

Village of Ashwaubenon

Municipal Code Book

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Article 6-12

Municipal Code Book

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Chapter 6 - Businesses

Article 12 - Mobile Food Establishments

6-12-463 Food Trucks

(A) Definitions

- (1) Mobile Food Establishment means a restaurant or retail food establishment where food is served or sold from a motorized or non-motorized vehicle, trailer, cart, or other portable structure 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.
- (2) *Mobile* shall mean the state of being in active, but not necessarily continuous movement.
- (3) *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 Village of Ashwaubenon.
- (4) *Edible Goods* shall include but are not limited to:
 - (a) Prepackaged and Prepared food including, but not limited to ice cream, hot dogs, deserts, and pizza.
 - (b) On-site prepared food including, but not limited to shaved ice, sandwiches, and tacos.
- (5) *Sell* shall mean the act of exchanging a good for profit or in return for a donation.
- (6) *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.
- (7) *Special Event* shall have the same meaning as provided in Sec. 6-11-456.
- (8) *Vehicle* shall mean any motor vehicle as defined by Wis. Stat. §340.01(35) or trailer as defined by Wis. Stat. §340.01(71). Vehicle shall also include any bicycle or other self-propelled device.
- (9) *Vend* shall mean to sell or to transfer the ownership of an article to another for a price in money.
- (10) *Village Sponsored Event* means any activity or event that is sponsored and conducted by the Village of Ashwaubenon or any Department of the Village of Ashwaubenon.

(B) *License Required.* No person may vend, sell or dispose of or offer to vend, sell or dispose of goods, wares or merchandise, produce or any other items at any place whatsoever within the Village of Ashwaubenon, without having obtained an approved license from the Office of the Village Clerk. This subsection shall not apply to mobile food establishments and/or vendors who receive permission to conduct business for Village Sponsored Events.

(1) All mobile food establishments used for vending food shall be licensed for such use by a Wisconsin state certified 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 Brown County Health Department.

(2) *License.* Every mobile food vendor shall have a license issued from the Office of the Village Clerk to conduct business within the Village of Ashwaubenon. A mobile food vendor shall obtain license for each mobile food establishment. A mobile food establishment license shall expire on June 30 each year.

(3) *License Fee.* The license fee to operate a mobile food establishment shall be set by resolution of the Board of Trustees from time to time in the Village of Ashwaubenon Fees and Licenses Schedule.

(4) *License Renewal.* Upon renewal of license, each applicant must provide a new application and any new permitting documentation upon the license renewal. 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.

(5) *Transfer of License.* A license issued under this subchapter shall not be transferable from person to person and/or business to business. A license is valid for only one vehicle or cart and shall not be transferrable between vehicles or carts.

(6) *Continued Use.* A license which has been granted but not in continuous use in a manner indicating an ongoing business for a period of ninety (90) days is presumed invalid and shall be subject to revocation unless authorized by the Village Board of Trustees.

(7) *Surrender of License; Alteration of License; Failure to Display License.* Upon expiration of an issued license under this subchapter, the license holder shall surrender the license to the Office of the Village Clerk. No person shall alter or change, in any manner, any license issued under the provisions of this subchapter, and such alteration or failure of the holder of the license to display the license in a conspicuous place on the mobile food establishment 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.

(C) License Application Process

(1) *Application.* Any person who desires to operate a mobile food establishment shall apply for a license on a form promulgated by the Village Clerk and pay the proper license fee for each mobile food establishment managed by the person. The Village Clerk shall forward the application to the Department of Public Safety for review. If the Department of Public Safety approves the application, the Office of the Village Clerk shall issue the license to the applicant.

