

## ARTICLE X. - OUTDOOR FOOD STANDS AND MOBILE FOOD UNITS

### DIVISION 1. - GENERALLY

#### Sec. 10-393. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Charitable purpose* means a benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare, advocacy, public health, environmental conservation, civic, or other eleemosynary objective.

*Downtown area* means the area bounded by Cass Street, 7<sup>th</sup> Street, La Crosse Street and the Mississippi River.

*Food business* shall mean selling prepackaged or limited ready-to-eat foods or beverage or preparing and/or serving foods or beverage from either an outdoor food stand or mobile food unit.

*Mobile food unit* means a vehicle or conveyance on wheels, either motorized or nonmotorized, used to conduct a food business.

*Occasional* means no more than three (3) consecutive days and no more than three (3) occurrences in one (1) calendar year.

*Outdoor food stand* means a stationary, nonmobile unit, either enclosed or not enclosed, with or without a roof, used to conduct a food business.

*Person* means any natural person, firm, corporation, association, club, partnership, society, or any other organization of every nature whatsoever.

*Public way* means sidewalks and streets.

*Transient merchant* means any person without a permanent place of business in the County of La Crosse who engages in the temporary business of selling or delivering goods and/or services away from a permanent place of business at any fixed location temporarily.

*Vendor* shall mean a licensed outdoor food stand or mobile food unit.

#### Sec. 10-394. - Exemptions.

The provisions of this article shall not apply to the following:

- (1) Those transacting business entirely inside a store building;
- (2) Those who operate a permanent business establishment that place items sold at such operator's business establishment directly outside of their business;
- (3) Those who operate home delivery conveyance of grocery stores, restaurants, dairies and/or bakeries;
- (4) Any person selling agricultural food products which such person has grown within the state of Wisconsin and so long as there is no onsite food preparation and said person is licensed with the appropriate State or local agency;
- (5) Any person selling a food product at a permitted farmer's market/flea market, ~~on premises under the control of the farmer's market/flea market organizers,~~ so long as said person is licensed with the La Crosse County Health Department and is properly inspected by the Fire Department—~~Fire Prevention and Building Safety Division,~~ if necessary;

- (6) A transient ~~vendor~~ merchant selling a food product from a conveyance for a limited time and possessing a ~~direct~~ mobile seller permit so long as there is no onsite food preparation and said person is licensed with the appropriate State or local agency (i.e. meat or produce truck);
- (7) Any person with a food stand/mobile food unit vending at a permitted special event pursuant to Chapter 39, with permission from event organizers, so long as they are on the grounds under the control of the event organizers other than parade routes;
- (8) Any ~~nonprofit~~ charitable organization that conducts an outdoor food stand only at occasional times, so long as said person notifies the La Crosse County Health Department;
- (9) A city resident under the age of 18 selling water, soda, shaved ice, or similar beverage only at occasional times from a stand on private property, or within a park with the permission of the Parks and Recreation, Forestry, Facilities and Grounds, so long as said person notifies the La Crosse County Health Department.

Sec. 10-395. - Enforcement.

The enforcement of this article shall be under the jurisdiction of the Fire Department—~~Division of Fire Prevention and Building Safety~~ and Police Department, who shall have the power to inspect to determine compliance with this article.

Sec. 10-396. - Location restrictions.

Licensed mobile food units shall not operate upon or in any alley, public grounds or land dedicated to public use or in any part there. Where mobile food units are being operated in any street, all traffic and parking regulations shall be observed and no unit shall impede the free use of such street. No sales shall be made from a vehicle except from the curbside of said vehicle. No licensed mobile food unit shall be upon any street used as a parade route between the time one-half hour immediately preceding the commencement of any scheduled parade until after the conclusion of any scheduled parade. Where mobile food units are being operated on any sidewalk, no unit shall impede the free use of such sidewalk and shall not have any exclusive right to any stationary location thereon.

No person shall operate an outdoor food stand or mobile food unit on property within a public park of the City unless authorized to do so by the Parks and Recreation, Forestry, Facilities and Grounds.

