

TOWN OF GIBRALTAR ORDINANCE 2023- 02
MOBILE FOOD ESTABLISHMENTS ORDINANCE

Section 1. Definitions.

- (a) Mobile Food Vendor or Mobile Vendor means the owner, owner's agent or employee of a mobile food establishment within the Town of Gibraltar.
- (b) Mobile Food Establishment means a restaurant or retail food establishment where ready-to-eat food is cooked, wrapped, packaged, processed, served or sold from a vehicle, car, truck, trailer, cart or similar portable device which may or should be capable of periodically changing locations. The ordinance does not intend to regulate home delivery of food and beverage items.
- (c) Food means all articles used for food, non-alcoholic drink or condiment including ice or water used by humans whether simple, mixed, or compound articles used or intended for use as ingredients in the composition or preparation thereof.
- (d) Mobile Vendor means a retail establishment where products or services of any kind are served, offered or sold from a vehicle, car, truck, trailer, cart or similar portable device which may or should be capable of periodically changing locations.
- (e) Sell means the act of exchanging a good for profit or in return for a donation.
- (f) Vehicle means any motor vehicle as defined by Wis. Stats. §340.01(35) or trailer as defined by Wis. Stats. §340.01(71).

Vehicle shall also include any bicycle or other self-propelled device.
- (g) Vend means to sell or to transfer the ownership of an article to another for a price in money.
- (h) 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.

Section 2. License Required.

It shall be unlawful for a person to operate as a Mobile Vendor or Mobile Food Establishment, serve, sell or distribute food from a Mobile Food Establishment in the Town of Gibraltar without first having obtained a valid Mobile Vendor or Mobile Food Establishment

license and a Town of Gibraltar business license from the Town of Gibraltar as provided for by this chapter.

Section 3. Exemptions From License Requirement.

Mobile Food Establishments and Mobile Vendors participating in any of the festivals, organizations, activities, or events listed below are exempt from obtaining a mobile food establishment license and location and general operation restrictions required by this chapter:

- (a) Any person selling goods at a farmer's market on premises and under the control of the farmer's market organizers, this exemption includes only up to four events annually.
- (b) Any person selling goods at a special event organized by another party can be exempt up to four events. (Example Not for profit summer events).
- (c) Any other festival/organization/activity/event that the Town of Gibraltar Board deems appropriate for exemption.
- (d) Any Mobile Food Establishment or Mobile Vendor commissioned or paid directly by a private landowner and who does not receive direct payment from persons receiving food items, goods, or services from the Mobile Food Establishment or Mobile Vendor. (Example Birthday party).

Section 4. Application.

Any person desiring to operate as a Mobile Vendor or Mobile Food Establishment shall make written application for a Mobile Vendor or Mobile Food Establishment license to the Town Clerk. The application shall be on the form provided by the Town Clerk's office and shall include the following:

- (a) The name, signature, and address of each applicant and each member or officer of a corporate applicant.
- (b) A description of the mobile vending vehicle, including the make, model, VIN number and license plate for mobile vending vehicles. Mobile Vendors and Mobile Food Establishments must have valid license plates and registration as provided by Chapter 341, Wisconsin Statutes.
- (c) A signed statement that the vendor shall hold harmless the Town and its officers and employees, and shall indemnify the Town, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the license. Vendor shall furnish and maintain such public liability insurance coverage not less the \$1,000,000.00 and name the Town of Gibraltar as an additional insured. A declaration of coverage shall be provided to the Town of Gibraltar.

- (d) A valid copy of all necessary licenses for the operation of the Mobile Vendor or Mobile Food Establishment, including, but not limited to, licenses or certificates required by Door County, the state of Wisconsin, or any subsidiary enforcement agencies or departments thereof.
- (e) The proposed location of the vending vehicle, including written permission from private non-residential property owner, and any additional information as deemed necessary by Town staff.
- (f) A copy of current vehicle registration, proof of vehicle insurance, and proof of General Liability Insurance with coverage not less than \$1,000,000
- (g) The Town reserves the right to conduct a background check of the applicant.

Section 5. Location Restrictions.

- (a) Except as provided herein, licensed Mobile Vendors or Mobile Food Establishments shall not operate upon or in the public road right-of-way, public grounds, or public alleys. Licensed Mobile Vendors and Mobile Food Establishments may operate on private non-residential property, with the written permission of the private property owner.
- (b) Mobile Vendors and Mobile Food Establishments shall not operate in commercial districts in town right of way.
- (c) Mobile Food Establishments and Mobile Vendors shall operate in a single location per permit. (One permit one location).

Section 6. Parking Restrictions.

- (a) Written permission from the private non-residential property owner shall be provided to the Town. The host parking lot must remain in compliance with the Town Zoning Ordinance including off-street parking requirements for the host lot, and Mobile Vendors or Mobile Food Establishments shall not block required drive aisles.

Notwithstanding the foregoing, not more than one Mobile Vendor or Mobile Food Establishment shall be permitted per parking lot.

- (b) A Mobile Vendor or Mobile Food Establishment shall be always located on an acceptable ground surface. (See section 8f).

Section 7. Service Base Requirements.

- (a) All Mobile Vendors and 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.

- (b) All Mobile Vendor units or Mobile Food Establishments shall be cleaned and serviced as often as necessary from the service base.
- (c) All Mobile Vendors or Mobile Food Establishments shall return to its service base not less than once in each twenty-four (24) hours for servicing and maintenance and more often if necessary.

