

CITY OF ALGOMA  
COUNTY OF KEWAUNEE  
STATE OF WISCONSIN

COMMON COUNCIL  
ORDINANCE 849

AN ORDINANCE CREATING ARTICLE VI IN CHAPTER 28  
IN THE CITY OF ALGOMA CODE OF ORDINANCES AS IT RELATES TO MOBILE FOOD  
ESTABLISHMENTS

WHEREAS: The Common Council of the City of Algoma has the authority to amend the City's municipal code; and

WHEREAS: The Common Council believes that the issuance of temporary permits allowing the sale of food to the general public from mobile stations is likely in the public interest; and

WHEREAS: The Common Council deems it advisable to creation of Article VI of Chapter 28 of the municipal code to regulate mobile food establishments within the City of Algoma.

NOW, THEREFORE the Common Council of the City of Algoma does ordain that Article VI of Chapter 28 is created as follows:

**ARTICLE VI. – MOBILE FOOD ESTABLISHMENTS**

**I. Section 28-201. Definitions.**

*Mobile Food Vendor* – means the owner, owner's agent, or employee of a Mobile Food Establishment within the City of Algoma. A Mobile Food Vendor or Vendor shall expressly not include Transient Merchants as defined in Section § 28.09 of the City of Algoma Code of Ordinances.

*Mobile Food Establishment (MFE)* – means a restaurant or retail food establishment as the term defined in Wis. Stats. §97.30(1)(c) where food is cooked, wrapped, packaged, processed, served, or sold as ready-to-eat from a vehicle, car, truck, trailer, cart, or similar portable device which shall be capable of periodically changing locations. The ordinance does not intend to regulate the home delivery of food and beverage items.

*Mobile Food Establishment Temporary Permit* – means Mobile Food Establishment as described above, but operating for no more than three consecutive days in conjunction with an event/festival being hosted within the City. A temporary permit must be obtained before selling food.

*Food* – means all articles used for food, non-alcoholic drink, or condiment including ice or water for human consumption whether simple, mixed, or compound articles used or intended for use as ingredients in the composition and preparation thereof.

*Sell* – means the act of exchanging a good for monetary consideration.

52 *Vehicle* – means any motor vehicle as defined by Wis. Stats. §340.01(35) or trailers  
53 as defined by Wis Stats. §340.01(71). A vehicle shall not include any bicycle or other  
54 self-propelled device.  
55

56 *Vend* – means to sell or transfer the ownership of an article to another for monetary  
57 consideration.  
58

59 *Service base* – means an establishment operated under the permit or permit of an  
60 appropriate regulatory authority where food is manufactured, stored, prepared,  
61 portioned, or packaged, or any combination of these, where such food is intended for  
62 consumption at another establishment or place, and where such units are serviced,  
63 cleaned, supplied, maintained, and where the equipment, utensils, and facilities are  
64 serviced, cleaned, and sanitized.  
65

## 66 **II. Section 28-202. Permit Required.**

67  
68 It shall be unlawful for a person to operate as a Mobile Food Establishment, serve,  
69 sell, or distribute food from a Mobile Food Establishment in the City of Algoma  
70 without first having obtained a valid Mobile Food Establishment permit from the Clerk  
71 of the City of Algoma as provided for by this chapter.  
72

## 73 **III. Section 28-203. Exemptions from Permit Requirement.**

74  
75 Mobile Food Establishments participating in any of the events listed below are  
76 exempt from obtaining a Mobile Food Establishment permit or temporary permit and  
77 location and general operation restrictions required by this chapter.  
78

- 79 a. Any Mobile Food Vendor or Mobile Food Establishment working under a special  
80 event approved by the City as a caterer, who does not receive direct payment  
81 from persons receiving food items, goods, or services from the Mobile Food  
82 Establishment.  
83
- 84 b. Any Mobile Food Establishment commissioned or paid directly by private land  
85 owner and who does not receive direct payment from persons receiving food  
86 items, goods, or services from the Mobile Food Establishment.  
87

## 88 **IV. Section 28-204. Application.**

89  
90 Any person desiring to operate as a Mobile Food Establishment shall make a written  
91 application for a Mobile Food Establishment permit to the City Clerk's office. The  
92 application shall be on the form provided by the City Clerk's office and shall include  
93 the following:  
94

