

## **12.135 MOBILE FOOD VENDING PERMIT**

### (a) PERMIT REQUIRED.

- (1) Any person operating, conducting or managing within the City a mobile food establishment shall obtain a mobile food vending permit. A permit shall not be required for any private party, picnic, event or gathering where the general public is not invited, nor when such mobile food vending occurs entirely on private property.
- (2) The permit fee shall be as set forth in Sec. 25.045.
- (3) Each mobile food establishment shall be permitted separately.

### (b) DEFINITIONS.

- (1) A “Mobile Food Vendor” is the registered owner of a mobile food establishment or the owner’s agent or employee, which offers for sale only personally prepared food for which the vendor is regularly involved in all phases of both the production and the sale of the food. In addition, a vendor may be a corporation, cooperative or partnership; however, the application and permit shall designate a primary individual who is regularly involved in all phases of the production process and who is responsible for the vending operation.
- (2) “Personally Prepared Food.” Personally prepared food is food or beverage produced by the vendor from raw or basic ingredients, changing the nature, form, shape or function. All food sold shall comply with State Health Regulations. In addition, the category ‘personally prepared food’ shall include the following:
  - a. Fruit sold by the piece or in individual-sized portions.
  - b. Condiments and other incidental ingredients given free with personally prepared food.
  - c. Coffee, tea, milk, and commercially produced beverages in containers not made of glass.
  - d. Hotdogs, bratwurst or other sausages, and commercially produced buns.
  - e. Ice cream bars and other pre-portioned frozen treats; soft serve or hard scooped ice cream served by the cone or dish.
- (3) “Mobile Food Establishment” means a restaurant or retail food establishment where personally prepared food is served or sold from a movable vehicle, trailer or cart which periodically or continuously changes location and requires a Service Base to accommodate the unit for servicing, cleaning, inspection and maintenance, or except as specified in the Wisconsin Food Code.
- (4) “Service Base” means an establishment operated under license or permit of an appropriate regulatory authority where food is manufactured, stored, prepared, portioned or packaged, or any combination of these, where such food is intended for consumption at another establishment or place, and where such units are serviced, cleaned, supplied, maintained, and where the equipment, utensils and facilities are serviced, cleaned and sanitized.

### (c) PERMIT APPLICATION PROCESS.

- (1) Application. Any person desiring to operate a mobile food establishment shall apply for a mobile food vending permit. The application for such permit shall be on forms provided by the City Clerk-Treasurer’s office and will include all the following:
  - a. The name, signature, and address of each applicant and of each member or officer of a corporate applicant.
  - b. A description, including make, model, VIN number and license plate, of the mobile food establishment.
  - c. A valid copy of all necessary licenses, permits or certificates required by Iowa County and the State of Wisconsin, or any subsidiary enforcement agencies or

departments thereof, including but not limited to a valid proof of registration for the vehicle and driver's license for all operators and documentation of the necessary approvals from the Iowa County Health Department for operation as a mobile food vendor.

- d. Any additional information deemed necessary by the City Clerk-Treasurer to determine if issuance of a mobile food vending license to a particular applicant would be in the best interest of the public.
- (2) Investigation; application denial. Upon receipt of an application for a mobile food vending permit and payment of the proper permit fee, the City Clerk-Treasurer shall forward the application to the Chief of Police or their designee who shall make and complete an investigation of the statements made in such application. The City Clerk-Treasurer may refuse to grant the permit if any of the following is determined:
    - a. The application contains any material omission or materially inaccurate statement;
    - b. The circumstances of a pending criminal charge against the applicant substantially relate to the permitted activity.
    - c. The applicant has been convicted of a crime, statutory violation or ordinance violation within the last five years, the nature of which substantially relate to the circumstances of the particular job or permitted activity.
    - d. The applicant failed to comply with (c)(1) above.
  - (3) Appeal; hearing before Committee. If the City Clerk-Treasurer denies an application for a license, the applicant may appeal within 15 days after the Clerk-Treasurer mails a notice of denial to the applicant. If the applicant files a timely appeal with the Clerk-Treasurer, the Clerk-Treasurer shall schedule an appeal hearing before the Administration & Personnel Committee.
  - (4) Committee approval; Council action. The Committee may approve any application placed on its agenda only if the applicant is qualified under this section and may place conditions upon approval. The Common Council shall affirm, reverse, or modify the Committee decision.
- (d) **AREAS OF OPERATION.** Mobile food establishments may operate in all areas except R-1 One and Two-Family Residential District or R-M Multi-Family Residential.
  - (e) **HOURS OF OPERATION.** Mobile food establishments shall only operate between the hours of 6:00 AM and 10:00 PM. Mobile food establishments and other equipment shall only be set up at a place of operation after 6:00 AM, and must be removed by 10:00 PM.
  - (f) **EXCLUSIONS.** Mobile food establishments shall not be used during times when a Special Event License (§12.05, Ordinances) is in effect in the Areas of Operation and during Hours of Operation, except with the permission of the Special Event License applicant, pursuant to § 12.05(h) of the City Code. Excavation and Openings Permits (§8.03, Ordinances) shall supersede any permit issued pursuant to this section.
  - (g) **RIGHT-OF-WAY.** No mobile food establishments shall operate within the public right-of-way except as follows:
    - (1) at a Special Event with the permission of the Special Event License applicant, pursuant to § 12.05(h) of the City Code.
  - (h) **CITY PARKS.**
    - (1) Approval Required. No mobile food establishments shall operate within a City park without written approval of the location and hours of operation by the Director of the Parks & Recreation Department or their designee and payment of the fee on file with the Parks & Recreation Department. A copy of the written approval shall be kept in the mobile food establishment while operating in a City park. The City reserves the right to withdraw approval of the location and hours of operation of a mobile food establishment for any reason. Mobile food vendors shall comply if asked to leave a park by the Chief of Police or their designee.