Section 8. General Operation Restrictions.

- (a) Hours of operation for a Mobile Vendor or Mobile Food Establishment shall be no earlier than 7:00 a.m. and no later than 10:00 p.m.
- (b) Any power required for the Mobile Vendor or Mobile Food Establishment shall not use utilities drawn from the public right-of-way. No power cable or equipment shall be extended over any Town street, alley, or sidewalk.
- (c) No Mobile Vendor or Mobile Food Establishment shall use or maintain any outside sound amplifying equipment, lights, or noisemakers of any kind.
- (d) No Mobile Vendor or Mobile Food Establishment shall use the license provided by the Town after expiration or revocation of the license.
- (e) Mobile Vendors or Mobile Food Establishments are responsible for providing trash/refuse receptacles on site and for removing such receptacles at the conclusion of sales. Trash or refuse from the Mobile Vendor or Mobile Food Establishment's receptacles shall not be placed in any public or private trash receptacles, including dumpsters, without the private trash receptacles' owner's consent.
- (f) Mobile Vendors and Mobile Food Establishments operating in parking areas or adjacent to operating businesses must stay parked on asphalt, concrete, or gravel area suitable to handle the gross vehicle weight.
- (g) No Mobile Vendor or Mobile Food Establishments shall have food service prepared, sold, or displayed outside of the mobile food establishment.
- (h) No Mobile Vendor or Mobile Food Establishment shall provide or allow any dining area, including but not limited to, tables and chairs, booths, stools, benches, or free-standing stand-up counters.
- (i) Signage may only be permitted when placed on the Mobile Vendor vehicle or Mobile Food Establishment. No separate free-standing signs are permitted.
- (j) The operator of a Mobile Food Establishment or Mobile Vendor vehicle shall arrange for use by personnel and customers of the Mobile Food Establishment or Mobile Vendor vehicle public or private toilet facilities during all hours the Mobile Food Establishment or Mobile Vendor vehicle is in operation. If private

toilet facilities are arranged, permission shall be provided in writing from the private property owner.

- (k) Mobile Vendors and Mobile Food Establishments shall take every precaution to ensure that their operation does not materially affect the peace and welfare of the general public nor cause any unreasonably loud, disturbing, and/or unnecessary noise or any other noise of any character, intensity, or duration as to be detrimental or disturbing to the public peace or welfare.

Section 9. Fees and Conditions.

- (a) All Mobile Vendors and Mobile Food Establishments shall pay an annual license fee in the amount of \$500.
- (b) Licenses shall commence on January 1 and end on December 31 of each calendar year; License fees shall not be pro-rated.
- (c) The license is not transferrable from person to person or mobile vending vehicle or cart to mobile vending vehicle or cart.
- (d) Each Mobile Vendor or Mobile Food Establishment shall be separately licensed. Each License will be assigned one location.
- (e) Mobile Vendors and Mobile Food Establishments shall comply with NFPA-1 Fire Code and Wisconsin Administrative Code SPS 314 50.
- (f) The total number of licenses issued by the Town shall be limited to three (3). The Town Board reserves the right to change this limitation by resolution.

Section 10. Enforcement.

The enforcement of this article shall be under the jurisdiction of the Police Department, Fire Department, Town staff, and/or other agent as deemed necessary by the Town Board, who shall have the power to inspect to determine compliance with this ordinance.

Section 11. Renewal.

The license holder shall, on an annual basis, file a renewal form required by the Town, renewal fee as established by the Town Board, and any new permitting documentation upon the license renewal prior to the expiration of the license, and such renewal shall be processed in the same manner as the initial application.

Section 12. Records.

Town staff or law enforcement shall report to the Town Board all violations of this Chapter issued to the licensee or any employee, contractor, or agent of the licensee. The Town Board shall note any such violation related to the Vendor.

Section 13. Suspension, Revocation, or Non-Renewal of License.

- (a) A Mobile Vendor or Mobile Food Establishment license may be suspended, revoked, or not renewed by the Town Board if the applicant or licensee:
 - (1) Made any material omission or materially inaccurate statement in the license application; or
 - (2) Made any fraudulent, false, deceptive, or misleading statement or representation in the course of engaging in mobile food vending; or
 - (3) Violated any provision of this Chapter; or
 - (4) Was convicted of any offense which is directly related to the licensee's fitness to engage in mobile vending.

- (b) If the Fire Department, Police Department or an authorized representative of the Town recommends that the Town Board suspend, revoke, or not renew a mobile food establishment license, or, if the Town Board indicates an intention to suspend, revoke, or not renew the Mobile Vendor or Mobile Food Establishment license, or, if the Town Board indicates an intention to suspend, revoke, or not renew the Mobile Vendor or Mobile Food Establishment license, the Town Clerk shall, in writing inform the applicant of the intended non-renewal, the reasons, and of the opportunity to request a hearing before the Town Board.

Such notice shall be sent by certified and regular mail, or personally served upon, the licensee at least ten (10) days prior to hearing.

- (c) The Town Board shall consider the circumstances, severity and facts of an offense, offenses or patterns of behavior when making the determination to grant, deny, suspend, revoke or not renew a license.

Dated this ____ day of April, 2023.

Steve Sohns, Chairman

Brian Merkel, Supervisor

Jayson Merkel, Supervisor

Karl Stubenvoll, Supervisor

Bill Johnson, Supervisor

Attest:

Kelly Murre, Town Clerk