- (2) *Application Denial.* An applicant of a mobile food establishment may be denied based on any of the following:
- (a) The circumstances of a pending criminal charge against the applicant substantially relate to the licensed activity.
 - (b) 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.
 - (c) The applicant made a false statement on the application.
 - (d) The applicant is under eighteen (18) years old.
 - (e) 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.
- (3) *Appeal.* If the Department of Public Safety denies an application for a license, the applicant may appeal within fifteen (15) calendar days after the 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 Public Works & Protection Committee.
- (4) *Issuance.* The Office of the Village Clerk shall issue the mobile food establishment license if the applicant has satisfactorily completed the application requirements and has been approved by the Department of Public Safety.
- (D) License Suspension or Revocation
- (1) The Village Board of Trustees may revoke or suspend any license under this article for violation by any vendor or the vendor's employee or agent of any provision of this article or any State law or Village ordinance which renders future vending contrary to the public health, safety, or welfare, or for fraud or misrepresentation in solicitation under this article.
- (E) Insurance
- (1) *Liability Insurance.* The license holder under this subchapter shall have in force liability insurance for each mobile food establishment.
 - (2) *Proof of Insurance.* As evidence of liability insurance, the licensee shall furnish a Certificate of Insurance, on a form acceptable to the Village of Ashwaubenon, evidencing the existence of adequate liability insurance naming the Village of Ashwaubenon, its employees and agents as additionally insured in an amount not less than one million dollars (\$1,000,000.00). Whenever such policy is cancelled, not renewed, or materially changed, the insurer and the licensee shall notify the Village of Ashwaubenon by certified mail.

(F) Sanitation Requirements

- (1) Mobile food establishments shall comply with all regulations of the Wisconsin Food Code and the Brown County Health Department including, but not limited to the time, temperature, plumbing, operation and maintenance for mobile food establishments.
- (2) Mobile food establishments shall comply with all regulations of the Wisconsin Food Code and Brown County Health Department regarding preparation facilities, serving areas and operation areas.
- (3) The licensees of the mobile food establishment or employee(s) thereof shall abide by the request of the Brown County Health Department for annual inspections of the establishment at a location designated by the health department.
- (4) Authorities of the Brown County Health Department may require that mobile food establishments found to violate sanitation and health requirements to have follow-up inspections to verify compliance.
- (5) Service Base Required.
 - (a) 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, garage, or other structure unless approved by a Wisconsin state certified health department.
 - (b) Any food item desired to be cooked or prepared on the mobile food establishment shall first be inspected by a Wisconsin state certified health department.
 - (c) All mobile food units shall be cleaned and serviced as often as necessary from the service base, but in no instance less than once every twenty-four (24) hours.
 - (d) The service base shall be inspected and approved by a Wisconsin state certified health department prior to operating the mobile food establishment.
 - (e) All mobile food establishments shall return to its service base at least once every twenty-four (24) hours for service and maintenance.

(G) Conduct of Business

(1) Regulations Generally

The following regulations shall apply to mobile food establishments during the regular order of business:

- (a) No person shall 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.
- (b) A licensee shall not use the license provided by the Village of Ashwaubenon after expiration or revocation of the license.
- (c) A licensee shall keep the premises in a clean and sanitary condition and the edible goods offered for sale are well covered and protected from dirt, dust and insects. All food vendors shall comply with requirements of state and local authorities.
- (d) A licensee may vend, sell or dispose of, or offer to sell, vend, or dispose of goods, wares, or merchandise within the Village of Ashwaubenon between the hours of 6:00 a.m. and 10:00 p.m. All sales within the Sports and Entertainment (SE) Zoning District of the Village of Ashwaubenon, shall be allowed between the hours of 6:00 a.m. and 2:00 a.m.
- (e) No Mobile Food Establishment shall be allowed to park on a public or privately owned parcel within the Village of Ashwaubenon, other than its own Service Base, or in a structure, lot, or driveway owned by the licensee, between the hours of 2:30am and 5:30am.
- (f) No mobile food establishment shall conduct business at a stationary location for a duration exceeding eight (8) hours per location per day.
- (g) All persons conducting business on a sidewalk or terrace must maintain within twenty-five (25) feet of their sales location, a clean and hazard-free condition, and shall not discharge any materials, food waste, water utilized for food preparation, or cleaning liquids onto the street, sidewalk, gutters, catch basins, manholes or storm drain. Each person conducting business as a Mobile Food Establishment under the provisions of this chapter shall provide a minimum thirty-two (32) gallon trash container for placement of such litter by customers or other persons. The use of village refuse containers is strictly prohibited.
- (h) 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.
- (i) No mobile food establishment may sell or vend any item upon any premise(s) if there is placed signage prohibiting the activity or without having received signed written permission.
- (j) 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.

