

ORDINANCE NO. 2019 - _____

AN ORDINANCE PERMITTING AND REGULATING MOBILE FOOD VENDORS IN THE CITY OF JASPER, INDIANA

WHEREAS, there is a growing interest in food trucks, food concession carts, and other forms of mobile food sales;

WHEREAS, it is the intent of the Common Council of the City of Jasper, Indiana (“Common Council”) to encourage Mobile Food Vendors who add the vibrancy and desirability of the City of Jasper, Indiana, while providing a framework under which such businesses operate;

WHEREAS, the current municipal code of the City of Jasper, Indiana (“City”) does not address the regulation of mobile food vending;

WHEREAS, it is appropriate to establish reasonable regulations to govern mobile food vending in the City, in an effort to provide reasonable opportunities for Mobile Food Vendors to operate within the City;

WHEREAS, the Common Council finds that such regulations are needed in order to protect the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF JASPER, INDIANA, as follows:

SECTION 1. There is hereby added a Chapter 3.26 to the Municipal Code of the City of Jasper, Indiana as follows:

Chapter 3.26. Mobile Food Vendors

SECTION 2. (3.26.010) Purpose of Chapter. The purpose of this Chapter is to regulate the activities of individuals, firms, or corporations engaging in the practice of mobile food sales in order to sustain a safe and consistent standard of operation, in order to promote public health, safety, and welfare of the City of Jasper, Indiana and the citizens and inhabitants thereof.

SECTION 3. (3.26.020) Definitions. For the purpose of this Chapter, the following terms, phrases, words and abbreviations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include future tense, words in the plural number include the singular number and words in the singular number include the plural number:

- (1) “Food Vending Pushcart” shall mean any box or container with wheels that is not propelled or moved by an engine and was designed and manufactured specifically for the purpose of selling food.
- (2) “Mobile Food Vehicle” shall mean a self-contained food establishment that is on wheels, self-propelled or moved by an engine, weighs no more than sixteen thousand (16,000) pounds, and for which the primary purpose of the vehicle is the sale and/or production of food.
- (3) “Mobile Food Vendor” (“Vendor”) includes any individual person, firm, or corporation who operates mobile food vending pushcarts and/or mobile food vehicles.
- (4) “Food” shall mean any raw, cooked, or processed edible substance, ice, beverage, drink or ingredient used or intended for the use or for sale in whole or in part for human consumption.
- (5) “Mobile Food Vendor Permit” (“Permit”) shall mean a permit which has been issued pursuant to the requirements of this ordinance.

- (6) “Special Event” shall mean any event so designated by the Board of Public Works and Safety of the City of Jasper, Indiana.
- (7) “Director” shall refer to the Director of the Department of Community Development and Planning of the City of Jasper, Indiana.
- (8) “Board” shall refer to the Board of Public Works and Safety of the City of Jasper, Indiana.
- (9) “City” shall refer to the City of Jasper, Indiana.

SECTION 4. (3.26.030) Permit Required.

- (1) It shall be unlawful for a Mobile Food Vendor to engage in their respective businesses within the corporate limits of the City of Jasper, Indiana without obtaining a Mobile Food Vendor Permit in compliance with the provisions of this chapter. The obtaining of a permit by an employer or principal shall in no way relieve any employee or agent of that employer or principal of their legal obligation to obtain a permit, if their activity falls within the jurisdiction of this ordinance.
- (2) A Mobile Food Vendor must also obtain a Transient Merchant and Door-To-Door Solicitors License.
- (3) A Mobile Food Vendor shall obtain a separate permit for each Mobile Food Vehicle and/or Food Vending Pushcart they wish to operate. All permits issued under the authority of this Chapter shall not be transferable.
- (4) If any permit holder desires to continue in business after the expiration of a permit, a new permit must be obtained as required under this Chapter.
- (5) Permits issued under the provisions of this chapter shall contain the information prescribed by the Director.
- (6) The Director reserves the right to determine if an application for a permit is satisfactory and complete.
- (7) Each Mobile Food Vendor must obtain all necessary and required licenses prior to applying for the City permit and must comply with all regulations established by the Dubois County Health Department and/or other regulatory bodies.
- (8) Nothing contained in this Chapter shall relieve a Mobile Food Vendor from obtaining other required licenses and/or permits from other regulatory bodies.

