

**ORDINANCE #648**  
**AN ORDINANCE TO REPEAL MARQUETTE CITY CODE,  
CHAPTER 35, MOBILE FOOD VENDING, AND ADOPT A NEW  
CHAPTER 35, MOBILE FOOD VENDING**

**The City of Marquette Ordains:**

**Section 1. Current Chapter 35 is hereby repealed.**

**Section 2. New Chapter 35 is adopted as follows:**

Sec. 35-1. - Short title.

This chapter shall be known as the "City of Marquette Mobile Food Vending Ordinance."

Sec. 35-2. - Definitions.

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

*Brick and mortar restaurant* shall mean a business which is on the city's tax rolls and which provides a public seating area, and whose normal business includes the preparation and sale of food and/or beverages.

*Food cart* shall mean a mobile food vending unit propelled by human power alone, which has been specifically designed or used for mobile food vending and in which food or drink is not prepared on the premises.

*Food trailer* shall mean any vehicle without motive power that is designed to be drawn by a motor vehicle and is specifically designed or used for food vending operations.

*Food truck* shall mean a vehicle propelled by an engine which has been specifically designed or used for mobile food vending.

*Mobile food vending* shall mean vending, serving, or offering for sale food and/or beverages from a mobile food vending unit; or vending, serving, or offering for sale food and/or beverages prepared for consumption in a mobile food vending unit; may include the ancillary sales of branded items consistent with the food, such as a tee shirt that bears the name of the organization engaged in mobile food vending.

*Mobile food vending unit* shall mean any motorized or non-motorized vehicle, trailer, or other device designed to be portable and not permanently attached to the ground and in which food or drink is prepared for direct consumption through service on the premises or elsewhere.

*Operate* shall mean all activities associated with the conduct of business, including set up and take down and/or actual hours where the mobile food vending unit is open for business.

*Prepackaged and non-perishable food* means any food or beverage which is not capable of supporting rapid and progressive growth of microorganisms which may cause food infections; and which is packaged in a hermetically sealed container designed to keep the contents free of contamination by microorganisms and maintain the commercial sterility of its contents after thermal processing. The term shall include packaged candy, gum and confections and bottled or canned water or soft drinks, if the package, bottle or can includes a manufacturer's quality assurance date. In no case shall the term include fresh or processed meats, poultry, seafood, dairy products, eggs, or fresh fruit and vegetables.

*Vendor* shall mean any individual engaged in the business of mobile food vending; if more than one individual is operating a single mobile food vending unit then vendor shall mean all individuals operating such mobile food vending unit.

**Sec. 35-3. - License required.**

No vendor shall engage in mobile food vending without a license from the city clerk authorizing such vending. The city clerk shall prescribe the form of such license and application for such license. All licenses shall be prominently displayed on the mobile food vending unit. No vending through a mobile food vending unit of food and/or other human consumables shall be permitted unless it meets the definition of mobile food vending as defined by this chapter.

**Sec. 35-4. - Exceptions to permit.**

Mobile food vendors that are only operating in association with a special event licensed under a City of Marquette Special Events Permit will be addressed through that licensing process.

**Sec. 35-5. - Duration; nontransferability.**

Licenses or permits may be issued by the city clerk for the city business license year, May 1 through April 30 of the following year. Any license issued under this chapter is nontransferable.

**Sec. 35-6. - Application.**

Every vendor desiring to engage in mobile food vending shall make a written application to the city clerk for a license or permit under this chapter. The applicant shall truthfully state, in full, all information requested by the city clerk. The application for a license shall be on forms provided by the city clerk and shall include the following information:

- (1) Name, signature, phone number, email contact, driver's license copy, and address of the applicant.
- (2) A list of the food products offered for sale and a description of preparation methods.
- (3) A description of and information on the mobile food vending unit including size.
- (4) Information setting forth the proposed hours of operation, intended areas of operations, plans for electrical access, wastewater disposal, and trash disposal.
- (5) Copies of all applicable licenses and/or permits issued by the Marquette County Health Department.
- (6) Proof of all insurances required by the City of Marquette including a proof of comprehensive liability with limits of no less than \$1,000,000.00 combined single coverage which names the City of Marquette as additional insured.

Prior to a license being issued for a mobile vending unit, the unit must be deemed satisfactory following a fire safety inspection conducted by the Marquette Fire Department. If applicable, applicants will be required to provide satisfactory proof of a propane inspection, conducted by a certified inspector.

**Sec. 35-7. - Fees.**

An application for a license under this chapter shall be accompanied by a fee in the amount established by resolution of the city commission. There shall be no proration of fees. Fees are non-refundable. No one shall hire or subcontract such vendors in an attempt to evade the provisions of this chapter.

**Sec. 35-8. – Residential vending by permission.**

In residential areas not identified by City Commission resolution as vending locations, mobile food vending is permitted on a case-by-case basis. Following a review of proposed vending times and activities, approval may be given by the chief of police.