- (k) No food service shall be prepared, sold, or displayed outside of the mobile food establishment.
 - (l) No person or business shall provide or allow any dining area to the mobile food establishment, including but not limited to tables, chairs, booths, stools, benches or stand up counters. No structures other than the mobile food establishment canopy may be utilized. Tents are prohibited. This subsection shall not apply if the mobile food establishment is conducting business on private property and has received permission from the property owner.
 - (m) Signage may only be permitted when placed on the mobile food establishment. No separate free-standing signs are permitted.
 - (n) No mobile food establishment may sell or vend any food or beverages in glass containers or glassware.
 - (o) No mobile food establishment may sell or offer alcoholic beverages.
- (2) Vehicle Regulations
- (a) 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.
 - (b) Use of audio or video equipment, such as speakers, amplifying devices, video display monitors, strobe lights, etc. are prohibited when the mobile food establishment is parked and engaged in serving customers.
 - (c) All mobile food establishments shall be entirely self-contained in regards to gas, water, electricity, and equipment(s) required for operation of the unit.
 - (d) All mobile food vehicles must possess valid license plates and registration as provided by Chapter 341 of the Wisconsin Statutes.
 - (e) No vehicle or unit may violate any traffic or parking statute or ordinance when stopping to make sales.
 - (f) No mobile food establishment shall exceed thirty-six (36) feet in length and eight (8) feet in width.
 - (g) Excluding canopies, umbrellas, or transparent enclosures, no mobile food vehicle or unit shall exceed ten (10) feet in height.
- (3) Zoning Restrictions

- (a) The vendor of the mobile food establishment shall not operate where such operation may impede or inconvenience public use of alleys, sidewalks, streets, public parks and playgrounds, libraries, or other public grounds or land dedicated to public use, unless otherwise authorized by the Department of Public Safety or Department of Parks and Recreation.
- (b) The vendor of the mobile food establishment may not prepare, cook, sell, or vend within 300 feet of school grounds unless part of a non-profit or civic event where written permission was received by the respective school and/or school district.
- (c) 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.
- (d) No more than three (3) mobile food establishments shall be allowed to conduct business on a privately owned parcel, unless conducted at a Special Event. This subsection shall not apply to Village sponsored events.
- (e) 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 village or county official.
- (f) No mobile food establishment shall conduct business within 300 feet of any fair, festival, special event or civic event that is licensed or sanctioned by the Village of Ashwaubenon unless the licensee has obtained written permission from the event sponsor.
- (g) No person may conduct business on a sidewalk in any of the following places:
 - (i) Within twenty (20) feet of the intersection of the sidewalk with any other sidewalk.
 - (ii) Within ten (10) feet of the extension of any building entrance or doorway to the curb line.
 - (iii) Within three hundred (300) feet of any portion of a building or structure which conducts business that sells a food product, during the hours the particular business is open for sale, unless written permission is granted by the business.
- (h) A mobile food establishment may be permitted in all zoning districts except within any residential zoning district. This subsection shall not apply to mobile food establishments conducting business at a residence for a private event and have obtained permission from the residential property owner, or mobile food establishments whose sales primarily generate from ice-cream and frozen novelties.

(H) Penalties

- (1) A licensee or vendor who violates any provision of this article or any regulation, rule, or order made hereunder shall be subject to a forfeiture of not less than \$25.00 nor more than \$500.00 for each offense.

Ord. No. O9-2-22, 09-27-2022; Ord. No. O6-1-20, 06-23-2020, Ord. No. O6-1-15, 06-23-15