- 95 a. A completed Mobile Food Establishment application with signature and payment  
96 of fees.  
97
- 98 b. The full legal name, signature, address, and phone number of each applicant,  
99 each member or officer of a corporate applicant, and the onsite point of contact  
100 name and phone number.  
101

- 102 c. A description of the Mobile Food Establishment, including the make, model, VIN,  
103 weight of the vehicle, vehicle length and width, permit plate, and lighting layout  
104 with fixture and wattage information. Mobile Food Establishments must have  
105 valid license plates and registrations as provided by Chapter 341, Wisconsin  
106 Statutes.
- 107
- 108 d. A valid copy of all necessary permits for the operation of Mobile Food  
109 Establishment, including, but not limited to, permits or certificates required by the  
110 State of Wisconsin, or any subsidiary enforcement agencies thereof.
- 111
- 112 e. Proof of Current Annual Accredited Fire Suppression System Inspection.
- 113
- 114 f. Valid Wisconsin Department of Revenue Seller's Permit.
- 115
- 116 g. The applicant shall provide a Mobile Food Vendor business plan narrative  
117 addressing:
- 118
- 119 1. The proposed location(s) of the Mobile Food Establishment;  
120 2. Whether the operations are open air, enclosed limited service, or enclosed  
121 full service;  
122 3. Hours of operation;  
123 4. Employee information; number of employees and where they will park;  
124 5. Proposed signage;  
125 6. Restroom plan for both customers and personnel;  
126 7. Wastewater disposal plan;  
127 8. Pedestrian and traffic safety;  
128 9. Any other information which may be requested by the City of Algoma in order  
129 to make a full and comprehensive evaluation of the application.
- 130
- 131 h. All applicants shall include in their application current photographs of the  
132 proposed Mobile Food Establishment showing a minimum of the front and rear  
133 and both side views along with the service window closed and open which shall  
134 be used for identity verification.
- 135
- 136 i. Written permission from the private property owner within a Commercial Zone.
- 137
- 138 j. A signed statement that the vendor shall hold harmless the City and its officials,  
139 officers, and employees, and shall indemnify the City, its officials, officers, and  
140 employees for any claims for damage to property or injury to persons which may  
141 be occasioned by any activity carried on under the terms of the permit. The  
142 vendor shall furnish and maintain such public liability insurance coverage not less  
143 than \$1,000,000 and name the City of Algoma as an additional insured. A  
144 declaration of coverage shall be provided to the City of Algoma at the time of  
145 application.
- 146
- 147 k. The City of Algoma reserves the right to conduct a background check of  
148 applicant and/or agents.
- 149
- 150 l. Any information deemed necessary by the City of Algoma Clerk's office to  
151 determine the issuance of a Mobile Food Establishment Permit to a particular  
152 applicant that would be in the best interest of the public.

153  
154 **V. Section 28-205. Review.**  
155

156 All applications shall be subject to review by the City Clerk's office and reported to  
157 the Protection of Persons and Property Committee and City Council after approval /  
158 denial of permit. Approval will be made based on the following guidelines and/or  
159 standards as determined by the Common Council of the City of Algoma.

- 160
- 161 a. The proposed Mobile Food Establishment will not create any significant adverse  
162 traffic impacts, pedestrian or traffic safety hazards, pedestrian/vehicle conflicts,  
163 or impede building ingress/egress.
- 164
- 165 b. The proposed Mobile Food Establishment will not create significant adverse  
166 impact with regard to public health, safety, or general welfare within the City as a  
167 result of:
- 168
- 169 i. The accumulation of garbage, recycling, trash, or other waste. The garbage,  
170 recycling, trash, or other waste must be properly disposed of by the  
171 Mobile Food Establishment. It is not allowed to be disposed of in any City  
172 owned receptacles or containers.
- 173 ii. Noise created by the operation of the equipment.
- 174 iii. Light or glare.
- 175 iv. Odors and noxious fumes.
- 176 v. Smoke emitted from Mobile Food Establishment operations.
- 177
- 178 c. The scale of the Mobile Food Establishment and the suitability for the site and  
179 neighborhood.
- 180
- 181 d. Parking considerations
- 182 i. Possible impact of off-street parking
- 183 ii. Preservation of parking spots for the primary business on a parcel.
- 184