- (2) Approval Fee. The Parks & Recreation Department shall establish the fee for such approval in an amount sufficient to recover the costs incurred by the City for processing requests for approval. This fee shall be computed as the average of labor costs, indirect costs, and other costs associated with approval unless otherwise regulated by law, in which case the lesser amount shall apply. The Parks & Recreation Department may recalculate and establish a new approval fee each year as permitted by law and ordinance and said fee shall be on file with the Parks & Recreation Department.
- (i) **RESTRICTIONS AND LIMITATIONS.** The exercise of a permit pursuant to this section shall be subject to the following restrictions and limitations:
- (1) Noise levels emanating from the vending site shall be kept to a minimum, and shall be reasonable so as not to disturb the peace and quiet of those in the vicinity, including but not limited to residents, merchants, and customers. No sound amplification shall be allowed. Vendors utilizing an enclosed mobile food establishment may use amplification inside an enclosed mobile food establishment only, and any music or other audio shall be kept to a volume such that it cannot be heard outside of the mobile food establishment beyond the first customer in line at the window or service area.
  - (2) All mobile food establishments and vending equipment, including carts, tables, apparatus and merchandise shall be removed from the streets, sidewalks, or other vending location during times when vending is prohibited.
  - (3) All mobile food establishments and equipment used at the vending site shall be in a clean, sanitary, hazard-free condition and maintained in a presentable appearance and in good repair, without noticeable holes or other structural defects. Visible exterior surfaces shall be maintained so as to prevent chipping, cracking or other deterioration of the paint or exterior surface.
  - (4) A vendor shall be present within the vending site at all times during which items are displayed or sold, except that a vendor may leave his or her vending site unattended during lawful vending hours for a maximum of ten (10) minutes.
  - (5) Generators must operate at 60 decibels or lower when measured from the building front nearest to the permittee.
  - (6) No vendor shall drive or permit another to drive a motor vehicle upon any sidewalk area for the purpose of depositing mobile food establishments or other equipment thereon. This prohibition does not apply to permanent or temporarily established driveways.
  - (7) No service from a mobile food establishment shall be allowed onto the street side of the mobile food establishment except when:
    - a. the street is in use for a Special Event (§12.05, Ordinances);
    - b. the street is closed to vehicular traffic.
  - (8) A mobile food establishment located upon a sidewalk shall be placed not less than 5 feet from a building. A minimum 5-foot path for pedestrian traffic shall be maintained at all times, and the vendor shall manage its queue so that pedestrian traffic on the sidewalk is not impeded.
  - (9) Seating for customers is not allowed.
  - (10) No moving or flashing lights are allowed.
  - (11) No alcohol shall be served.
  - (12) Each permittee shall furnish at its location of operation a garbage can not less than 30 gallons in size. Garbage shall not be allowed to accumulate as litter, and full garbage cans shall be emptied as needed throughout the hours of operation. No garbage shall be deposited in municipal waste containers by a permittee. Prior to leaving a site after operation, a permittee shall inspect and pick up all garbage, litter, refuse, and food within 50 feet.

- (13) A mobile food establishment shall be located no less than 100 feet from the nearest edge of any building or section of a building comprising a licensed food establishment, the kitchen of which is open for serving food to patrons. This restriction may be waived if the most recent application for a mobile food vending permit was submitted together with the written consent of the proprietor of the adjacent licensed food establishment.
- (14) Nothing in this section shall be deemed to supersede or repeal any ordinance relating to noise, park closing hours, or parking, except as specifically provided in the section. Vendors will take every precaution to ensure that their operations do not materially affect the peace and welfare of the general public nor cause any unreasonably loud, disturbing and unnecessary noise or any noise of such character, intensity or duration as to be detrimental to the life or health of any individual or which is the disturbance of public peace and welfare.
- (j) VIOLATIONS AND PENALTIES.
- (1) Any person violating any provision of this section shall be subject to a penalty as provided in § 25.04 of the City Code.
  - (2) The Police Department and Department of Public Works shall have concurrent authority to remove or cause the removal of any mobile food establishment, vending equipment, or merchandise found on the street, sidewalk, terrace, or other vending location in violation of any regulations established pursuant hereto. In addition to any forfeiture, the violator shall be liable for any removal, towing and storage charges incurred by either department.