

**§ 154.16.11 MOBILE FOOD VENDORS**

(A) *Definition.* For the purposes of this Section, a **MOBILE FOOD VENDOR** shall be defined as any person who sells, offers for sale, or distributes free of charge, food or beverages to the public from any unit (vehicle, trailer, cart, wagon or similar use) which is designed to be readily moveable and which changes location from time-to-time. A **MOBILE FOOD VENDOR** unit shall not include tents or similar portable structures. The food may be cooked, wrapped, packaged, processed and/or portioned for service, sale or distribution in the mobile food vendor unit. The sale of products other than food or beverages is prohibited.

(B) *Mobile Food Vendor License Required.*

(1) Except as provided in division (C) of this Section, no person shall engage in the business of operating a mobile food vendor unit within the city without a current and valid mobile food vendor license issued pursuant to this Section.

(2) Any person desiring to operate a mobile food vendor unit within the city shall make a written application for a mobile food vendor license to the city. The application for such license shall include the following:

(a) A fully completed mobile food vendor license application on form(s) provided by the city.

(b) Written permission of the property owner(s) consenting to the mobile food vendor operation on any and all properties on which the unit will operate, if applicable.

(c) A site plan showing any and all properties on which the unit will operate for sales purposes, with the proposed location and dimensions of the mobile food vendor unit relative to buildings, parking and loading areas, streets and driveway approaches, refuse containers and any other site information the city may require.

(d) Color photographs of all sides of the mobile food vendor unit and any signage to be used in operation of the business.

(e) A signed indemnification statement and copy of liability insurance for the business in an amount not less than \$1,000,000, naming the City of West Carrollton as an additional insured, as further described below.

(f) A valid copy of all licenses or permits required by the County of Montgomery, the State of Ohio, and any subsidiary enforcement divisions thereof, including but not limited to the Public Health - Dayton & Montgomery County and the Bureau of Motor Vehicles.

(g) Proof of registration with the city's income tax division if operating within the city for more than 20 days in a calendar year.

(h) Any additional information which shows that the proposed operation will satisfy the requirements of this section and all applicable laws.

(i) A signed statement that the vendor will hold harmless the city and its officers and employees, and shall indemnify the city, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity earned on under the terms of the mobile food vendor license. The mobile food vendor shall furnish and maintain such public commercial general liability insurance, including products liability, property damage, bodily injury and personal and advertising injury against claims for injuries to persons or damages to property which may arise from or in connection with the operations under the mobile food vendor license or in connection therewith. Such insurance shall be issued by an insurance company licensed to do business in Ohio and shall provide coverage of not less than \$1,000,000 per occurrence. The policy shall cover, or be endorsed to cover, the City of West Carrollton, its officials, employees and volunteers as additional insureds. Such coverage shall be primary and non-contributing as respects the additional insureds. The policy shall further provide that it may not be cancelled except upon 30 days written notice served upon the City Manager of the city. The mobile food vendor shall provide a certificate of insurance evidencing compliance with the specifications herein prior to commencing activities pursuant to this license. A mobile food vendor license issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the City of West Carrollton.

(3) A mobile food vendor license shall be issued upon full completion of the application and determination by the city that all requirements of this section are met. If a complete application for a mobile food vendor license is not approved, the city shall notify the applicant of the determination in writing including any reason(s) for the decision.

(4) The mobile food vendor license shall be valid for a period of one year or less and shall expire on December 31st of the calendar year in which it was issued, regardless of when during the year such license was issued.

(5) The mobile food vendor license is valid for one mobile food vendor unit only, which shall be that unit identified in the license application. The mobile food vendor license is valid only for the property or properties identified in the license application. The license must be prominently displayed on the mobile food vendor unit along with any other required licenses, and shall be available for inspection upon request.

(6) The mobile food vendor license is non-transferable and may be used only by the individual, partners or entities to whom the license was granted.

(7) A mobile food vendor unit shall comply with all applicable federal, state and local fire safety requirements, as determined by an inspection by the West Carrollton Fire Department prior to issuance of a license, and at any other time deemed necessary to address life safety concerns.

