

ORDINANCE NO. 5267

AN ORDINANCE to amend and recreate various sections of Chapter 10, Article X of the Code of Ordinances of the City of La Crosse relating to Outdoor Food Stands and Mobile Food Units.

THE COMMON COUNCIL of the City of La Crosse do ordain as follows:

SECTION I: Sec. 10-390 shall be amended to add the following to 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:

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

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.

SECTION II: Sec. 10-394(4), (5), (6) and (8) shall be amended to read as follows:

- (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);
- (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;

SECTION III: Sec. 10-395 shall be amended to read as follows:

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.

SECTION IV: Sec. 10-396 shall be amended to read as follows:

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.

SECTION V: Sec. 10-397(a)(6) and (b)(4) shall be amended, (b)(8) shall be created and (b)(9)-(12) renumbered to read as follows:

- (a) A vendor shall:
 - (6) Remove all vending equipment from public ~~right-of-way~~ during times when vending is prohibited.
- (b) A vendor shall not:
 - (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.
 - (8) 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.
 - (89) 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.
 - (910) 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.
 - (4011) 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.
 - (4412) 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.

SECTION VI: Sec. 10-423 shall be amended to read as follows:

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.

SECTION VII: Sec. 10-424(1)(i) shall be created and (2)(a) shall be amended to read as follows:

- (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:
 - i. Dates, time, 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.

SECTION VIII: Sec. 10-425 shall be recreated to read as follows:

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

- (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.

SECTION IX: Sec. 10-426(b) and (c)(4) are hereby amended to read as follows:

- (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:
 - (4) Applicant fails to comply with requirements of the Fire Department—~~Division of Fire Prevention and Building Safety~~;

SECTION X: Sec. 10-427 is hereby recreated to read as follows:

10-427. - 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.

SECTION XI: Sec. 10-428 is hereby amended to read as follows:

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.

SECTION XII: Sec. 10-429 is hereby amended to read as follows:

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.

SECTION XIII: Should any portion of this ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this division shall not be affected.

SECTION XIV: This ordinance shall take effect and be in force from and after its passage and publication.

_____/s/_____
Mitch Reynolds, Mayor

_____/s/_____
Nikki M. Elsen, City Clerk

Passed: 11/9/2023
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