

ORDINANCE No. 2024-O-08
AN ORDINANCE CREATING SECTION 5.30-MOBILE FOOD
ESTABLISHMENTS(MFE's)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

Mobile Food Establishment (MFE's)

I. Purpose-

The purpose of a Mobile Food Establishment (MFE) ordinance is to regulate and manage mobile food vendors within the City of Whitewater. There are five key reasons for implementing such an ordinance:

- **Public Health and Safety:** The MFE ordinance, with its comprehensive regulations on food handling, preparation, and storage, plays a pivotal role in ensuring the food sold by mobile vendors is safe for consumption. By upholding health and safety standards, the ordinance protects against foodborne illnesses, safeguarding public health.
 - **Zoning and Land Use:** MFE ordinances typically address where mobile food vendors can operate within the city, including restrictions on locations near sensitive areas like schools, hospitals, or residential neighborhoods. Zoning regulations help maintain the character of different areas within the city and prevent conflicts between mobile vendors and established businesses or residents.
 - **Consumer Protection:** The ordinance may require MFE operators to obtain licenses or permits, which can help ensure that vendors are operating legally and complying with relevant regulations. This gives consumers confidence that the food they purchase from mobile vendors meets specific standards and is sold by legitimate businesses.
 - **Economic Development:** Mobile food vending, a potential economic booster, can provide entrepreneurial opportunities and diversify the food options within the city. The MFE ordinance, by creating a supportive framework, can foster the growth of this sector while balancing the interests of mobile vendors, brick-and-mortar establishments, and the community at large.
 - **Aesthetic and Environmental Considerations:** The ordinance may include regulations that address issues such as littering, noise pollution, and visual clutter associated with mobile food vending. By imposing standards for cleanliness, waste management, and vehicle appearance, the ordinance helps ensure that MFE operations enhance rather than detract from the aesthetic quality of public spaces.
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- **Definition of Mobile Food Establishments (MFE)-** Mobile Food Establishment (MFE) includes any moveable vehicle, intrastate railway car, pushcart, trailer, or boat from

which food is sold or served within the city limits. This includes, but is not limited to, food trucks, trailers, and carts. MFEs may operate on public or private property to sell food directly to consumers.

- **Moveable Vehicle:** A moveable vehicle, whether motorized or non-motorized, is a versatile means of transportation that can be relocated from one place to another. In the Mobile Food Establishments (MFE) context, these vehicles serve as adaptable platforms for selling or serving food within the city limits. They can be trucks, vans, or cars, all equipped to prepare and sell food items, showcasing their potential for various food vending scenarios.
- **Intrastate Railway Car:** An intrastate railway car is a rail transport vehicle operating within a single state's boundaries. In the context of MFE, an intrastate railway car can be converted or used to sell or serve food products. It provides a unique mobile platform for food vendors to reach consumers in various locations within the city.
- **Pushcart:** A pushcart, a small, wheeled cart that is manually pushed or pulled, offers a convenient option in MFE. It typically consists of a platform or container used for displaying and selling goods, including food items. In the context of MFE, pushcarts are mobile food vending units stationed at different locations within the city, offering food products directly to consumers, emphasizing their ease of use and direct interaction with consumers.
- **Trailer:** A trailer is a non-self-propelled vehicle towed by a motorized vehicle, such as a truck or car. In the context of MFE, trailers are often used as mobile food vending units equipped with cooking and serving facilities. They can be parked at various locations within the city to serve food to customers.
- **Boat:** In the context of MFE, a boat refers to a floating platform or vessel from which food is sold or served. It provides a unique mobile food vending option for waterfront areas or events held near bodies of water within the city limits.

II. Licensing Requirements

- Requirement for two licenses: Service License (State License) and MFE License
 - In adherence to municipal regulations, any entity seeking to provide designated services within the municipality must obtain two distinct licenses: a Service License and an MFE (Mobile Food Establishment) License.
 - The Service License (State License) mandates compliance with operational standards and regulatory requirements specific to the services offered. This encompasses adherence to safety protocols, quality assurance measures, and customer satisfaction benchmarks outlined by municipal ordinances. Additionally, qualification criteria such as certifications and training programs may be required to ensure service providers possess the necessary expertise.
 - The MFE License, a key element of our licensing requirements, governs the use of mobile food establishments within the municipality.
 - This dual-licensing framework upholds municipal standards, safeguards public welfare, and ensures the efficient and safe provision of services within the community.