185 **VI. Section 28-206. General Requirements.**  
186

- 187 a. Mobile Food Establishments shall comply with NFPA-1 Fire Code and Wisconsin  
188 Administrative Code SPS 314 50.
- 189
- 190 b. All state and City permits shall be conspicuously displayed on the Mobile Food  
191 Establishment while in operation.
- 192
- 193 c. Mobile Food Establishments may operate on private property in Commercial  
194 Zones where permitted by the property owner by written permission and which  
195 does not otherwise create a traffic hazard provided the zoning regulations  
196 applicable to the property do not limit the property to residential and related  
197 incidental or accessory uses.
- 198
- 199 d. No more than one (1) Mobile Food Establishment shall be permitted per parking  
200 lot or per property per occasion unless otherwise approved by the City.
- 201
- 202 e. Zoning Requirements:

i. Open to the public Mobile Food Establishments shall not operate in a residentially zoned district.

f. No Mobile Food Establishment shall use or maintain any outside sound-amplifying equipment or noisemakers of any kind.

g. No Mobile Food Establishment shall use or maintain moving or flashing lights.

h. Mobile Food Establishments shall take every precaution to ensure that their operation does not materially affect the peace and welfare of the general public nor cause any unreasonably loud, disturbing, and/or unnecessary noise or any other noise of any character, intensity, or duration as to be determined detrimental or disturbing to the public peace or welfare as determined by the City of Algoma Police Department.

#### **VII. Section 28-207. Parking Restrictions.**

a. The host parking lot must remain in compliance with the City zoning ordinance including off street parking requirements for the host lot, and Mobile Food Establishments shall not block required driving aisles.

b. The number of parking spaces available must support the existing developed use of the property.

#### **VIII. Section 28-208. Operation Standards.**

Mobile Food Establishments operating within the City of Algoma shall comply with the following:

a. Size. A Mobile Food Establishment unibody vehicle shall not exceed a length of thirty feet (30') or a width of ten feet (10'). A trailer-style Mobile Food Establishment shall not exceed a length of twenty feet (20') not including tongue, or a width of ten feet (10'). Mobile Food Establishments will be subject to design review standards.

b. All Mobile Food Establishments must have signage posted, in lettering not less than three inches (3") in height, in plain view to all patrons that provides the name of the operator and a valid telephone number.

c. Permitted Mobile Food Establishments may operate between 7:00 am and no later than 10:00 pm.

d. Mobile Food Establishments shall not obstruct any public street, sidewalk, trail access or visibility of crosswalks, street corners, driveways or intersections, and operations shall take affirmative steps to direct unit customers waiting for service to refrain from causing any such obstructions.

e. Any power required for the Mobile Food Establishment shall not use utilities drawn from the public right-of-way. No power cable or equipment shall be extended over any City street, alley, or sidewalk unless otherwise approved by the City.

- 253 f. Mobile Food Establishments shall provide leak-proof containers adequate for the  
254 deposit of waste. Mobile Food Establishment vendors are required to remove or  
255 otherwise properly dispose of all waste, litter, or garbage generated by their  
256 operations and patrons during and after daily operations including that which may be  
257 reasonably seen from the location of the operation on the ground or otherwise not in  
258 a proper disposal container. The use of City refuse containers is prohibited for  
259 Mobile Food Establishment operations. Dumpsters are prohibited.  
260  
261 g. Mobile Food Establishments are to ensure responsible disposal of oil and grease,  
262 wastewater, and cooking water in accordance with applicable ordinances and  
263 statutes.  
264  
265 h. No Mobile Food Establishments shall have food service prepared or sold outside of  
266 the Mobile Food Establishment.  
267  
268 i. Seating tables, if approved by the City Clerk's office, shall not block ingress, egress  
269 or fire exits from the Mobile Food Establishment or any other structure on the  
270 property.  
271  
272 j. Any lighting associated with the Mobile Food Establishment shall use a hood and a  
273 lens so light is cast downward and onto the property so as not to disturb the night  
274 sky or adjacent properties.  
275

