

**CITY OF ITHACA, MICHIGAN  
ORDINANCE NO. 2016-01**

**ORDINANCE AMENDING CHAPTER 26 OF  
THE ITHACA CODE OF ORDINANCES**

**Chapter 26: *Peddlers and Solicitors***

An Ordinance to Amend Chapter 26 of the Code of Ordinances of the City of Ithaca, by Adding Article III: *Mobile Food Vending Units*.

**THE PEOPLE OF THE CITY OF ITHACA, MICHIGAN DO ORDAIN:**

**SECTION 1.** Chapter 26: *Peddlers and Solicitors* is hereby amended to add a new Article III, entitled *Mobile Food Vending Units*, to read as follows:

**ARTICLE III:  
MOBILE FOOD VENDING UNITS**

|            |                                    |            |                     |
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**Sec. 26-50. Intent.**

In the interest of encouraging mobile food vendors who add to the vibrancy and desirability of Ithaca, while providing a framework under which such businesses operate, this ordinance is established.

**Sec. 26-51. Definitions.**

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***Mobile Food Vending*** means vending, serving or offering for sale food and/or beverages from a mobile food vending unit, which may include the ancillary sales of other items consistent with the food provided, such as a tee-shirt or other item that bears the name of the organization engaged in mobile food vending.

***Mobile Food Vending Unit*** means any motorized or non-motorized vehicle, trailer or other similar device designed to be portable and not permanently attached to the ground from which food is vended, served or offered for sale. This definition does not apply to vehicles that

dispense food or beverages that move from place to place and are stationary in the same location for no more than fifteen (15) minutes at a time, such as ice cream trucks.

*Operate* means all activities associated with the conduct of business, including set up, take down, and actual hours when the mobile food vending unit is open for business.

*Vendor* shall mean any individual or group of individuals engaged in the business of mobile food vending.

**Sec. 26-52. Permit Required.**

It shall be unlawful for any person to operate a mobile food vending unit in the City without first obtaining a permit as provided in sections 26-53 and 26-54.

**Sec. 26-53. Application.**

A person desiring to operate a mobile food vending unit shall make written application for a permit to the City Clerk. A separate application is required for each unit and location. The application for a permit shall be on forms provided by the City Clerk, and shall include the following:

- (1) Name, signature, business address, business telephone number, business cell number, and e-mail contact information of the applicant.
- (2) Information on the mobile food vending unit, to include a copy of the current State of Michigan vehicle or trailer registration, and dimensions, which shall not exceed thirty-six (36) feet in length or nine (9) feet in width.
- (3) A recent photograph of the mobile food vending unit.
- (4) A plot plan, which includes information setting forth the proposed location of operation, hours of operation, plans for power access, water supply and wastewater disposal, and written private property use agreements, if applicable.
- (5) Copies of all necessary food service licenses or permits issued by the Mid-Michigan District Health Department and/or the State of Michigan.
- (6) A description of the preparation methods and food products offered for sale, including the intended menu.
- (7) If vendor unit is to be located on City-owned property, or a public street, alley or parking lot, then provide evidence of insurance coverage as follows:
  - (a) Proof of Commercial Liability Insurance policy with limits of no less than \$2 million combined Single Limit coverage issued by an insurer licensed to do business in this state, and which names the City as both an additional insured party and certificate holder.
  - (b) Proof of Commercial Auto Policy with bodily injury and property damage with limits of no less than \$1 million per accident issued by an insurer licensed to do business in this state.

(8) At the time of filing the application, an application fee as established from time to time by Resolution of the City Council to cover the cost of the review and administrative processing, no part of which shall be refundable.

**Sec. 26-54. Review of Application and Issuance.**

(a) Upon receipt of an application, the original shall be forwarded to the City Clerk, for review as to compliance with all applicable laws and Ordinances and background check.

(b) If as a result of such review the application is found not to be in compliance with all applicable laws and ordinances or background check, the City Clerk shall endorse on the application disapproval and the reasons for disapproval, and shall notify the applicant that the application is disapproved and that no permit shall be issued.