- Conditions for license approval or denial. Applicants for a license under this chapter must file with the City Clerk a sworn application in writing on a form furnished by the city clerk, which shall include the following information:
 - Name and physical description of the applicant.
 - Complete the permanent home and local address of the applicant and the local address from which proposed sales will be made.
 - A brief description of the nature of the business and the goods to be sold.
 - If employed, the name and address of the employer, together with credentials, establish the exact relationship.
 - The length of time for which the right to do business is desired.
 - The source of supply of the goods or property proposed to be sold, or orders taken for the sale thereof, where such goods or products are located at the time said application is filed, and the proposed delivery method.
 - A recent photograph of the applicant, approximately two inches by two inches, shows the applicant's head and shoulders clearly and distinguishingly.
 - The names of at least two property owners of Jefferson and/or Walworth County, Wisconsin, who will certify the applicant's good character and business respectability, or alternative evidence as to the applicant's good character and business responsibility.
 - A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance other than traffic violations, the nature of the offense, and the punishment or penalty assessed.
 - The last cities or villages, at most three, where the applicant carried on business immediately preceding the date of the application and the addresses from which such companies were conducted in those municipalities.
 - A seven-dollar fee will be paid to the city clerk at the time of filing the application to cover the cost of investigating the facts stated herein.
- Renewal procedures and fees
 - Special. A special temporary permit shall be valid for a period determined by the City Manager or his/her designee. A [Special Event Permit](#) must be filed out a minimum of 45 day prior to the event.
 - Annual. An annual permit shall be valid from July 1st to June 30th, unless sooner revoked
 - Fee. At the time of the application a nonrefundable fee in the amount of seven dollars shall be paid to the City of Whitewater.

III. Operational Standards

- Operating hours
 - MFEs are permitted to operate within the municipality's jurisdiction from 9:00 AM to 3:00 AM, subject to any exceptions or restrictions outlined in this ordinance or other relevant regulations.
 - During the permitted operating hours, MFEs may engage in designated functions and operations, provided such activities comply with all applicable laws, regulations, and municipal ordinances governing noise, safety, and public welfare.

- MFE operators and owners shall be responsible for ensuring compliance with the designated operating hours and taking appropriate measures to mitigate any disturbances or nuisances that may arise from their operations during these hours.
- Any violation of the prescribed operating hours may result in enforcement actions, penalties, or other remedies as provided for under this ordinance or other applicable laws.
- Location restrictions
 - MFE's selling food in a B-2 zoning district shall, in addition to all other regulations provided by this chapter, be subject to the following regulations:
 - Food sale sites shall be limited to the following locations:
 - (A) On First Street sidewalks between Main and North Street.
 - (B) In designated areas on sidewalks as set forth on a list of sites to be compiled by the neighborhood services director and approved by the city manager. In compiling the list of sites, the neighborhood services director shall strongly consider sites in front of vacant buildings. Said list shall be made available to the general public at the City Clerk's office. If the vendor is operating in an area other than a First Street sidewalk, the location of the vendor site shall be listed on the vendor's license.
 - (C) On private property (if permission is received from the owner).
 - Equipment, products and apparatus shall be located to allow a four-foot unobstructed pedestrian path on the sidewalk at all times.
 - The food vendor shall use a cart with wheels for all cooking and food storage.
 - The individuals conducting the sales shall be responsible for cleaning up the site and any debris or litter in the immediate area caused by the operation. Vendors shall provide a waste basket for customers to use at their sales location.
 - The individuals and the organization conducting the sales shall be responsible for complying with all applicable rules and regulations provided for in this section.
 - This section does not limit civic nonprofit organizations' rights to conduct food sales under subsection [5.28.030\(2\)](#).
- Waste disposal regulations
 - No grey water, grease, trash, or other similar products may be deposited into any storm sewer. MFE's must keep the grounds around their food truck/mobile food shop free of litter, trash, paper, and waste at all times.

V. Food Safety Regulations

1. Food Safety Regulations:

- **Food Handling Practices:** Requirements for safe handling, storage, and preparation of food to prevent contamination and ensure food safety.
- **Temperature Control Requirements:** Guidelines for maintaining proper temperatures during food storage, preparation, and service to prevent bacterial growth and foodborne illnesses.
- **Allergen Labeling:** Mandate for clear labeling of allergens in food products to inform consumers and prevent allergic reactions.

