

ORDINANCE NO. 4741

An Ordinance to repeal Section 8.03 and to create Section 20.10 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 does ordain as follows:

SECTION I: Section 8.03 entitled "Outdoor Food Stands and Conveyances" is hereby repealed.

SECTION II: Section 20.10 is hereby created as follow:

20.10 OUTDOOR FOOD STAND/MOBILE FOOD UNIT.

(A) 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 section. A separate license is required for each stand/unit.

(B) DEFINITIONS.

(1) "Outdoor Food Stand" shall mean a stationary, non-mobile unit, either enclosed or not enclosed, with or without a roof, used to conduct a food business.

(2) "Mobile Food Unit" shall mean a vehicle or conveyance on wheels, either motorized or non-motorized, used to conduct a food business.

(3) "Person" shall mean any natural person, firm, corporation, association, club, partnership, society, or any other organization of every nature whatsoever.

(4) "Transient vendor" shall mean 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 from or near his or her vehicle for a period of time not exceeding 90 days.

(C) EXEMPTIONS.

(1) Those transacting business entirely inside a store building;

(2) Those who operate a permanent business establishment that place items sold at his or her business establishment 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 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 goods at a 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.

(6) A transient vendor selling a food product from a conveyance for a limited time and possessing a Direct Seller permit.

(7) Any person with a food stand/unit at a festival, with permission from festival organizers, on premises under the control of festival organizers;

(8) Any non-profit organization that conducts such business only at occasional times.

(D) REGULATIONS.

Licensed food stands or food units shall not operate upon or in any alley, sidewalk, public grounds or land dedicated to public use or in any part thereof. 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 person shall operate an outdoor food stand or food unit within a public park of the City unless authorized to do so or within 500 feet of any public park in which there is present a holder of a food vendor's license from the Board of Park Commissioners of the City or a concession agreement with the City.

(E) PROHIBITED AND REQUIRED ACTS.

(1) A vendor shall:

(a) 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.

(b) Provide a trash receptacle of at least 32 gallons for customer use; the use of City refuse containers is prohibited.

(c) Clean-up the area within ½ block of stand/unit each day by removing any and all food waste, garbage, trash and debris (all to be disposed of in vendor's trash receptacle) and sweep or rake area to remove all spillage.

(d) 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.

(2) A vendor shall not:

- (a) Block or restrict an individual's access to a business or residential doorway.
- (b) Sell or be in operation between the hours of 3:00 a.m. and 6:00 a.m.
- (c) Block or restrict pedestrians on the public way.
- (d) Use audio or video equipment, such as speakers, amplifying device and video display monitors.
- (e) Sell food or beverages in glass containers or glassware.
- (f) Dispose of food waste or water used in food preparation or cleaning into storm drains, catch basins, manholes, sidewalks or streets.
- (g) Use extension cords to supply power to the stand/unit.

(F) APPLICATION.

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

- (1) Any person requiring a license under this section 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.
 - (g) Make, model and license number of any vehicle to be used by applicant in the conduct of his or her business;
 - (h) Last cities, villages, towns, not to exceed five, where applicant conducted similar business;
 - (j) Statement as to whether applicant has been convicted of any crime or ordinance violation related to applicant's business or solicitation within the last five years; the nature of the offense and the place of conviction;
- (2) Applicants shall present to the City Clerk, or designee, for examination and/or to be photocopied:
 - (a) A 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 fifteen (15) days in advance of any license being issued.

(2) Insurance. The applicant shall procure and maintain for the duration of the license, a minimum liability and contractual liability policy in the amount of one hundred thousand dollars (\$100,000.00) each person, three hundred thousand dollars (\$300,000.00) each accident for bodily injury and one hundred thousand dollars (\$100,000.00) for property damage. A certificate of such insurance shall be filed with the City Clerk as part of the application. The insurance shall name the City, its officials, employees and agents as additional insureds. The Certificate of Insurance shall provide thirty days written notice to the City upon cancellation, or nonrenewal or material change in policy.

(G) LICENSING FEE/DURATION.

(1) Fee. At the time of the application, a non-refundable fee in accordance with Section 25.01 of this Code shall be paid to the City Treasurer to cover the costs of investigation and processing such application.

(2) Duration. License shall have a term of one (1) year commencing on January 1 and ending on December 31.

(H) INVESTIGATION.

- (1) 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
- (2) The City Clerk shall refuse to license the applicant if it is determined, pursuant to the investigation above, that: the application contains any material omission or materially inaccurate statement; 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; 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; the applicant failed to comply with any applicable provision of Sec. (F) above; or the applicant failed to pay the fees required for the license.

(I) 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.

(J) ENFORCEMENT.

The enforcement of this Section shall be under the jurisdiction of the Public Works Department, Inspection Department and Police Department, or their designee, who shall have the power to inspect to determine compliance with this Section.

(K) 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, Inspection Department and/or Public Works Department 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, the Municipal Code of Ordinances or applicable state or federal laws.

(L) APPEAL.

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

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

_____/s/_____
Mathias Harter, Mayor

_____/s/_____
Teri Lehrke, City Clerk

Passed: 3/14/13
Approved: 3/14/13
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