**Sec. 35-9. - Requirements.**

Any vendor engaging in mobile food vending shall comply with the following requirements:

- (1) May only operate at during hours established by City Commission resolution.
- (2) If operating on city-owned or controlled property, may only locate on property identified under City Commission resolution.
- (3) Mobile food vending unit shall not exceed 36 feet in length or nine feet in width.
- (4) Provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other waste attributable to the vendor on a daily basis.
- (5) The customer service area for mobile food vending unit shall be on the side of the street that faces a curb, lawn, or sidewalk when parked. No food service shall be provided on the driving lane side of the truck or vehicle.
- (6) Mobile food vending units utilizing public parking spaces or parked on public streets shall conform to all applicable parking regulations and shall not hinder the lawful parking or operation of other vehicles.
- (7) No food shall be displayed outside of a mobile food vending unit.
- (8) While operating on city-owned or controlled property, shall not provide or allow any dining area within ten feet of mobile food vending unit, including but not limited to tables and chairs, booths, stools, benches, and stand up counters.
- (9) When extended, awnings for mobile food vending units shall have a minimum clearance of seven feet between the ground level and the lowest point of the awning or support structure.
- (10) Shall not operate on city-owned or controlled property within one block of a city-sanctioned or authorized street fair, public festival, farmers market or event being conducted without authorization from the event sponsor.
- (11) Shall not use external signage, bollards, seating or other equipment that is not contained in the vehicles. Signage is only permitted when physically part of the mobile food vending units. No separate freestanding signs are permitted.
- (12) Shall not use any flashing or blinking lights or strobe lights; all exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward.
- (13) Shall comply with all other city ordinances; specifically, all operations related to vending must comply with and are subject to enforcement of section 22-30 (Noises) of the Marquette City Code of Ordinances.
- (14) Shall comply with all applicable federal, state and county regulations.
- (15) A mobile food vending unit may not be left unattended.
- (16) A mobile food vending unit on city-owned or controlled property shall be removed during the hours stipulated under City Commission resolution.
- (17) Any power required for the mobile food vehicle located on city-owned or controlled property shall be self-contained and shall not use utilities drawn from the city-owned or controlled property.
- (18) Mobile food vending units on private property may use electrical power from the property being utilized with prior written authorization of the power customer.
- (19) Power cables or similar devices shall not be run across any city street or alley, and shall not be run on the ground across or within pedestrian walkways or areas.

- (20) Mobile food vending units parked on city-owned or controlled property shall not be parked within 150 feet of any entrance to an existing, brick and mortar restaurant during the hours when such restaurant is open for business to the public, unless written permission, a copy of which must be provided to the City, is first given by the restaurant owner.
- (21) Vendors may not represent the granting of a license under this chapter as an endorsement by the city.
- (22) At any time, such mobile food vending unit shall be at least 25 feet from all intersections and driveways.

**Sec. 35-10. – Enforcement of parking regulations.**

Any mobile food vending unit with a valid mobile food vending license may park in a city-controlled parking space; and such mobile food vending unit shall be restricted to all regulations in the particular parking space, including time limits. Provided, however, that no mobile food vending unit shall park in a city-owned or controlled parking space if parking is prohibited altogether. Any mobile food vending unit parked in a metered parking space with a valid mobile food vending license shall activate the meter at all times while parked by depositing the appropriate sum of money into the parking meter.

**Sec. 35-11. - Impoundment.**

Any equipment associated with food vending that is not in compliance with this chapter and left on public property may be impounded at the owner's expense.

**Sec. 35-12. - Other licenses or permits.**

A license or permit obtained under this chapter shall not relieve any vendor of the responsibility for obtaining any other permit, or authorization required by any other ordinance, statute or administrative rule.

**Sec. 35-13. - Revocation.**

The license or permit may be voided at any time by written notice to the City Clerk by a duly authorized law enforcement officer observing a violation of this chapter, a violation of any federal, state or local regulation, or a situation that is adverse to the protection of the public health, safety, and welfare. A license may also be revoked if it is discovered that an applicant has made a false statement on their application. Immediately upon such revocation, the license shall become null and void.

**Sec. 35-14. - Complaints; appeals.**

If a written complaint is filed with the city clerk alleging a mobile food vendor has violated the provisions of this chapter, 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 or designee, after reviewing all relevant material, finds the complaint to be supported by a preponderance of the evidence, the complaint shall be certified. If a license is denied or revoked by the city clerk, or if a written complaint is certified pursuant to this chapter, the applicant or holder of a license may appeal to and have a hearing before the city manager or designee. The city manager or designee shall make a written determination, after presentation by the applicant and investigation by the city clerk or designee, 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.

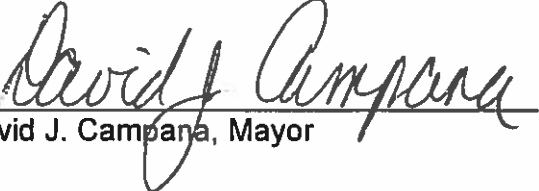
**Sec. 35-15. - Appearance tickets.**

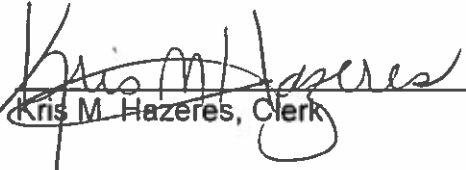
The fire chief, fire inspector, police chief and sworn officers of the police department, or such other officials as designated by the city manager are authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Michigan law. Appearance tickets shall be in such form as determined by the city attorney and shall be in conformity with all statutory requirements.

Sec. 35-16. - Civil infraction.

A vendor who violates this chapter is responsible for a civil infraction and subject to a fine of \$500.00 per day.

**Section 3. Publication. This Ordinance shall take effect on May 1, 2017, but not before publication.**

  
David J. Campana, Mayor

  
Kris M. Hazeres, Clerk

Adopted: February 27, 2017

Published: February 17, 2017