- **Training and Certification for Food Handlers:** Food handlers must undergo training and obtain certification to ensure competency in safe food handling practices.
- 2. **Equipment Standards:**
 - Equipment must be certified by the American National Standards Institute (ANSI)/National Sanitation Foundation (NSF) and permanently installed on the MFE to ensure quality, durability, and sanitation standards.
- 3. **Handwashing Facilities:**
 - To promote proper hand hygiene among food handlers, hand wash stations must be stand-alone, hands-free, and equipped with hot water, soap, and single-use toweling.
- 4. **Ware washing Requirements:**
 - Three-compartment ware washing sinks are required unless specific exemptions apply, such as vending only prepackaged food or carrying sufficient utensils and equipment.
- 5. **Ventilation Standards:**
 - The Wisconsin Department of Safety and Professional Services (DSPS) regulates ventilation requirements to ensure proper airflow and safety in commercial cooking equipment for mobile kitchens.
- 6. **Sanitary Conditions:**
 - Standards for floors, walls, and ceilings to be smooth, non-absorbent, and easy to clean to maintain sanitary conditions within the MFE.
 - Pushcarts that serve prepare non TCS (temperature control for safety) foods are not limited
 - Pushcarts that serve TCS foods are limited to activities using preformed meats only
- 7. **Certified Food Protection Manager:**
 - MFEs must have a Certified Food Protection Manager to oversee food safety practices and compliance with regulations.
- 8. **Toilet Facility Arrangements:**
 - MFEs must arrange for the use of a toilet facility during all operating hours to ensure sanitation and hygiene for employees.

VI. Enforcement and Penalties

- **The authority responsible for enforcement**
 - It shall be the duty of the police of the city to require any person who is not known by such officer to be duly licensed, to produce his license and to enforce the provisions of this chapter against any person found to be violating the same.
- **Inspection procedures and issuance**
 - (a) Upon receipt of each application, it shall be referred to the Chief of Police, who shall immediately institute such investigation of the applicant's business and moral character as he deems necessary for the protection of the public good and shall endorse the application in the manner prescribed in this chapter within seventy-two hours after the applicant has filed it with the clerk.

- (b) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his disapproval and his reasons for the same and return the application to the City Clerk, who shall notify the applicant that his application is disapproved and that no license will be issued.
 - (c) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of police shall endorse the application his approval and return the application to the City Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his license. Such license shall contain the signature of the issuing officer and shall show the name, address, and photograph of the licensee, the class of license issued, the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance, and the length of time the same shall be operative as well as the license number and other identifying description of any vehicle used in such licensed business. Each MFE must secure a personal license. No license shall be used at any time by anyone other than the one to whom it is issued. The clerk shall keep a permanent record of all licenses issued.
- **Penalties for violations.** Penalties for violation of this ordinance shall be subjected to the following
 - Revocation of permit within the City of Whitewater
 - A fine no less than \$25 to no more than \$250 based on the severity of the violation.
- **Appeals process for license**
 - Any person aggrieved by the action of the Chief of Police or the City Clerk in the denial of a permit or license as provided in Section [5.28.060](#) or the action of the City Manager in the assessing of the fee as provided in Section [5.28.070](#)(d) shall have the right to appeal to the Common Council of the city. Such appeal shall be taken by filing with the common council, within fourteen days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The Common Council shall set a time and place for a hearing on such appeal and the notice of such hearing shall be given to the appellant in the same manner as provided in Section [5.28.140](#) for notice of hearing on revocation.

VII. Miscellaneous Provisions

1. **Prohibition of advertising on MFE vehicles:** This provision prohibits the display of advertisements on MFE vehicles within the ordinance's jurisdiction. This prohibition aims to maintain visual aesthetics, reduce distractions on roadways, and prevent potential safety hazards associated with distracting advertising displays on moving vehicles.
2. **Requirements for signage and display of licenses:** This provision mandates that operators of MFE display signage and licenses at their designated operating locations within the city. The signage may include information such as the nature of the business, operating hours, contact details, and any other relevant information as required by the ordinance. Displaying licenses prominently helps to inform the public of the legitimacy of the business and ensures compliance with municipal regulations.

3. **Authority to amend or update the ordinance:** This provision grants the relevant municipal authority the power to amend or update the ordinance as necessary to address emerging issues, improve clarity, or accommodate changing circumstances. It recognizes that regulatory frameworks need to evolve to remain effective and relevant. Any proposed amendments or updates would typically undergo a review process. They may require approval by the appropriate governing body before implementation.

VIII. Effective Date and Implementation

This ordinance shall take effect upon passage and publication as provided by law.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

John Weidl, City Manager

ABSENT:

Heather Boehm, City Clerk

ADOPTED: