

ORDINANCE 2020-08

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CREATING CHAPTER 12.42 (OUTDOOR FOOD STANDS AND MOBILE FOOD UNITS) OF THE MUNICIPAL CODE OF THE CITY OF PRAIRIE DU CHIEN, CRAWFORD COUNTY, WISCONSIN

Purpose: The purpose of this Ordinance is to allow for the ability for individuals to own and operate outdoor and mobile food stands.

The Common Council of the City of Prairie du Chien, Crawford County, Wisconsin, does ordain as follows:

Section 1: That Chapter 12.42 of the Municipal Code of the City of Prairie du Chien, Wisconsin be created to read as follows:

12.42 (OUTDOOR FOOD STANDS AND MOBILE FOOD UNITS)

(1) 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:

Downtown area means the area bounded by Blackhawk Avenue from Illinois to Main Street.

Mobile food unit means a vehicle or conveyance on wheels, either motorized or non-motorized, used to conduct a food business.

Outdoor food stand means a stationary, non-mobile unit, either enclosed or not enclosed, with or without a roof, used to conduct a food business.

Person means any natural person, firm, corporation, association, club, partnership, society, or any other organization of every nature whatsoever.

Transient vendor means any person without a permanent place of business in the City of Prairie du Chien who engages in the temporary business of selling or delivering goods from or near such person's vehicle for a period of time not exceeding 90 days.

(2) EXEMPTIONS. The provisions of this article shall not apply to the following:

- (a) Those transacting business entirely inside a store building;
- (b) Those who operate a permanent business establishment that place items sold at such operator's business establishment outside of their business;
- (c) Those who operate home delivery conveyance of grocery stores, restaurants, dairies and/or bakeries;
- (d) Any person selling agricultural food products which such person has grown so long as there is no onsite food preparation and said person is licensed with the appropriate State or local agency;
- (e) Any person selling goods at a farmer's market/flea market, on premises under the control of the farmer's market/flea market organizers, so long as said person is licensed with the Department of Agriculture, Trade & Consumer Protection (DATCP).
- (f) A transient vendor selling a food product from a conveyance for a limited time and possessing a direct seller permit;
- (g) Any person with a food stand/unit at a festival, with permission from festival organizers, on premises under the control of festival organizers;
- (h) Any nonprofit organization that conducts such business only at occasional times.
- (i) A city resident under the age of 18 selling water, soda, shaved ice or similar beverage only at occasional times from a stand on private property, or within a park with the permission of the Board of Park Commissioners.

(3) ENFORCEMENT. The enforcement of this article shall be under the jurisdiction of the Fire Department, Police Department, and City Administration who shall have the power to inspect to determine compliance with this article.

(4) LOCATION RESTRICTIONS. Licensed food stands shall not operate upon or in any alley, sidewalk, street, public grounds or land dedicated to public use or in any part thereof.

Licensed mobile food units shall not operate upon or in any alley, public grounds or land dedicated to public use or in any part there. Where mobile units are being operated in any street, all traffic and parking regulations shall be observed and no unit shall impede the free use of such street. No licensed mobile unit shall be upon any street used as a parade route between the time one-half hour immediately preceding the commencement of any scheduled parade until after the conclusion of any scheduled parade. Where mobile food units are being operated on any sidewalk, no unit shall impede the free use of such sidewalk and shall not have any exclusive right to any stationary location thereon.

No person shall operate an outdoor food stand or mobile food unit on property within a public park of the City unless authorized to do so by the Board of Park Commissioners. No person shall operate an outdoor food stand or mobile food unit within 500 feet of any public park in which there is present a holder of a concession agreement approved by the Board of Park Commissioners or where the City operates a food stand or mobile food concession.

(5) PROHIBITED AND REQUIRED ACTS.

(a) A vendor shall:

1. Obtain any other license(s) necessary, including, but not limited to, a Wisconsin seller's permit and food-related license issued by the DATCP prior to applying for the City license and adhere to the requirements of any such other license.
2. Provide a trash receptacle of at least 32 gallons for customer use; the use of City refuse containers is prohibited.
3. Clean-up the area within one-half block of stand/unit each day by removing any and all food waste, garbage, trash and debris (all to be disposed of in the vendor's trash receptacle) and sweep or rake area to remove all spillage.
4. Display the City license and any other required licenses during operating hours or have available for display upon request of any enforcer or any person upon request.
5. Display name and telephone number of licensee in lettering permanently affixed to unit and not less than four inches high or on a sign that is not less than 12 inches by 12 inches.
6. Remove all vending equipment from public right-of-way during times when vending is prohibited.
7. Have compliance with Wisconsin Food Code
8. Have insurance per section 12.01(4) of the Prairie du Chien Municipal Code

(b) A vendor shall not:

1. Block or restrict an individual's access to a business or residential doorway.
2. Sell or be in operation between the hours of 9:00 p.m. and 6:00 a.m.
3. Block or restrict pedestrians on the public way.
4. Use audio or video equipment, such as speakers, amplifying device and video display monitors.
5. Sell food or beverages in glass containers or glassware.
6. Dispose of food waste or water used in food preparation or cleaning into storm drains, catch basins, manholes, sidewalks or streets.
7. Use extension cords to supply power to the stand/unit; all stands/units must be self-powered.
8. Sell within 300 feet of school grounds unless part of a non-profit or civic event on school grounds with permission from the respective school.

