CITY OF GREEN BAY EXAMPLE ORDINANCE

Sec. 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.

(d) *Edible goods* shall include but are not limited to:

1. Prepackaged and prepared food including, but not limited to, ice cream, hot dogs, deserts, 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 § 340.01(35), Wis. Stats., or trailer as defined by § 340.01(71), Wis. Stats. "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, without having obtained an approved license from the city clerk. Food carts that are participating in a licensed special event are exempt from license requirements for the duration of the event.

(b) All mobile food establishments used for vending food shall be licensed for such use by ~~the~~ Public Health Madiosn and ~~county~~ Dane County ~~health department~~ and all other applicable agencies. Mobile food establishments shall acquire the appropriate licenses and permits for any additional food items not required under this subchapter if deemed necessary by the county health department.

(c) License. Every mobile food vendor shall have a license issued by the city clerk to conduct business in the city. Each mobile food establishment shall be licensed separately. A mobile food establishment license shall expire on June 30 each year.

(d) *License fee.* The license to operate a mobile food establishment shall be ~~$500.00~~. $100.00. If an applicant requests a license under this subchapter from an existing city based business that sells food based products, the license fee shall be ~~$300.00.~~ $50. A one-day license shall be $25.

(e) *License renewal.* Upon renewal of license, each applicant must provide a new application, a renewal fee of $100.00~~500.00~~, and any new permitting documentation upon the license renewal. License renewal from an existing city based businesses shall be ~~$300.00~~$50.. If the applicant fails to submit the application and renewal fee within 30 calendar days after the expiration of the license, the applicant shall reapply as a new applicant.

(f) *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.

(g) *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 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 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 & welfare committee~~ Public Safety 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, no less than ten and not more than 90 days, any license under this subchapter for violation by any vendor or the 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) *Insurance.*

(a) *Liability insurance.* The license holder under this subchapter shall have in force liability insurance for each mobile food establishment.

(b) *Proof of insurance.* As evidence of liability insurance, the licensee shall furnish a certificate of insurance, on a form acceptable to the city, evidencing the existence of adequate liability insurance naming the city, its employees and agents as additionally insured in an amount not less than $1,000,000.00. Whenever such policy is cancelled, not renewed, or materially changed, the insurer and the licensee shall notify the city by certified mail.

(6) *Sanitation requirements.*

(a) Mobile food establishments shall comply with all regulations of the Wisconsin Food Code and the county health department including, but not limited to, the time, temperature, plumbing, operation and maintenance for mobile food establishments.

(b) Mobile food establishments shall comply with all regulations of the Wisconsin Food Code and the county health department regarding preparation facilities, serving areas and operation areas.

(c) The licensees of the mobile food establishment or employee(s) thereof shall abide by the request of the county health department for annual inspections of the establishment at a location designated by the health department.

(d) Authorities of the county health department may require that mobile food establishments found to violate sanitation and health requirements to have follow-up inspections to verify compliance.

(e) Service base required.

1. All mobile food establishments shall have a mobile service base to store and prepare food and all supplies. No food items are allowed to be stored or prepared in a private residence or garage unless approved by the county health department.

2. Any food item desired to be cooked or prepared on the mobile food establishment shall first be inspected by the county health department.

3. All mobile food units shall be cleaned and serviced as often as necessary from the service base.

4. The service base shall be inspected and approved by the county health department prior to operating the mobile food establishment.

5. All mobile food establishments shall return to its service base at least once every 24 hours for service and maintenance. ????

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(7) *Conduct of business.*

(a) *Regulations generally.* The following regulations shall apply to mobile food establishments during the regular order of business:

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 between the hours of 6:00 a.m. and 9:00 p.m. All sales within the portion of the downtown district of Green Bay, as defined and displayed in exhibit A following this section, shall be allowed between the hours of 6:00 a.m. and 3:00 a.m.~~

5. No mobile food establishment shall conduct business at a stationary location for a duration exceeding ~~four~~ eight hours per location per day unless the food cart is part of a licensed special event.~~.~~

6. All persons conducting business on a sidewalk or terrace must maintain within 25 feet of their sales location, a clean, sanitary and hazard-free condition, and shall not discharge any material onto the street, sidewalk, gutters or storm drain. Each person conducting business on a sidewalk or terrace under the provisions of this chapter shall carry a minimum 30-gallon container for placement of such litter by customers or other persons.

7. A vehicle or other on-street unit which is operated for the purpose of selling food from the unit shall be operated only by a person who has obtained a license or by the employee of the person who obtained a license under this subchapter.

8. No person may sell or vend any item upon any premise(s) if there is placed signage prohibiting the activity.

9. 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.

10. No food service shall be prepared, sold, or displayed outside of the mobile food establishment.

11. No person shall provide or allow any dining area to the mobile food establishment, including, but not limited to, tables and chairs, booths, stools, benches or stand up counters.

12. Signage may only be permitted when placed on the mobile food establishment. No separate free-standing signs are permitted.

13. ~~Any special or civic event organizer desiring to hold five or more mobile food establishments on the property where the event will be held shall notify the county health department at least seven business days prior to the event.~~

(b) *Vehicle regulations.*

1. Any vehicle or other on-street units used for vending food in any public street must be designed and constructed specifically for the purpose of vending the product or products to be vended.

2. Amplified music or other sounds from any vehicle or unit used for the purpose of vending products in the public streets shall ~~comply with chapter 27, subchapter II, Green Bay Municipal Code.~~not be permitted.

3. All mobile food establishments shall be entirely self-contained in regards to gas, water, electricity, and equipment(s) required for operation of the unit.