(C) *Exceptions.*

(1) Mobile food vendors operating as part of a special event which is open to the general public, lasting not more than four consecutive days, and has received a temporary use permit shall not require a separate mobile food vendor license. However, such mobile food vendors

shall be subject to the provisions of this section as determined by the city to be applicable, and may operate only during the hours of the special event. In no case shall multiple temporary use permits for such events on the same property total more than 30 days within a 90-day period. The temporary use permit fee shall be waived for any public, school, or charitable event.

(2) The requirements of this Section do not apply to:

(a) A mobile food vendor unit operating on the same premises as a restaurant under the same ownership. Such units shall comply with all other requirements of the City of West Carrollton Codified Ordinances.

(b) Ice cream peddlers as regulated by [Chapter 111](#) of the City of West Carrollton Codified Ordinances.

(c) Temporary sales of seasonal produce as regulated by § [154.16.08\(E\)](#).

(d) One or more mobile food vendor units operating on a particular property at the request of and with the written permission of the property owner or the business located on the property, which limits the sale of its food to serve only on-site employees of such business and is not open for sales to the general public. Provided, however, such mobile food vendor unit shall be subject to an inspection by the City of West Carrollton Fire Department and does not operate for more than three hours each day.

(D) *License Fee.* Upon issuance of the mobile food vendor license and as may be renewed thereafter, a non-refundable mobile food vendor license fee shall be due and payable as set forth in [Chapter 37](#) of the City of West Carrollton Code of Ordinances. This fee is in addition to fees as may be required by other governing jurisdictions.

(E) *Location.*

(1) A mobile food vendor unit may be permitted to operate on any property on which a non-residential principal use is located, subject to the requirements of this Section. A mobile food vendor is considered to be a temporary use, and shall not be permitted as a principal use on a property.

(2) A mobile food vendor may be permitted to operate within the public right-of-way in all non-residential or mixed-use zoning districts, subject to the requirements of this Section and provided:

(a) The mobile food vendor unit is parked in a legally-designated, on-street parking space, except that no mobile food vendor unit shall park in angled parking spaces in the right-of-way.

(b) The mobile food vendor unit is parked in the same direction as traffic with no more than 12 inches between the curb face or edge of pavement and the unit and with the service window of the unit facing the curb. All items shall be sold, offered for sale, or dispensed only from the curb side of a mobile food vendor unit.

(c) A mobile food vendor unit located in the public right-of-way shall not remain stationary in one location for longer than two hours. After remaining stationary in one location

for up to two hours, the mobile food vendor unit shall be moved to a location at least 100 yards from the previous location.

(d) Hazard lights are operated continuously at all times when a mobile food vendor unit is parked or stopped so as to be clearly visible to drivers of other vehicles approaching such vehicle from the front or rear.

(e) The mobile food vendor unit is not operating for sales purposes in a public alley, unless specifically authorized by the city.

(f) The mobile food vendor unit is not left unattended in the public right-of-way. The city shall consider any unattended mobile food vendor unit located in the public right-of-way as an illegally-parked vehicle and may remove said unit pursuant to [Chapter 73](#) of the City of West Carrollton Codified Ordinances.

(3) Notwithstanding divisions (E)(1) and (E)(2) of this Section, no mobile food vendor unit shall be located:

(a) Within 100 feet of property containing a restaurant located in an enclosed building, unless operated by the restaurant owner or written permission by the restaurant or property owner is provided. However, this restriction does not prevent approval of any new restaurant located in an enclosed building within 100 feet of any pre-existing approved mobile food vendor location. In that event, the mobile food vendor may continue to operate at the pre-approved location until the expiration of the license term. Upon renewal of the license, the mobile food vendor must then relocate to meet the requirements of this Section.

(b) On property used exclusively for single-family residential purposes, irrespective of its zoning classification.

(c) On any unpaved surface.

(d) Closer than five feet to any property line, unless written permission is provided by the abutting property owner.

(e) Proximate to any land owned by a public or private school, unless written permission has been granted by the school.

(f) Proximate to any property containing a festival, special or civic event that is permitted or sanctioned by the city, unless the mobile food vendor is an authorized participant in such event.