SECTION 5. (3.26.040) Application. Applicants for any Mobile Food Vendor Permit under this Chapter must file a written sworn application signed by the applicant with the Department of Community Development and Planning showing at minimum the following information:

- (a) The name, full address, telephone number, and email (if applicable) of the mobile food vending business, business owner, and business operator;
- (b) The intended locations of operation of the Mobile Food Vendor;
- (c) The duration of the permit being sought;
- (d) The intended hours of operation of the Mobile Food Vendor;
- (e) The name, the telephone number, the email address of the private property owner (if applicable) and the full address of the private property on which the Mobile Food Vendor intends to operate, if applicable;
- (f) A completed menu of food being sold;
- (g) Proof of Dubois County Health Permit;

- (h) Proof of Transient Merchant and Door-To-Door Solicitors License;
- (i) Proof of insurance, if operating on property owned and maintained by the City, in compliance with the City minimum insurance requirements;
- (j) Letter of approval if operating on property owned and maintained by the City of Jasper Parks and Recreation Department;
- (k) Letter of approval from private property owner if operating on private property; and
- (l) Dated Mobile Food Vendor's signature verifying that they shall abide by the provisions of this Chapter.

SECTION 6. (3.26.050) Investigation of Applicant.

- (1) Upon receipt by the Department of Community Development and Planning of any application for a permit under the provisions of this Chapter, the Jasper Police Department may investigate a Mobile Food Vendor's criminal history and moral character as it deems necessary for the protection of the public good and welfare.
- (2) If, as a result of the investigation, the applicant's moral character and business responsibility are found to be such as to endanger or be detrimental to the public and its good and welfare, the permit shall be denied or, if issued, revoked by the Jasper Police Department.

SECTION 7. (3.26.060) Permit Fees.

- (1) Each applicant shall pay a permit fee in accordance with the schedule set forth below:
 - (a) One Week Permit: \$ 25.00
 - (b) 30 Day Permit: \$ 50.00
 - (c) 90 Day Permit: \$120.00
 - (d) One Year Permit: \$240.00
- (2) A permit becomes active for a consecutive period of time on the day that the permit is approved.
- (3) In the event the permit is revoked, the City shall retain all funds.
- (4) No permit shall be issued until the permit fee has been paid.
- (5) The \$25.00 Transient Merchant and Door-To-Door Solicitors License fee is included in the permit fees outlined in 3.26.060(1).

SECTION 8. (3.26.070) Insurance and Indemnity.

- (1) Applicants operating on property owned and maintained by the City shall provide a certificate of liability upon approval of the permit, which shall insure the applicant and name the City of Jasper, Indiana as additional insured against the following liabilities and in the following amounts relative to such activity:
 - (a) General Liability: \$1,000,000;
 - (b) Automotive Liability \$1,000,000; and
 - (c) Proof of Workers Compensation.
- (2) Mobile Food Vendors who are operating a Food Vending Pushcart are exempt from providing proof of automotive liability insurance. Mobile Food Vendors who are

self-employed and have no additional employees are exempt from providing proof of workers compensation insurance.

SECTION 9. (3.26.080) Location Restrictions.

