tax rolls and whose normal business includes the sale of food and/or beverages. .

(c) Additionally, the applicant shall provide all documentation, such as proof of insurance and Berrien County Health Department documentation, as may be required by the City.

Article III - Mobile Food Vending Unit Operations Requirements

Sec. ___ - Operations Requirements. Any vendor engaging in mobile food vending shall comply with the following requirements:

- (a) Provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other waste attributable to the vendor on a daily basis, or more frequently in order to prevent littering.
- (b) If operating on City-owned or controlled property, a mobile food vendor may only locate on such property as established in a resolution adopted by the City Commission. If parked on public streets, vendors shall conform to all applicable traffic and parking ordinances.
- (c) Shall not operate on public property within one block of a City-authorized street fair, public festival, farmers market or event being conducted without authorization from the event sponsor.
- (d) Shall not use any flashing or blinking lights or strobe lights in connection with the mobile food vending unit operation. All exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward.
- (e) Shall not use any music, sound system, amplification devices, or "crying out" or any other audible methods to gain attention to or market for the mobile food unit operation.
- (f) Comply with all other applicable City ordinances, including but not limited to Chapter 38, Article II – Nuisances, Article II - Division 2 – Litter; Chapter 58 - Article IV – Offenses Against Property, Chapter 58 - Article V – Offenses Against Public Peace; Chapter 62- Parks and Recreation; Chapter 66 – Peddlers and Solicitors; Chapter 76 – Signs; Chapter 86 – Streets, Sidewalks and Other Public Places; and Chapter 98 – Traffic and Vehicles.
- (g) Comply with all applicable federal, state and county statutes, ordinances and regulations.
- (h) No more than one portable sign that is six square feet, with no dimension greater than three feet and no top height greater than four feet above ground level. All signs shall be located within three feet of the mobile food vending unit. Under no circumstances shall any sign be placed upon any sidewalk, impede pedestrian and/or vehicle traffic, or cause a threat to public safety.
- (i) Mobile food vending activities shall only be permitted in the _____ areas of the City during the hours of __:__ a.m. and __:__ p.m. The City reserves the right in its sole discretion to limit or prohibit mobile food vending that interferes with or impedes motor vehicle traffic, pedestrian space, parking space or constitutes a threat or risk to public safety. Other restrictions regarding hours of operation may be established by resolution of the City Commission. A mobile food vending unit shall not be left unattended at any time.

(j) A mobile food vendor shall not represent the granting of a permit under this Chapter as an endorsement of any kind by the City.

(k) All City issued permits shall be prominently displayed on the mobile food vending unit at all times.

(l) No food shall be sold, prepared or displayed outside of the mobile food vending unit.

(m) Vendors are prohibited from locating, placing, or putting personal property outside of a mobile food vending unit, including but not limited to dining furniture, benches, chairs, umbrellas, tables, condiment stands, fixtures, or any other equipment.

(n) No vendor shall utilize any electricity or power without the prior written authorization of the relevant power customer. No extension cord or power cable or similar device shall be extended at or across any street, sidewalk or area of pedestrian traffic, except in a safe manner. If a mobile food unit is not self-contained and requires electric service, an additional permit issued by the City Building Department is required.

Article IV- Impoundment

In addition to any other penalties under this Chapter, any mobile food unit and equipment associated with mobile food vending that are not in compliance with this Chapter or left on public property outside of the hours of permitted operation may be impounded at the owner's expense.

Article V – Other Permits

A permit obtained under this Chapter shall not relieve any mobile food vendor of the responsibility for obtaining any other permit, or authorization required by any other statute, ordinance, or administrative rule.

Article VI - Revocation

The City Clerk shall revoke the permit of any vendor engaged in mobile food vending who ceases to meet any requirement of this Chapter or violates any other federal, state or local laws or regulations, makes a false statement on a mobile food vendor application. Immediately upon such revocation, the City Clerk shall provide written notice to the permit holder personally or by certified mail to its place of business or residence as indicated on the application. Immediately upon permit revocation, the permit shall become null and void.

Article VII – Complaints, Revocation Appeals

If a written complaint from any source is filed with the City Clerk alleging a food vendor has violated the provisions of this Chapter, the City Clerk shall promptly send a copy of the written complaint to the vendor together with a notice that an investigation will be made as to the truth of the complaint. The vendor shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the City Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified. If a permit is denied or revoked by the City Clerk, or if a written complaint is certified pursuant to this Chapter, the applicant or holder of a permit may appeal to and have a hearing before the City Manager. The City Manager shall make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of City Clerk or filing of the complaint shall be sustained, the permit shall be denied or revoked, the applicant may appeal the City Manager's decision to a court of competent jurisdiction in accordance with Michigan law and applicable Court Rules.

Article VIII – Appearance Tickets

The Police Chief and sworn officers of the Police Department, or such other officials as designated by the City Manager are authorized to issue and serve appearance tickets with respect to a violation of this Chapter, consistent with Michigan law. Appearance tickets shall be in such form as determined by the City Attorney and shall be in conformity with all statutory requirements.

Article IX – Civil Infraction

A vendor that violates this Chapter is responsible for a civil infraction and subject to a fine of \$500.00 per day. Provided, however, that the fine for parking or traffic violations shall be those as otherwise in other applicable City ordinances.