

GENERAL ORDINANCE NO. 22-20

**AN ORDINANCE
REPEALING AND RECREATING SECTION 6.39,
GREEN BAY MUNICIPAL CODE,
RELATING TO MOBILE FOOD ESTABLISHMENTS**

THE COMMON COUNCIL OF THE CITY OF GREEN BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 6.39, Green Bay Municipal Code, is hereby repealed and recreated to read:

6.39 MOBILE FOOD ESTABLISHMENTS.

(1) DEFINITIONS.

- (a) “Mobile Food Establishment” means a restaurant or retail food establishment where 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.
- (b) “Mobile” shall mean the state of being in active, but not necessarily continuous movement.
- (c) “Mobile Food Vendor” means the registered owner of a mobile food establishment or the owner’s agent or employee, or any business which sells edible goods from a mobile food establishment within the City of Green Bay.
- (d) “Edible Goods” shall include but are not limited to:
 - 1. Prepackaged and prepared food including, but not limited to, ice cream, hot dogs, desserts, and pizza.
 - 2. On-site prepared food including, but not limited to, shaved ice, sandwiches, and tacos.
- (e) “Sell” shall mean the act of exchanging a good for profit or in return for a donation.
- (f) “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.

- (g) “Vehicle” shall mean any motor vehicle as defined by Wis. Stats. §340.01(35) or trailer as defined by Wis. Stats. §340.01(71). Vehicle shall also include any bicycle or other self-propelled device.
- (h) “Vend” shall mean to sell or to transfer the ownership of an article to another for a price in money.

(2) LICENSE REQUIRED.

- (a) No mobile food vendor and/or mobile food establishment shall vend, sell or dispose of or offer to vend, sell or dispose of goods, wares or merchandise, produce or any other thing at any place whatsoever in the City of Green Bay, without having obtained an approved license from the City Clerk.
- (b) *License.* Every mobile food vendor shall have a license issued by the City Clerk to conduct business in the City of Green Bay. Each mobile food establishment shall be licensed separately. A mobile food establishment license shall expire on June 30 each year.
- (c) *License Fee.* The license to operate a mobile food establishment shall be \$500.00. If an applicant requests a license under this subchapter from an existing City of Green Bay based business that sells food based products, the license fee shall be \$300.00.
- (d) *License Renewal.* Licenses must be renewed annually. To renew a license, each applicant must submit a renewal application, a renewal fee of \$500.00, and any new permitting documentation upon the license renewal. License renewal from an existing City of Green Bay based businesses shall be \$300.00. If the applicant fails to submit the application and renewal fee within thirty (30) calendar days after the expiration of the license, the applicant shall reapply as a new applicant.
- (e) *Transfer of License.* A license issued under this subchapter shall not be transferable from person to person. A license is valid for one vehicle only and shall not be transferrable between vehicles.
- (f) *Surrender of License; Alteration of License; Failure to Display License.* On the expiration of a license issued under this subchapter, the license holder shall surrender the license to the City Clerk. No person shall alter or change in any manner any license issued under the provisions of this subchapter, and such alteration or the failure of the holder of the license to display the license in a conspicuous place on the mobile unit or his or her person or to exhibit the license upon demand of any officer or customer or prospective vendee shall be cause for revocation of such license.

(3) LICENSE APPLICATION PROCESS.

- (a) *Application.* Any person desiring to operate a mobile food establishment shall apply for a license on a form promulgated by the City Clerk and pay the proper license fee

for each mobile food establishment managed by the person. The City Clerk shall forward the application to the police department for review. If the police department approves the application, the City Clerk shall issue the license to the applicant.

(b) Application Denial. An applicant of a mobile food establishment may be denied where:

1. The circumstances of a pending criminal charge against the applicant substantially relate to the licensed activity.
2. The applicant has been convicted of any felony, misdemeanor or other offense, the circumstances of which substantially relate to the circumstances of the particular job or licensed activity.
3. The applicant made a false statement on the application.
4. The applicant is under eighteen (18) years old.
5. The applicant is found to have unpaid civil judgment(s) which relates to the duties and responsibilities of the permitted occupation which shall be determined by the nature and the amount of the judgment, the relationship of the judgment to the purpose of the permit and the extent that the permit would allow someone to engage in further activity that would lead to unsatisfied civil judgments.