- (1) Mobile Food Vendors shall be permitted to operate at the following locations that are owned and maintained by the City of Jasper, Indiana pursuant to the times designated below and in Section 3.26.090:
 - (a) Dave Buehler Plaza parking lots (3rd Avenue and 4th Street);
 - (b) Parking spaces on Courthouse Square, after 5:00 p.m. on weekdays and during normally permitted hours on weekends.
 - (c) Parking spaces on 7th through 9th Streets between the boundaries of Newton Street and Jackson Street, after 5:00 pm on weekdays and during normally permitted hours on weekends.
 - (d) William Schroeder Soccer Complex parking lot (405 W 2nd Street).
- (3) Mobile Food Vendors may make special requests to the Board to operate on other locations owned and maintained by the City of Jasper, Indiana not listed in 3.26.080(1).
- (4) The City shall have the authority to designate other locations of permitted operation for Special Events.
- (5) With written consent of the property owners, Vendors may operate private property that is in a business or industrial zone.
- (6) Where a Vendor seeks to operate in a right of way, the Vendor shall not impede the use of a City street, alleyway, and/or sidewalk.
- (7) Vendors shall abide by the Sight Visibility Triangle standards set forth in the Unified Development Ordinance.
- (8) No Mobile Food Vendor shall operate during the duration of a Special Event, unless granted approval by the coordinator of the Special Event or the Board.
- (9) No Mobile Food Vendor shall locate themselves in an area that significantly impedes or prevents the use of any City of Jasper, Indiana property, or which would endanger the safety and/or property of the public.
- (10) No Mobile Food Vendor shall locate themselves in Residentially Zoned areas.

SECTION 10. (3.26.090) Prohibited Hours.

- (1) Mobile Food Vendors are prohibited from operating or parking on any property owned and maintained by the City of Jasper, Indiana between the hours of 1:00 a.m. and 6:00 a.m.
- (2) Mobile Food Vendors may make special requests to the Board to operate during prohibited hours.
- (3) The City shall have the authority to designate other times of permitted operation for Special Events.

SECTION 11. (3.26.100) Standard of Conduct.

- (1) Mobile Food Vendors shall conduct themselves at all times in an orderly and lawful manner.
- (2) Mobile Food Vendors are prohibited from using a device or machine to produce unreasonable amounts of sound or light (such as but not limited to bull horns, strobe lights, and neon signs).

- (3) Mobile Food Vendors are required to obey the commands of law enforcement and code enforcement officials.
- (4) No Mobile Food Vendor shall provide tables, seating, or any other dining arrangements.
- (5) Mobile Food Vendors must provide waste receptacles that are sufficient in size for both customer and employee waste.
- (6) Mobile Food Vendors are responsible for the disposal of waste that is generated by the use of their waste receptacles and shall not dispose of their waste in waste receptacles owned and maintained by the City.
- (7) Mobile Food Vendors are prohibited from disposing of any food, liquid, or other waste materials in sanitary and/or storm water sewers.
- (8) Mobile Food Vendors are permitted one sandwich board, which may not exceed four (4) feet in height, two (2) feet in width, or eight (8) square feet in area. In addition, the sandwich board must be within ten (10) feet of the Food Vending Pushcart or Mobile Food Vehicle and cannot impede pedestrian or vehicular traffic.
- (9) Mobile Food Vendors shall not utilize any City or private electrical outlets while in operation. All electrical needs must be self-generated.
- (10) Mobile Food Vendors operating electrical equipment are required to use heavy-duty extension cords.
- (11) Mobile Food Vendors may operate a generator that produces no more than seventy-five (75) decibels.
- (12) Mobile Food Vendors must be parked a minimum of ten (10) feet away from nearby buildings or other Food Vending Pushcarts and/or Mobile Food Vehicles.
- (13) Mobile Food Vehicles operating deep frying appliances must be parked a minimum of twenty (20) feet away from nearby buildings or other Food Vending Pushcarts and/or Mobile Food Vehicles.
- (14) Mobile Food Vendors must be parked a minimum of one hundred (100) feet from the entrance of a restaurant or from an outdoor dining area.
- (15) Mobile Food Vendors must be parked a minimum of fifteen (15) feet from a fire hydrant.
- (16) Mobile Food Vendors are prohibited from smoking within eight (8) feet of their Mobile Food Vehicle or Food Vending Pushcart.
- (17) No Food Vending Pushcart or Mobile Food Vehicle shall operate with a drive thru.
- (18) Mobile Food Vendors must display their permit at all times while in operation.
- (19) Food Vending Pushcarts and Mobile Food Vehicles can be inspected by Code Enforcement Officer of the City when deemed necessary.