276 **IX. Section 28-209. Permit Fee, Duration, and Conditions**  
277

- 278 a. The fee for a Mobile Food Establishment Permit shall be set forth by the City  
279 Council.  
280  
281 b. Permit fees shall not be pro-rated.  
282  
283 c. The permit is non-transferrable from person to person or mobile vending vehicle or  
284 cart to mobile vending vehicle or cart.  
285  
286 d. Each Mobile Food Establishment shall be permitted separately.  
287  
288 e. The permit life is from July 1<sup>st</sup> until June 30<sup>th</sup>. Licenses granted on or after April 1<sup>st</sup>  
289 will extend to June 30<sup>th</sup> of the following year (rather than expiring on June 30<sup>th</sup> of the  
290 year the license was issued).  
291

292 **X. Section 28-210. Enforcement.**  
293

294 The enforcement of this article shall be under the jurisdiction of the Algoma Fire  
295 Department, Algoma City Administrative Staff, Algoma Police Department, and/or other  
296 agents as deemed necessary by the City Council.  
297

298 **XI. Section 28-211. Renewal.**  
299

- 300 a. No renewal shall be automatic.  
301  
302 b. Any current permit holder shall, on an annual basis, file a renewal form required by  
303 the City Council, pay the renewal fee as established by the City Council, and supply

any new permitting documentation upon the permit renewal before the expiration of the permit, and such renewal shall be processed in the same manner as the initial application.

## **XII. Section 28-212. Suspension, Revocation, or Non-Renewal of Permit.**

- a. A Mobile Food Establishment permit may be suspended, revoked, or not renewed by the City Clerk's Office if the applicant or permittee:
  - i. Made any material omission or materially inaccurate statement in the permit application; or
  - ii. Made any fraudulent, false, deceptive, or misleading statement or representation in the course of engaging in mobile food vending; or
  - iii. Violated any provision of this Chapter; or
  - iv. Was convicted of any offense which is directly related to the permittee's fitness to engage in mobile vending.
  - v. Mobile Food Establishment materially affects the peace and welfare of the general public and causes any unreasonably loud, disturbing, and/or unnecessary noise, or any other noise of any character, intensity, or duration as to be detrimental or disturbing to the public peace or welfare.
  - vi. The City Council determines that issuing permits for Mobile Food Establishments has proven to be contrary to the health, safety, and welfare of the general public, in which case all permits issued under this provision shall be revoked without further process except that the City Council shall hold a public hearing, notifying all permit holders of the consideration of revocation or sunset of Mobile Food Establishment Permits before acting on the matter.
- b. If the Fire Department, City Administrative Staff, Police Department, or an authorized representative of the City recommends that a suspension, revocation, or non-renewal of a mobile food establishment permit, or, if the City Clerk's office indicates the intention to suspend, revoke, or not renew the Mobile Food Establishment permit, the City Clerk shall, in writing, inform the applicant of the intended non-renewal, the reasons, and of the opportunity to request a hearing before the Protection of Persons and Property Committee. Such notice shall be sent by certified and regular mail or personally served upon, the permittee at least ten (10) days prior to the hearing.
- c. A permit is a privilege, the issuance of which is a right granted to the City Council and their designee – the City Clerk's office. The City Council shall consider the circumstances, severity, and facts of an offense, and offense patterns of behavior when making the determination to grant, deny, suspend, revoke, or not renew.

## **XIII. Section 28-213 Violations and penalties.**

If any person shall violate this chapter, he or she shall be guilty of a forfeiture and shall be fined not more than \$1000.00 or such amount as shall be set forth in the Schedule of Fees adopted by the City Council from time to time.

If any section, subsection, paragraph, or sentence of this ordinance is for any reason deemed unconstitutional or otherwise unenforceable by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance.

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

ADOPTED BY ORDER OF THE COMMON COUNCIL AT A REGULAR MEETING THEREOF ON THE 7<sup>th</sup> DAY OF April, 2025, BY A VOTE OF 6 FOR AND 1 OPPOSED.

Approved: \_\_\_\_\_

Steve Lautenbach,  
Mayor of the City of Algoma

Attest: \_\_\_\_\_

Erin M Mueller,  
Clerk of the City of Algoma

First Reading: 3/3/2025 Second Reading: 4/7/2025

Date Adopted: 4/7/25 Date Published: 4/10/2025