

Ordinance 2024-3

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**AN ORDINANCE CREATING CHAPTER 455 - REGULATION OF  
MOBILE FOOD ESTABLISHMENTS  
OF THE  
CITY OF WEYAUWEGA  
CODE OF ORDINANCES**

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THE CITY COUNCIL OF THE CITY OF WEYAUWEGA, WAUPACA COUNTY, WISCONSIN, DOES ORDAIN AS FOLLOWS:

**SECTION 1:** Chapter 455 of the Code of the City of Weyauwega is hereby created to read as follows:

**Chapter 445 Regulation of Mobile Food Establishments**

*ARTICLE I LICENSE REQUIRED*

455-1 License Required. No person shall operate an outdoor food stand or mobile food unit without first obtaining a license from the City Clerk in compliance with the provisions of this ordinance. A separate license is required for each stand/unit.

455-2 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 different meaning:

**MOBILE FOOD UNIT** means a vehicle or conveyance on wheels, either motorized or non-motorized, used to conduct a food business.

**VENDOR** shall mean a licensed mobile food unit.

**FOOD STAND** means a temporary structure used to prepare and sell food to the public.

**FOOD BUSINESS** The sale of food to the public from a Mobile Food Unit or Food Stand.

**PERSON** Any individual, corporation or other entity.

455-3 Exemptions. The provisions of this article shall not apply to the following:

A. Those transacting business entirely inside a building.

B. Those who operate a permanent business establishment that place items sold at such operator's business establishment directly outside of their permanent business establishment;

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- C. Those who operate home delivery for grocery stores, restaurants, dairies and/or bakeries;
- D. Any person selling agricultural food products that 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 a food product at a farmer's market/flea market, on premises under the control of the farmer's market/flea market organizers.
- F. A registered transient vendor selling a food product from a conveyance for a limited time and possessing a direct seller permit so long as there is no onsite food preparation
- G. Any person with a food stand at a festival, with permission from festival organizers, on premises under the control of festival organizers;

455-4 Enforcement. The enforcement of this article shall be under the jurisdiction of the City Administration, Weyauwega Fire Department, the City of Weyauwega Police Department, all of who shall have the authority to inspect the Mobil Food unit or Food Stand to determine compliance with this chapter.

**ARTICLE II LICENSE REGULATIONS**

455-5 Location restrictions.

- A. Licensed mobile food units must be located in a commercially zoned area.
- B. Licensed Mobile Food units or Food Stands shall not sell food products upon or in any alley, public grounds or land dedicated to public use unless specifically allowed in the Mobile Food Unit or Food Stand license and subject to the restrictions of this section... 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.
- C. No licensed mobile unit shall be upon any street used as a parade route between the times one hour immediately preceding the commencement of any scheduled parade until after the conclusion of any scheduled parade.
- D. 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.
- E. No person shall operate an outdoor food stand or mobile food unit within 150 feet of any public park in which there is present a holder of a rental agreement approved by the City Administration or where the City operates

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a food stand or mobile food concession that is in operation at the time unless approved by City Administration.

**455-6 Requirements. A vendor shall:**

- A. Obtain any other license(s) necessary, including, but not limited to, a Wisconsin seller's permit prior to applying for the City license and adhere to the requirements of any such other license.
- B. Provide a trash receptacle of at least 32 gallons for customer use; the use of City refuse containers is prohibited.
- C. 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.
- D. Display the City license and any other required licenses during operating hours
- E. Remove all vending equipment from public right-of-way during times when vending is prohibited.
- F. Contact the Weyauwega Fire Department ((920) 867-2119) to set up a time for the Mobile Food Unit or Food Stand to be inspected.

**455-7 Prohibitions. A vendor shall not:**

- A. Block or restrict an individual's access to a business or residential doorway.
- B. Allow any dining area to the food stand/unit, including, but not limited to, tables, chairs, booths, stools, benches or stand up counters: unless vending solely on private property or in public park with as provided in the license
- C. Block or restrict pedestrians on the public way.
- D. Use audio or video equipment, such as speakers, amplifying device and video display monitors.
- E. Sell food or beverages in glass containers or glassware.
- F. Dispose of food waste or water used in food preparation or cleaning into storm drains, catch basins, manholes, sidewalks or streets.
- G. Use extension cords to supply power to the stand/unit; all stands/units must be self-powered.

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- H. Sell within 150 feet of school grounds unless part of a non-profit or civic event on school grounds with permission from the respective school.
- I. Sell within 150 feet of a licensed restaurant's front door, during its kitchen hours, without written permission from the merchant. Permission to be on private property does not supersede this distance rule.
- J. Vend in the same location for more than five hours in any one day unless:
  - 1. Vending on private property either owned or leased by vendor.
  - 2. Specifically permitted in the permit.