SECTION 12. (3.26.110) Safety Requirements.

- (1) All Mobile Food Vehicles must have a 2A-10BC rated fire extinguisher.
- (2) Mobile Food Vehicles operating deep fryer appliances must have a Class K rated fire extinguisher.
- (3) Each fire extinguisher provided by a Mobile Food Vendor shall have a label or tag securely attached that indicates the last time it was serviced. The label or tag must state the month the service took place and the individual, firm, or corporation responsible for servicing it. All fire extinguishers must have been serviced and validated within the last twelve (12) months.
- (4) Mobile Food Vehicles must have all fire extinguishers mounted at a minimum of three (3) feet in height and a maximum of five (5) feet in height.

SECTION 13. (3.26.120) Suspension; Revocation; Penalties.

(1) Permits issued under the provision of this Chapter may be revoked by the Director, City Attorney, Code Enforcement Officer, and/or Jasper Police Department after notice and hearing for any of the following causes:

- (a) Fraud, misrepresentation, or false statement contained in the application for the permit.
- (b) Fraud, misrepresentation, or false statement made in the course of the business for which the permit is issued.
- (c) Any violation of any of the provision of this Chapter.
- (d) Conducting the business for which the permit is issued in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of hearing for revocation of a permit shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice shall be mailed, postage prepaid, to the permit holder at their last known address, at least five (5) days prior to the date set for the hearing.

(3) (a) Penalties. Any individual, firm, or corporation convicted of a violation of any provision of this chapter shall be fined in a sum not less than the applicable amount set forth below:

First Offense:	\$ 25.00
Second Offense:	\$100.00
Third Offense:	\$300.00
Fourth Offense:	\$600.00

Each day any violation of this chapter continues shall be considered a separate offense. The City of Jasper, Indiana shall also have the right to recover the costs of administering this chapter including but not limited to filing fees and attorney fees.

(b) Enforcement. The Director, City Attorney, Code Enforcement Officer, and Jasper Police Department shall enforce this ordinance. Upon determination by the Director, City Attorney, Code Enforcement Officer, and/or Jasper Police Department that there exists an emergency and that for the protection of the public welfare any permit should be immediately suspended, the Director, City Attorney, Code Enforcement Officer, and/or Jasper Police Department may forthwith suspend the permit pending hearing as provided for in this ordinance.

(c) Administrative Liability. No officer, agent, or employee of the City of Jasper, Indiana shall render themselves personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of their duties under this chapter. Any suit brought against any officer, agent, or employee of the City of Jasper, Indiana as a result of any act required or permitted in the discharge of their duties under this chapter shall be defended by the City Attorney until the final determination of the proceedings therein.

SECTION 14. (3.26.130) Right to Appeal.

(1) Any individual, firm, or corporation aggrieved by a decision in regard to the denial or revocation of a permit as provided for herein shall have the right to appeal to the Board. Appeal shall be taken by filing with the Board, within fourteen (14) days after notice of the decision has been mailed to the last known address of the individual, firm, or corporation, a written statement setting forth the grounds for the appeal. The Board shall set the time and place for a hearing on the appeal and notice of the hearing shall be given to the individual, firm, or corporation in the manner

provided for in 3.26.120 for notice of hearing on revocation. The order of the Board on the appeal shall be final.

SECTION 15. (3.26.140) Exemptions.

- (1) Ice cream trucks, caterers, food delivery drivers, and other food service vehicles that do not park or locate in any one place for longer than ten (10) minutes are exempt from the jurisdiction of this Chapter.
- (2) Lemonade stands, bake sales, and other stands operated by children for the purpose of selling homemade foods are exempt from the jurisdiction of this Chapter.

SECTION 16. Prior Ordinances. All ordinances and/or parts of ordinances in conflict herewith are hereby repealed.

SECTION 17. Separability. If any section, sub-section, sentence, clause, phrase or portion of this Ordinance shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereunder.

SECTION 18. Effective Date. This Ordinance shall be in full force and effect from and after its passage by the Common Council, its approval by the Mayor, and completion of any other legal requirements, all in the manner as provided by law.