For the purpose of this subsection, the Police Department may limit food sales in any public or private property when the area is deemed congested.

Sec. 10-397. - Prohibited and required acts.

(a) A vendor shall:

- (1) Obtain any other license(s) necessary, including, but not limited to, a Wisconsin seller's permit and food-related license issued by the La Crosse County Health Department prior to applying for the City license and adhere to the requirements of any such other license.
- (2) Provide a trash receptacle of at least 32 gallons for customer use; the use of City refuse containers is prohibited.
- (3) Clean-up the area within one-half block of stand/unit each day by removing any and all food waste, garbage, trash, and debris (all to be disposed of in the vendor's trash receptacle) and sweep or rake area to remove all spillage.
- (4) Display the City license and any other required licenses during operating hours or have available for display upon request of any enforcer or any person upon request.
- (5) Display name and telephone number of licensee in lettering permanently affixed to unit and not less than four inches high or on a sign that is not less than 12 inches by 12 inches.

- (6) Remove all vending equipment from public ~~right-of-way~~ during times when vending is prohibited.
- (b) A vendor shall not:
- (1) Block or restrict an individual's access to a business or residential doorway.
  - (2) Sell or be in operation between the hours of 9:00 p.m. and 6:00 a.m. unless vending in the downtown area in which operations shall be prohibited between the hours of 3:00 a.m. and 6:00 a.m.
  - (3) Block or restrict pedestrians on the public way.
  - (4) Make any loud noise or Use audio or video equipment, such as speakers, amplifying device and video display monitors if the noise produced is capable of being plainly heard outside a one-hundred-foot radius of the source.
  - (5) Sell food or beverages in glass containers or glassware.
  - (6) Dispose of food waste or water used in food preparation or cleaning into storm drains, catch basins, manholes, sidewalks, or streets.
  - (7) Use extension cords to supply power to the stand/unit; all stands/units must be self-powered.

Use any of the amenities, including, but not limited to, benches, flowers, planters, trees, shelters, and light poles, for the display of merchandise or attachment of any equipment or advertising materials.

- (8) Allow any dining area to the food stand/unit, including, but not limited to, tables, chairs, booths, stools, benches or stand up counters; unless vending solely on private property or in public park with approval by the Parks and Recreation, Forestry, Facilities and Grounds.
- (9) Sell within 300 feet of school grounds unless part of a non-profit or civic event on school grounds with permission from the respective school except in the downtown area.
- (10) Sell within 100 feet of a licensed restaurant, during its kitchen hours, without written permission from said restaurant; unless said vendor is operating within 50 feet of its mobile service base licensed by the La Crosse County Health Department. To determine footage, measurement shall be taken from the restaurant's main public entrance door.
- (11) Vend in the same location for more than five hours in any one day unless:
  - a. Vending on private property either owned or leased by vendor.
  - b. Granted approval by the Parks and Recreation, Forestry, Facilities and Grounds pursuant to section 10-396 to vend in a public park of the City.

Secs. 10-398—10-422. - Reserved.

## DIVISION 2. - LICENSE

Sec. 10-423. - License required.

No person shall operate an outdoor food stand or mobile food unit without first obtaining a license in compliance with the provisions of this division. A separate license is required for each stand/unit.

No license shall be granted to a person under sixteen (16) years of age unless a street trade permit is obtained pursuant to Wis. Stat. §103.25.

Sec. 10-424. - Application.