(c) Appeal. If the police department denies an application for a license, the applicant may appeal within fifteen (15) days after the City Clerk mails a notice of denial to the applicant. If the applicant files a timely appeal with the Clerk, the Clerk shall schedule an appeal hearing before the Protection & Policy Committee.

(d) Hearing before Committee. 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.

(e) Issuance. The Clerk shall issue the mobile food establishment license if the applicant has completed the application requirements and has been approved by the police department.

(4) LICENSE SUSPENSION OR REVOCATION. The Common Council may revoke or suspend, for no fewer than ten (10) nor more than ninety (90) days, any license under this subchapter for violation by any vendor or vendor's employee or agent of any provision of this chapter or any state law or City ordinance which renders future vending contrary to the public health, safety or welfare, or for fraud or misrepresentation in solicitation under this chapter.

(5) SANITATION REQUIREMENTS. Each applicant must certify that they have received all necessary County and State permits and provide copies thereof to the Clerk's Office.

(6) CONDUCT OF BUSINESS.

(a) General Regulations

1. A licensee shall not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale or offer for sale any unwholesome or tainted edible goods, nor intentionally misrepresent to any prospective customer the purpose of his or her solicitation, the name of the business of his or her principal, if any, the source of supply of the goods, ware or merchandise which he or she sells or offers for sale or the disposition of the proceeds of his or her sales.
2. A licensee shall not use the license provided by the City after expiration or revocation of the license.
3. A licensee shall keep the premises in a clean and sanitary condition and the edible goods offered for sale well covered and protected from dirt, dust and insects. All food vendors shall comply with requirements of state and local authorities.
4. A licensee may vend, sell or dispose of, or offer to sell, vend, or dispose of goods, wares, or merchandise in the City of Green Bay between the hours of 6:00 a.m. and 10:00 p.m. All sales within the portion of the downtown district of Green Bay, as defined and displayed in Exhibit A under this subchapter, shall be allowed between the hours of 6:00 a.m. and 3:00 a.m.
5. All business activity relating to the mobile food establishments in the public right-of-way shall be conducted from the curbside of the vehicle at all times. No sales shall be made from a vehicle except from the curbside of said vehicle, unless otherwise authorized by the owner of private property.

(b) Zoning Restrictions

1. The vendor of the mobile food establishment shall not operate in any area where such operation impedes or inconveniences public use. No vendor shall engage in the licensed business on any public park, playground, school, library or other public premises without prior approval from the property owner.
2. No mobile food establishment or pedestrian desiring to conduct business at the mobile food establishment shall obstruct an adjacent path or lane of travel. A path or lane of travel includes, but is not limited to sidewalks, motor vehicle lanes, bicycle lanes and other designated parking areas.
3. No mobile food vendor shall be located on any private property without written permission from the property owner. A copy of the written permission shall be kept in the mobile food unit at all times. The mobile food vendor shall comply if asked to leave the private property by the property owner or a city official.

4. No mobile food establishment shall conduct business within five hundred (500) feet of Bay Beach Amusement Park or any fair, festival, special event or civic event that is licensed or sanctioned by the City of Green Bay unless the licensee has obtained written permission from the event sponsor.

(8) PENALTIES. A licensee or vendor who violates any provision of this subchapter or any regulation, rule, or order made hereunder shall be subject to a forfeiture of not less than \$1 nor more than \$500.00 for each offense.

SECTION 2. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

SECTION 3. Effective date. This ordinance shall take effect on and after its passage and publication.

Dated at Green Bay, Wisconsin, this _____ day of _____, 2020.

APPROVED:

Mayor

ATTEST:

Clerk

ljm

7/21/2020