9. Sell within 200 feet of a permanent merchant retailing a similar product without written permission from the merchant except in the downtown area.
10. Vend in the same location for more than five hours in any one day unless:
 - a. Vending on private property either owned or leased by vendor.
 - b. Granted approval by the Board of Park Commissioners to vend in a public park of the City.

(6) LICENSE REQUIRED. No person shall operate an outdoor food stand or mobile food unit without first obtaining a license in compliance with the provisions of this division. A separate license is required for each stand/unit.

(7) APPLICATION. A license shall only be granted where the following requirements are satisfied:

- (a) Any person requiring a license under this division shall make a sworn application in writing on a form furnished by the City Clerk which shall require the following information:
 1. Name, address and telephone number of applicant.
 2. Name, address and telephone number of the person, firm, association or corporation that said applicant represents or is employed by, or whose food is being sold.
 3. A description of the food being offered.
 4. The location from which the business will be conducted, including written authorization of the property owner where the cart/unit will be located.
 5. The size and/or dimensions of outdoor food stand/mobile food unit and construction materials.
 6. Make, model and license number of any vehicle to be used by the applicant in the conduct of the applicant's business.
 7. Last cities, villages, towns, not to exceed five, where the applicant conducted similar business.
 8. Statement as to whether the applicant has been convicted of any crime or ordinance violation related to applicant's business or solicitation within the last five years, and the nature of the offense and the place of conviction;
- (b) Applicants shall present to the City Clerk for examination and/or to be photocopied:
 1. A driver's license or some other proof of identity as may be reasonably required.
 2. Wisconsin seller's permit.
 3. Food-related permit issued by the DATCP.
 4. Vehicle certificate of registration/licensing, if applicable.
 5. Give address of service base of operations for storing food, cleaning kitchen wares and any other related DATCP or Wisconsin Food Code requirements.
- (c) The application must be received at least 15 days in advance of any license being issued.
- (d) Insurance. The applicant shall procure insurance as provided in section 5(a)8.

(8) LICENSE FEE/DURATION.

- (a) *Fee.* At the time of the application, a nonrefundable fee in the amount of \$50.00 be paid to the City Clerk to cover the costs of investigation, inspection of each stand/unit, when applicable, and processing such application.
- (b) *Duration.* License shall have a term of one year commencing on July 1 and ending on June 30.

(9) INVESTIGATION/INSPECTION.

- (a) Upon receipt of each application from the City Clerk, the Police Department shall conduct an investigation of the statements made on such application.

- (b) The City Clerk shall also report every application for which said stand or unit will use any cooking or heating appliance or propane to the Fire Department who shall inspect or cause to be inspected each stand/unit, to determine whether it complies with all laws, ordinances, rules and regulations.
- (c) The City Clerk shall refuse to license the applicant if it is determined, pursuant to the investigation referenced in subsection (a) or the inspection referenced in subsection (b) of this section, that:
 - 1. The application contains any material omission or materially inaccurate statement;
 - 2. Complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, in which the applicant conducted similar business;
 - 3. The applicant was convicted of a crime, statutory ordinance or ordinance violation the nature of which is directly related to the applicant's fitness to engage in the conduct for which the license is requested;
 - 4. Applicant fails to comply with requirements of the Fire Department - Division of Fire Prevention and Building Safety;
 - 5. The applicant failed to comply with any applicable provision of section "Application" Subsection 7; or
 - 6. The applicant failed to pay the fees required for the license.

(10) RENEWAL. The license holder shall, on an annual basis, file a City-authorized renewal application form prior to the expiration of the license, in the same manner as the initial application.

(11) REVOCATION OR SUSPENSION. The issuance of an outdoor food cart/mobile food unit is conditional at all times. A license may be revoked or suspended by the Police Department, Fire Department or City Administration when necessary to protect the public health, safety or welfare, to prevent a nuisance from developing or continuing, in emergency situations, or due to noncompliance of this section, this Code, including any reason stated in 12.01(10) or applicable State or Federal laws.

(12) APPEAL. A revocation, suspension or denial of a license may be appealed to the Personnel and Licensing Committee, which shall make a recommendation to the entire Council after providing the applicant with an opportunity for a hearing.

Section 2: Any Ordinance or parts thereof, inconsistent herewith are hereby repealed.

Section 3: This Ordinance shall be published as required by law after passage by the Common Council.

Passed and approved this ____ day of July, 2020.

David Hemmer, Mayor

ATTEST:

Chad Abram, City Administrator

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Certification

I, Tina Fuller, am the duly qualified and acting City Clerk of the City of Prairie du Chien, Crawford County, Wisconsin. I hereby certify that the aforementioned is a true and exact reproduction of the original ordinance or resolution adopted by the Common Council.

IN WITNESS WHEREOF, I have executed this Certificate in my official capacity on the ____ of July, 2020.

(SEAL)

Tina Fuller
City Clerk