(c) If as a result of such review the application is satisfactory, the City Clerk shall approve the application. The City Clerk, upon payment of the prescribed fee, shall issue a permit. All such permits shall contain the signature of the City Clerk, and show the name and address of the applicant, a description of the mobile food vending unit, the amount of the fee paid, and the expiration date of the permit.

**Sec. 26-55. Fees.**

An applicant for a mobile food vending unit permit shall pay a non-refundable permit fee as established from time to time by Resolution of the City Council. There shall be no proration of fees. If operating on non-city property, no fee shall be charged to a business that is on the city's tax rolls whose normal business includes the sale of food and/or beverages. No one shall hire or subcontract such vendors in an attempt to evade the provisions of this Article.

**Sec. 26-56. Expiration.**

Each mobile food vending permit shall expire based on the length of permit established from time to time by Resolution of the City Council.

**Sec. 26-57. Limitations on Transfer of Permits.**

(a) A permit issued under this Article shall not be transferable from person to person.

(b) A permit is valid for one mobile food vending unit, and shall not be transferred between mobile food vending units.

**Sec. 26-58. Exceptions.**

A permit issued under this Article shall not be required for any school-sponsored mobile food vending unit if on school district property, or authorized participants in any City- or Chamber of Commerce- sponsored or sanctioned fair, festival, special event, or civic event, including but not limited to the Ithaca Family FunFest, Ithaca Farmers Market, and the Gratiot County Agricultural Expo Fair.

**Sec. 26-59. Locations.**

(a) No operator of a mobile food vending unit shall park, stand or move a vehicle and conduct business within areas of the City where the permit holder has not been authorized to

operate. The City Council shall, from time to time by resolution, identify those streets and public areas where parking by mobile food vending units is permitted.

(b) Mobile food vending units, when parked on authorized public streets, shall be parked in conformance with all applicable parking restrictions and shall not hinder the lawful parking or operation of other vehicles.

(c) A vendor shall not operate on private property without first obtaining written consent to operate from the affected private property owner. A private property owner shall not permit parking by a mobile food vending unit until a City permit has been issued to the vendor.

(d) A mobile vending unit shall be set back a minimum of ten (10) feet from any property line, street right-of-way, structure or other mobile food vending unit.

(e) Mobile food vending units may not be parked within one hundred fifty (150) feet of any “brick & mortar” restaurant when such a restaurant is open to the public for business, unless written permission has been acquired from all restaurants within the 150-foot radius.

(f) Mobile food vending units are not permitted within five hundred (500) feet of any fair, festival, special event, civic event, or similar event that is licensed or sanctioned by the City, unless prior written permission from the event coordinator/sponsor is obtained and provided to the City Clerk.

(g) The issuance of a mobile food vending unit permit does not grant nor entitle the vendor to the exclusive use of any service route or space.

**Sec. 26-60. Hours of Operation.**

(a) Mobile food vending units shall be permitted to operate between the hours of 6:00 a.m. – 10:00 p.m., except within any of the City’s industrial parks, where the hours of operation shall extend until 2:00 a.m. to service different working shifts.

(b) A mobile food vending unit shall not be parked overnight on public property, or left unattended and unsecured at any time food is in the vehicle. Any mobile food vending unit found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

**Sec. 26-61. Regulations.**

(a) Customers of mobile food vending units shall be provided with single-service articles such as plastic utensils and paper plates.

(b) All mobile food vending units shall provide a waste container for public use, which the vendor shall empty at its own expense. All on-site trash, garbage and litter originating from the operation of mobile food vending units shall be collected and properly disposed of off-site by the operators each day. Spills of food or food by-products shall be cleaned up, and no dumping of gray water is permitted, including into any City sanitary sewer or stormwater catchbasin or manhole.