**ARTICLE III APPLICATION/ADMINISTRATION**

455-8 Application. Any person requiring a license under this ordinance shall make a sworn application in writing on a form furnished by the City Clerk which shall require the following information:

- A. Name, address and telephone number of applicant.
- B. 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.
- C. A description of the food being offered and the manner of its preparation.
- D. The location from which the Food Business will be conducted, including written authorization of the property owner where the cart/unit will be located, and any other permission required by this Chapter.
- E. Make, model and license number of any vehicle to be used by the applicant in the conduct of the applicant's business.
- F. Last cities, villages, towns, not to exceed 3, where the applicant conducted similar business.
- G. Statement as to whether the applicant has been convicted of any crime or ordinance violation the circumstances of which substantially relate to the applicant's business, within the last 5 years, and the nature of the offense and the place of conviction;
- H. The location of any remote sites used in the food production and any required licensing for any such location/operation.

445-9 Additional Information to be filed with the Application. Applicants shall present to the City Clerk for examination and/or to be photocopied:

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- A. A driver's license or some other proof of identity as may be reasonably required for each licensee and any employees of the licensee participating in any aspect of the food preparation, delivery or sale in the performance of the Food Business
- B. A valid, current Wisconsin seller's permit.
- C. Waupaca County/State of WI Health Certificate number.
- D. Vehicle certificate of registration/licensing, if applicable.
- E. A diagram of the proposed site of the sale together indicating the place of sale, any parking that may be available, location of waste disposal barrel, and approximate distance from any public right of way, or if the application is for public property, the amount of room available for public pedestrian or vehicular traffic as may be applicable.
- F. A current a policy of general business liability insurance of not less than \$1,000,000 covering the Food Business. Such insurance shall be maintained throughout the time the licensed activity is being carried on

**455-10 Licensing fee/duration.**

- A. At the time of the application, a nonrefundable fee in the amount of \$100 plus \$12 (\$20 for out of state) per background check for each employee and \$25 for the fire inspection.
- B. Duration: License shall have a term of one year commencing on January 1 and ending on December 31.

**455-10 Investigation/inspection.**

- A. Upon receipt of each application from the City Clerk, the City of Weyauwega Police Department shall conduct an investigation of the statements made on such application and conduct a background check. The application must be received at least 20 days in advance of any license being issued.
- B. The Weyauwega Fire Department will inspect each mobile food unit and report a pass or failed inspection to the City Clerk. Applicants may be exempt from fire inspection upon approval by the Weyauwega Fire Department of a fire inspection report completed by any Wisconsin fire department within the calendar year of the event
- C. All mobile food trucks are subject to random inspections at any time during the event.

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D. 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 or the Weyauwega Fire Department 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 or applicable State or Federal laws. If a license is suspended under this section, the licensee may proceed under Section 445.11 A below.

**445-11 Refusal to issue, Appeal**

A. The City Clerk shall refuse to issue the license to the applicant if:

1. The application contains any material omission or materially inaccurate statement or is otherwise incomplete.
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, or any of the applicant's employees who are to participate in the Food Business have been convicted of a crime, statutory ordinance or ordinance violation the circumstances of which are substantially related to the applicant's fitness to engage in the conduct for which the license is requested, or where an arrest for such crime, statute or ordinance is pending.
4. Applicant fails to comply with requirements of the Weyauwega Fire Department
5. The applicant failed to comply with any applicable provision of this Chapter.
6. The applicant failed to pay the fees required for the license.
7. The applicant has unpaid monies owed to the City of Weyauwega.
8. The proposed manner of doing business does not, in the Clerk's reasonable discretion, adequately protect the health or safety of the general public.

B. Appeal of Clerks decision. If the Clerk determines to deny the license, the applicant can appeal that decision to the Public Health and Relief Committee who shall consider whether issuance of the license is consistent with the public health safety or general welfare of the City or with compliance with the provisions of this ordinance. The Council may impose reasonable conditions on the Food Business to protect the public health safety and

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welfare. Violation of any such condition shall be grounds for the immediate suspension of the license.

455-12 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.

455-13 Penalty. Any person adjudged in violation of any provision of this ordinance shall forfeit not less than \$10 nor more than \$500.00 for each violation per day plus costs of prosecution. Each violation shall constitute a separate offense.


**SECTION 2:** All other City Ordinances and regulations contrary to this ordinance are hereby repealed.

**SECTION 3:** This ordinance shall take effect upon its passage and publication according to law.

**PASSED AND ADOPTED** by the City Council of the City of Weyauwega, Waupaca County, Wisconsin this 16<sup>th</sup> day of September, 2024.

CITY OF WEYAUWEGA

BY:

  
Richard Luedke  
Mayor

**ATTEST:**

  
Rebecca Loehrke, Clerk

Introduced by: Meta Berg  
Seconded by: Shani Appleby

Date Adopted: Sept. 16, 2024  
Date Published: Sept. 26, 2024