PASSED AND ADOPTED by the Common Council of the City of Jasper, Indiana, this _____ day of _____, 2019.

Dean Vonderheide, Presiding Officer

ATTEST:

Juanita S. Boehm, Clerk Treasurer

PRESENTED by me to the Mayor of the City of Jasper on this _____ day of _____, 2019, at the hour of _____:_____ o'clock a.m./p.m.

Juanita S. Boehm, Clerk Treasurer

This Ordinance approved and signed by me as the Mayor of the City of Jasper, Indiana, this _____ day of _____ 2019, at the hour of _____:_____ o'clock a.m./p.m.

Dean Vonderheide, Mayor

ATTEST:

Juanita S. Boehm, Clerk Treasurer

Exhibit One

Mobile Food Vendor Permit Application



Community Development & Planning
City of Jasper
 610 Main Street | PO Box 29
 Jasper, IN 47547-0029
 (812) 482-4255 | Fax (812) 482-7852
 www.jasperindiana.gov

MOBILE FOOD VENDOR PERMIT APPLICATION

PART A IDENTIFICATION			
Name of Business			
Address of Business (if applicable)	City	State	Zip
Phone Number	Email Address		
Name of Operator (required)			
Address	City	State	Zip
Phone Number	Email Address		

PART B DETAILED INFORMATION			
LOCATIONS OF OPERATION (Check all that apply) <input type="checkbox"/> Dave Buehler Plaza <input type="checkbox"/> Downtown Square <input type="checkbox"/> 7 th -9 th Street <input type="checkbox"/> Schroeder Complex <input type="checkbox"/> Private Property <input type="checkbox"/> Other: _____	PERMIT DURATION <input type="checkbox"/> One Week: \$ 25.00 <input type="checkbox"/> 30 Days: \$ 50.00 <input type="checkbox"/> 90 Days: \$120.00 <input type="checkbox"/> One Year: \$240.00	Hours of Operation From: _____ to _____ <i>*Prohibited hours of operation: 1:00 a.m. to 6:00 a.m.</i>	Food Vending Method <input type="checkbox"/> Food Vending Pushcart <input type="checkbox"/> Mobile Food Vehicle

PART C PRIVATE PROPERTY INFORMATION (if applicable) AND CHECKLIST			
Private Property Owner			
Address	City	State	Zip
Phone Number	Email Address		
Please include the following items with your completed application: <ul style="list-style-type: none"> <input type="radio"/> Complete menu of food being sold. <input type="radio"/> Proof of Dubois County Health Permit. <input type="radio"/> Proof of Transient Merchant and Door-To-Door Solicitors License. <input type="radio"/> Proof of insurance, if applicable. <input type="radio"/> Letter of approval if operating on property owned and maintained by City of Jasper Parks and Recreation Department. <input type="radio"/> Letter of approval from private property owner if operating on private property. 			

Owner's Certificate: *I hereby certify that I as a Mobile Food Vendor shall abide by the provisions of Chapter 3.26 of the City of Jasper Municipal Code.*

Applicant's Signature: X _____ Date: _____

FOR OFFICE USE ONLY		
Approval by Administrator:	Approval Date:	Permit Number:

Exhibit Two
Mobile Food Vendor Permit

NOTE TO MOBILE FOOD VENDOR
POST IN A CONSPICUOUS PLACE UNDER THE PROVISIONS OF CHAPTER 3.26
ALL FOOD VENDING PUSHCARTS AND MOBILE FOOD VEHICLES WILL BE INSPECTED REGULARLY
ALL FOOD VENDING PUSHCARTS AND MOBILE FOOD VEHICLES MUST HAVE PERMIT

PERMIT

No. _____

ISSUED TO _____

DATE _____

FOOD VENDING PUSHCART

GOOD
THRU _____

MOBILE FOOD VEHICLE

THIS CARD IS THE PROPERTY OF THE BOARD OF PUBLIC WORKS AND SAFETY

Exhibit Three
Permitted Locations Map