(c) No mobile food vending unit shall make or cause to be made any unreasonable or excessive noise to gain attention, which causes a disruption or safety hazard as determined by the City. The operation of all mobile food vehicles shall comply with the City noise ordinance,

including the use of generators. No loud music, other high-decibel sounds, horns, or amplified announcements are permitted.

(d) Signage is permitted when placed on mobile food units. One non-illuminated free-standing portable sign that is no more than three (3) feet in height and six (6) square feet or less in surface display area per side may be used by a mobile food unit. Said sign shall be placed within five (5) feet of the unit and under no circumstances shall such sign be placed upon a sidewalk or impede pedestrian and or vehicle driver visibility or safety.

(e) No banners, streamers, pennants, flags, flashing lights, blinking lights or strobe lights are allowed on mobile food vending units, related signage, or on the portion of the site where the mobile food vending unit is parked. All exterior lights shall contain opaque hood shields to direct the illumination downward and not cast light upon adjoining structures or properties.

(f) No mobile food vending unit shall use bollards, seating, or other equipment not contained within the vehicle. When extended, awnings for mobile food vehicles shall have a minimum clearance of seven (7) feet between the ground level and the lowest point of the awning.

(g) Any power required for the mobile food vending unit shall be self-contained, and a mobile food vending unit shall not use utilities drawn from the public right-of-way. Mobile food vending units on private property may use electrical power drawn from the property being occupied or an adjacent property, but only if the property owner provides written consent to do so. No power cable or equipment shall be extended across any city street, alley, sidewalk or path.

(h) A vendor shall exhibit the mobile food vending unit permit in a prominent place visible to the public.

(i) A vendor shall not represent the granting of a permit under this Article as an endorsement of the vendor by the City.

**Sec. 26.62. Revocation.**

(a) Permits issued under the provisions of this Article may be revoked by the City Clerk after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation, or false statement contained in the application for permit or made in the course of operating a mobile food vending unit;
- (2) Conducting the business of a mobile food vending unit 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; or
- (3) Any violation of this Article.

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

**Sec. 26-63. Complaints; Appeals.**

If a written complaint is filed with the City Clerk alleging a Mobile Food Vendor has violated the provisions of this Article, the City Clerk shall promptly send a copy of the written complaint to the vendor together with a notice that an investigation will be made as to the truth of the complaint. The vendor shall be invited to respond to the complaint and present evidence and respond to evidence produced by the investigation. If the City Clerk, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified.

If a permit is denied or revoked by the City Clerk, or if a written complaint is certified pursuant to this Article, the applicant or holder of a permit may appeal to and have a hearing before the City Manager. The City Manager shall make a written determination, after presentation by the applicant and investigation by the City Clerk, as to whether or not the grounds for denial, revocation or complaint are true. If the City Manager determines that such grounds are supported by a preponderance of the evidence, the action of City Clerk or filing of the complaint shall be sustained and the applicant may appeal the City Manager’s decision to a court of competent jurisdiction.

**Sec. 26-64. Violations.**

Except as otherwise provided by state law, persons who violate any of the provisions of this Article are responsible for a municipal civil infraction and subject to a fine of \$150 per day. Each day of violation shall constitute a separate and distinct offense.

**SECTION 2. Repealer Clause.** Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

**SECTION 3. Savings Clause.** This ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any ordinance, resolution, order or parts thereof, hereby repealed; and this ordinance shall in no manner affect any rights, claims, privileges, immunities or causes of action of the City or other person, either criminal or civil, that may have already occurred, accrued or grown out of any ordinance, resolution, order or policy, or any part thereof, hereby repealed.

**SECTION 4. Validity and Severability.** Should any portion of this Ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of the Ordinance.

Ayes: (6) Schafer, Timmons, Gruesbeck, Henderson, Koppleberger, Palmer  
Nays: (0) None  
Absent: (1) Paradise  
Abstain: (0) None

Introduced: 06/21/2016  
Public Hearing: 07/05/2016  
Adopted: 07/05/2016  
Published: 07/14/2016  
Effective: 07/25/2016

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Barbara Fandell, Clerk-Treasurer