

VILLAGE OF ONTARIO  
ORDINANCE NO. 2019-04

CHAPTER 164 REGULATION OF MOBILE VENDORS AND MOBILE FOOD  
ESTABLISHMENTS

An Ordinance Creating Chapter 164  
of the Village of Ontario Code of Ordinances

WHEREAS, the Village desires to provide for the health, safety, and well-being of its residents, to ensure and maintain safe food service and public safety, and to promote the orderly and safe use of the public right-of-way within the Village;

THEREFORE, the Village Board of the Village of Ontario, Wisconsin do ordain as follows:

That a new chapter be created in the Village of Ontario Code of Ordinances as follows:

CHAPTER 164-1 DEFINITIONS

In this Chapter:

- (a) Mobile Food Vendor or Mobile Vendor means the owner, owner's agent or employees of a mobile establishment within the Village of Ontario. A Mobile Food Vendor or Vendor shall expressly not include Direct Seller's, as defined in Chapter 163-2 of the Code of Ordinances.
- (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. This 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, can, or similar portable device which may or should be capable of periodically changing locations.

**CHAPTER 164-2 PERMIT 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 or cook, wrap, package, process, serve or portion food in a Mobile Food Establishment in the Village of Ontario without first having obtained a valid Mobile Vendor or Mobile Food Establishment permit from the Village of Ontario Clerk as provided for by this chapter.

**CHAPTER 164-3 EXEMPTIONS FROM PERMIT 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 permit and the location and general operation restrictions required by this chapter.

(a) Any person selling goods at a farmer's market or flea market, on premises and under the control of the farmer's market or flea market organizers.

(b) Any other festival/organization/activity/event that the Village of Ontario Board deems appropriate for exemption.

**CHAPTER 164-4 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 permit to the Village Clerk. The application shall be on the form provided by the Village 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) The name of each employee of the mobile food establishment.

(1) The applicant must provide to the Village clerk's office the name and address of any new employee within thirty (30) days of hiring.

(c) A description of the mobile vending vehicle or cart, including the make, model, VIN number and permit plate for mobile vending vehicles.

(d) A valid copy of all necessary permits for the operation of the Mobile Vendor or Mobile Food Establishment, including, but not limited to, permits or certificates required by Vernon County, the state of Wisconsin, or any subsidiary enforcement agencies or departments thereof.

(e) A signed statement that the vendor shall hold harmless the Village and its officers and employees, and shall indemnify the Village, 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 permit. Vendor shall furnish and maintain such public liability insurance coverage of not less than \$1,000,000.00

(f) The proposed location of the vending vehicle or cart and any additional information as deemed necessary by Village staff.

(g) The Village reserves the right to conduct a background check of the applicant and the applicant's employees.

#### CHAPTER 164-5 INVESTIGATION.

(a) Upon receipt of each application from the Village Clerk's Office, the Village of Ontario Police Department shall conduct an investigation of the statements made on such application, including a background check of the applicant and the employees of the applicant.

(b) After investigation by the Village of Ontario Police Department, the application shall be reviewed for approval or denial by the Village Clerk's Office. The Village Clerk's Office shall refuse to permit 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 the authorities in the preceding cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; the applicant or an employee of the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's or an employee's fitness to engage in the conduct for which the permit is requested; the applicant failed to comply with any applicable provision of chapter 164-4 or the applicant failed to pay the fees required for the permit. The Village Clerk shall notify the applicant, in writing, of any denial of issuance of a permit, and the reasons therefore.

CHAPTER 164-6 LOCATION RESTRICTIONS. Except as provided herein, permitted Mobile Vendor and Mobile Food Establishments shall be permitted operate upon or in the public road right-of-way, public grounds, or public alleys as listed on the application. Permitted Mobile Vendors and Mobile Food Establishments may operate on private non-residential property, with the written permission of the private property owner.

#### CHAPTER 164-7 GENERAL OPERATION RESTRICTIONS.

- (a) Hours of operation for a Mobile Vendor or Mobile Food Establishment shall be no earlier than 9:00 a.m. to no later than 11:00 pm.
- (b) No power cable or equipment shall be extended over any Village 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, while stationary.
- (d) 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 Vendor's receptacles shall not be placed in any public or private trash receptacles, including dumpsters, without the private trash receptacles' owner's consent.
- (e) 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.

#### CHAPTER 164-8 FEES AND CONDITIONS.

- (a) At the time the permit application is returned, a fee as set by the Village Board shall be paid to the Village Clerk.
- (b) The permit is not transferrable from person to person or mobile vending vehicle or cart to mobile vending vehicle or cart.
- (c) Each Mobile Vendor or Mobile Food Establishment shall be separately permitted.
- (d) Mobile Vendors and Mobile Food Establishments shall comply with NFPA-I Fire Code and Wisconsin Administrative Code SPS 314.50.

CHAPTER 164-9 ENFORCEMENT. The enforcement of this article shall be under the jurisdiction of the Fire Department, and Police Department, who shall have the power to inspect to determine compliance with this article.

CHAPTER 164-10 RENEWAL. The permit holder shall, on an annual basis, file a renewal form provided by the Village Clerk's Office and renewal fee as established by the Village Board prior to the expiration of the permit, and such renewal shall be processed in the same manner as the initial application.

CHAPTER 164-11 RECORDS. The Chief of Police shall report to the Village Clerk all violations of this Chapter issued to the permitted or any employee, contractor, or agent of the permitted. The Village Clerk shall note any such violation on the record of the Vendor convicted.

CHAPTER 164-12 SUSPENSION, REVOCATION, OR NON-RENEWAL OF PERMIT.

(a) A Mobile Vendor or Mobile Food Establishment permit may be suspended, revoked, or not renewed by the Village Clerk if the applicant or permitted:

(1) made any material omission or materially inaccurate statement in the permit 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 permittee's fitness to engage in mobile vending.

(b) If the Chief of Police, or an authorized representative of the Fire Department recommends that the Village Clerk suspend, revoke, or not renew a mobile food establishment permit, or, if the Village Clerk indicates an intention to suspend, revoke, or not renew the Mobile Vendor or Mobile Food Establishment permit, the Village Clerk shall, in writing, inform the applicant of the intended non-renewal, suspension or revocation the reasons, and of the opportunity to request a hearing before the Village Board. Such notice shall be sent by certified and regular mail to, or personally served upon, the permittee at least ten (10) days prior to hearing

(c) A permit is a privilege, the issuance of which is a right granted solely to the Village Clerk. The Village Clerk shall consider the circumstances, severity and facts of an offense, offenses or pattern of behavior when making the determination to grant, deny, suspend, revoke, or not renew a permit.

This ordinance shall take effect upon passage and publication

Passed and adopted this 13<sup>th</sup> day of May 2019

---

Mark A Smith, President

ATTEST:

---

Teresa Taylor, Village Clerk