4. All mobile food vehicles must have valid license plates and registration as provided by chapter 341, Wis. Stats.

5. No vehicle or unit may violate any traffic or parking statute or ordinance when stopping to make sales. ~~Meter bags will not be issued to license holders under this subchapter.~~

6. No flashing or blinking lights, or strobe lights are allowed on a mobile food establishment or related signage when the establishment is parked and engaged in serving customers. ~~All lighting is subject to review by the city traffic engineer and shall be removed if deemed to be in conflict with safe travel.~~

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7. All mobile food establishments shall comply with all Federal, State, and local regulations regarding vehicle size requirements.

(c) *Zoning restrictions.*

1. The vendor of the mobile food establishment shall not operate in a congested 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.

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 more than two mobile food establishments shall be allowed to conduct business on private property~~.

4. ~~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.~~

5. ~~No mobile food establishment shall conduct business within 500 feet of Bay Beach Amusement Park or any fair, festival, special event or civic event that is licensed or sanctioned by the city unless the licensee has obtained written permission from the event sponsor~~.

6. A mobile food establishment shall be located on a paved surface at all times unless it is part of a city sanctioned special event.

7. No person may conduct business on a sidewalk or curbside in any of the following places:

   a. Within 20 feet of the intersection of the sidewalk with any other sidewalk.

   b. Within ten feet of the extension of any building entrance or doorway to the curb line.

   c. Within 150 feet of a public entrance of any business which is a licensed or permitted restaurant by the county health department, during the hours the particular business is open for sale, unless written permission is granted by the business.

   d. Within 150 feet of a city park where food concessions are sold, during the hours that concessions are being sold, unless written permission is granted by the parks department.

8. ~~A mobile food establishment may be permitted in all zoning districts except within any residential zoning district. The subsection shall not apply to ice-cream trucks~~.

No mobile food carts shall operate on HWY 51 unless part of a licensed special event.

(d) *Exemptions.*

1. ~~Upon application and approval from the protection and welfare committee, the licensee may periodically and infrequently extend the hours of service of the mobile food establishment outside the designated zone displayed in exhibit A from 6:00 a.m. to 3:00 a.m. for business purposes only. This exemption shall not be applicable in any residential zoning district.~~

2. ~~Upon application and approval from the protection and welfare committee, the owner of private property may allow more than two mobile food establishments to conduct business on said property during the normal hours of operation.~~

3. For event purposes, a mobile food establishment may conduct business on publicly owned property after the approval from the parks department and the department of public works or participates in a city sanctioned special event.

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(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 $1.00 nor more than $500.00 for each offense.

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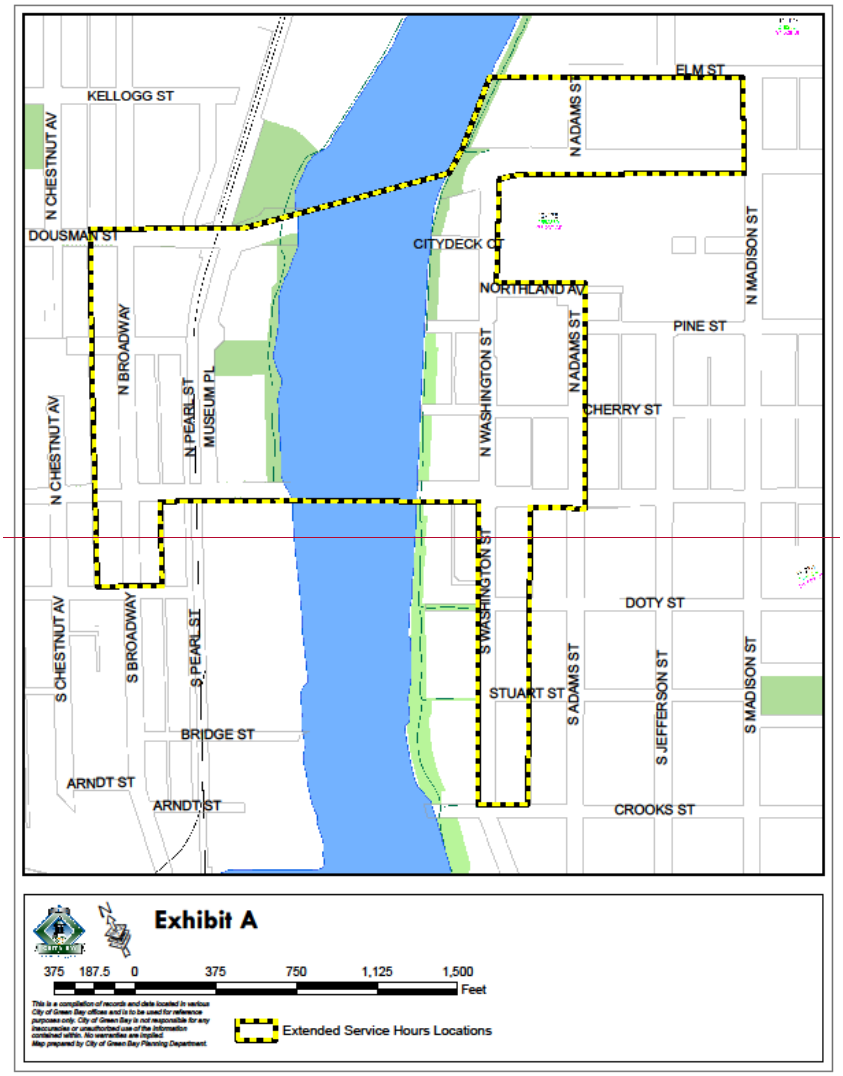
\~~(Ord. No. 12-15)~~