(g) Within parking spaces which are required to meet the minimum parking requirements for the property.

(F) *Operating Requirements.* Mobile food vendors shall meet the following requirements:

(1) A mobile food vendor may operate for sales purposes between the hours of 6:00 a.m. and 11:00 p.m.

(2) A mobile food vendor unit located outside of the public right-of-way shall not remain stationary in one location for longer than six hours. After remaining stationary in one location for up to six hours, the mobile food vendor unit shall be moved to a location at least 100 yards from the previous location.

(3) A mobile food vendor unit shall not be left unattended within public view at any time.

(4) A mobile food vendor unit shall not obstruct a public way, impair the movement of pedestrians or vehicles, impair the clear view of traffic from any direction or pose a hazard to public safety.

(5) A mobile food vendor unit shall not be in such a deteriorated physical condition as to adversely affect the character, appearance, image or economic value of surrounding property.

(6) No mobile food vendor shall, for the purposes of attracting attention to its operation, shout or use any outside sound amplifying equipment, music or noisemakers such as bells, horns or whistles. Sound emanating from a mobile food vendor unit shall be in compliance with the requirements of §138.08, Disturbing the Peace, of the City of West Carrollton Code of Ordinances.

(7) A mobile food vendor unit shall not remain attached to any vehicle used to haul the unit. Such hauling vehicle shall be detached from the unit and parked in a lawful parking space separate from the unit.

(8) The mobile food vendor shall provide at least one trash receptacle and shall properly remove all waste and trash generated by the operation at least once per day and as needed to maintain cleanliness.

(9) Mobile food vendor signage is permitted as professionally applied within the outlines of the unit. One sandwich board not exceeding six square feet per sign face and three feet in height is permitted per public street frontage, but may not be placed in the public right-of-way, on a public sidewalk or in a designated parking space.

(10) Conduct of the mobile food vendor business shall not create a public nuisance or constitute a danger to the public health, safety or welfare.

(G) *Enforcement.*

(1) The city may deny, revoke, suspend or not renew a mobile food vendor license issued under the provisions of this Section for any of the following reasons:

(a) The licensee is determined by the city to be guilty of any fraud or misrepresentation in connection with the submitted mobile food vendor license application;

(b) The licensee is determined by the city to be guilty of any fraud, misrepresentation or unlawful act in connection with the business activities for which a mobile food vendor license was issued;

(c) The licensed mobile food vendor business is conducted in such a manner as to create a public nuisance or to constitute a danger to the public health, safety or welfare;

~~(d) Conviction of the licensee within the last ten years for a crime of violence, a crime involving moral turpitude, a crime involving drug convictions, or a crime involving sex offenses;~~

(e) The licensee is found by the city to be a person who constitutes a clear and present danger to the residents of the city;

(f) The licensee violates any provision of this section;

(g) The licensee is delinquent in financial obligations to the city;

(h) The licensee fails to maintain valid permits or licenses from the County of Montgomery, the State of Ohio, and any enforcement divisions thereof;

(i) For any good cause shown.

(2) When good cause has been demonstrated to deny, revoke, suspend or not renew a mobile food vendor license, the city shall issue an order which shall become effective immediately upon service of a written notice to the licensee. Such notice shall specify the reason for denial, revocation, suspension or non-renewal and may provide for conditions upon which the license may be approved or reinstated, upon compliance with said conditions. Should no conditions be given for the possible approval or reinstatement of the license, the order shall constitute a denial or revocation of the license.

(3) The city may allow a mobile food vendor to reapply for a mobile food vendor license after 12 months from the date of denial, revocation, suspension or non-renewal. The mobile food vendor shall correct all circumstances that led to the violations, and shall pay an additional fee in the amount of \$500 to offset the city's costs of compliance measures, necessary inspections, and to ensure the circumstances that led to the revocation have been corrected.

(H) *Penalty.* Whoever violates any provision of this Section is guilty of an unclassified misdemeanor and shall be fined not more than \$1,000 for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(I) *Appeal.* Any person aggrieved by any administrative decision pursuant to this Section may submit an appeal of said decision in accordance with the provisions of [§154.05.06](#) of the City of West Carrollton Code of Ordinances.