A license shall only be granted where the following requirements are satisfied:

- (1) Any person requiring a license under this division shall make a sworn application in writing on a form furnished by the City Clerk which shall require the following information:
  - a. Name, address and telephone number of applicant.
  - b. Name, address and telephone number of the person, firm, association or corporation that said applicant represents or is employed by, or whose food is being sold.
  - c. A description of the food being offered.
  - d. The location from which the business will be conducted, including written authorization of the property owner where the cart/unit will be located.
  - e. The size and/or dimensions of outdoor food stand/mobile food unit and construction materials.
  - f. Make, model and license number of any vehicle to be used by the applicant in the conduct of the applicant's business.
  - g. Last cities, villages, towns, not to exceed five (5), where the applicant conducted similar business.
  - h. Statement as to whether the applicant has been convicted of any crime or ordinance violation related to applicant's business or solicitation within the last five (5) years, and the nature of the offense and the place of conviction;
  - i. Dates, time period, and places where sales will take place.
- (2) Applicants shall present to the City Clerk for examination and/or to be photocopied:
  - a. A valid driver's license or some other proof of identity as may be reasonably required.
  - b. Wisconsin seller's permit.
  - c. Food-related permit issued by the La Crosse County Health Department.
  - d. Vehicle certificate of registration/licensing, if applicable.
- (3) The application must be received at least 15 days in advance of any license being issued.
- (4) Insurance. The applicant shall procure insurance as provided in section 2-2.

Sec. 10-425. - Licensing fee/duration.

- (a) Temporary. A temporary permit shall be valid for a period of 90 consecutive days from its issuance, unless sooner revoked.
- (b) Annual. An annual permit shall be valid through December 31 of the year of its issuance, unless sooner revoked.
- (c) Fee. At the time of the application, a nonrefundable fee in the amount established by resolution shall be paid to the Director of Finance/Treasurer to cover the costs of investigation, inspection of each stand/unit, when applicable, and processing such application.
- ~~(b) Duration. License shall have a term of one year commencing on January 1 and ending on December 31.~~

Sec. 10-426. - Investigation/inspection.

- (a) Upon receipt of each application from the City Clerk, the La Crosse Police Department shall conduct an investigation of the statements made on such application.
- (b) The City Clerk shall also report every application for which said stand or unit will use any cooking or heating appliance or propane to the Fire Department—~~Division of Fire Prevention and Building Safety~~ who shall inspect or cause to be inspected each stand/unit, to determine whether it complies with all laws, ordinances, rules and regulations.

- (c) The City Clerk shall refuse to license the applicant if it is determined, pursuant to the investigation referenced in subsection (a) or the inspection referenced in subsection (b) of this section or section 10-424 or section 10-425, that:
- (1) The application contains any material omission or materially inaccurate statement;
  - (2) Complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, in which the applicant conducted similar business;
  - (3) The applicant was convicted of a crime, statutory ordinance or ordinance violation the nature of which is directly related to the applicant's fitness to engage in the conduct for which the license is requested;
  - (4) Applicant fails to comply with requirements of the Fire Department—~~Division of Fire Prevention and Building Safety~~;
  - (5) The applicant failed to comply with any applicable provision of section 10-424; or
  - (6) The applicant failed to pay the fees required for the license.

Sec. 10-427. - ~~Renewal.~~

~~The license holder shall, on an annual basis, file a City authorized renewal application form prior to the expiration of the license, in the same manner as the initial application.~~

Expiration; renewal; transfer.

The City Clerk shall date all licenses issued hereunder and specify thereon the date of expiration. Applications for renewals shall be handled in the same manner as original applications. Licenses issued under this section are personal and may not be transferred.

Sec. 10-428. - Revocation or suspension.

The issuance of an outdoor food cart/mobile food unit is conditional at all times. A license may be revoked or suspended by the Police Department or Fire Department—~~Division of Fire Prevention and Building Safety~~ when necessary to protect the public health, safety or welfare, to prevent a nuisance from developing or continuing, in emergency situations, or due to noncompliance of this section, this Code or applicable State or Federal laws. Written notice of the hearing shall be served personally on the applicant or licensee at least seventy-two (72) hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

Sec. 10-429. - Appeal.

A revocation, suspension or denial of a license may be appealed to the Judiciary and Administration Committee, which shall make a recommendation to the entire Council after providing the applicant with an opportunity for a hearing.

An applicant whose permit has been denied by the Police Department or whose appeal has been denied by the Common Council may not apply for a permit for a period of one year from the date of the original application.

Secs. 10-430—10-456. - Reserved.