

## ORDINANCE 22 -003

An Ordinance to adopt Chapter 436 - Mobile Retail of the Code of the City of Monroe; to repeal Chapter 360 - Food Trucks/Mobile Food Vending Units; to repeal Chapter 374 - Hawkers, Peddlers and Transient Merchants; and to repeal Chapter 396 - Ice Cream Sales Vehicles

### **THE CITY OF MONROE ORDAINS:**

#### SECTION 1. Adoption of Chapter 436 - Mobile Retail of the Code of the City of Monroe.

Chapter 436 - Mobile Retail" of the Code of the City of Monroe is hereby adopted as follows:

#### **§436-1 - Short Title**

This chapter may be known as the "Mobile Retail Ordinance."

#### **§436-2 - Intent**

In the interest of encouraging mobile retail vendors who add to the vibrancy and desirability of the City of Monroe, while providing a framework under which such businesses operate, this chapter is established.

#### **§436-3 - Definitions**

**DIRECTOR OF PUBLIC SAFETY** – The Director of Public Safety or his or her designee.

**FOOD TRUCK** – A self-contained, motorized vehicle, identified generically as a "mobile retail vending unit," which is used for the preparation and distribution or sale of food (including ice cream).

**HAWKER and PEDDLER** – Any person who goes about to any private residence or residences, or upon the streets, sidewalks or public alleys, or on other public property in the City, carrying, selling, offering for sale or taking orders for the sale of any edible items, goods, wares, merchandise or any kind of property or thing.

**ICE CREAM** – All frozen desserts of any kind, including, but not limited to, ice cream, ice milk, popsicles or ice sherbets.

**MOBILE RETAIL VENDING** – Vending, serving, or offering for sale food and/ or beverages or other items from a mobile retail vending unit, and which may include the ancillary sales of branded items consistent with the food or vendor, such as a tee shirt that bears the name of the company, restaurant or organization engaged in mobile retail vending.

MOBILE RETAIL VENDING UNIT – Any motorized or nonmotorized vehicle, trailer, food truck, or other device designed to be portable and not permanently attached to the ground from which food is vended, served, or offered for sale.

MOTOR VEHICLE – Every vehicle which is self-propelled.

OPERATE – All activities associated with the conduct of business, including setup and takedown and/or hours of operation and locations where the mobile retail vending units are allowed to be open for business.

OWNER – The person to whom a license is issued.

PERSON – Any individual, firm, partnership, corporation, company, association or other business entity.

TRANSIENT MERCHANT – Any person engaged temporarily in the retail sale or delivery of edible items, goods, wares, merchandise or any kind of property or thing from any lot, premises, building, room or structure. The term shall not apply to the following:

- A. A person handling vegetables, fruits or other perishable farm products at any established City market.
- B. A person selling at an art fair or festival or similar event at the invitation of the event's sponsor if all of the following conditions are met:
  - (1) The sponsor is a governmental entity or nonprofit organization.
  - (2) The person provides the sponsor with the person's sales tax license number.
  - (3) The sponsor provides a list of the event's vendors and their sales tax license numbers to the Clerk/Treasurer.
- C. A person soliciting orders by sample, brochure or sales catalog for future delivery or making sales at residential premises pursuant to an invitation issued by the owner or legal occupant of the premises.

VEHICLE – Every device in, upon or by which any person or property is or may be transported or drawn on a street, sidewalk or alley.

VEND or VENDING – Offering items of any kind from a vehicle with the City for retail sale.

VENDOR – Any individual who vends.

#### **§436-4 - Individual & Vehicle Permits Required**

- A. Individual Permit Required. No person, either as owner, agent, or otherwise, shall furnish, operate, conduct, maintain, advertise or otherwise be engaged in, or

profess to be engaged in, the business or service of the following without a permit:

1. Engaging as a Hawker and Peddler, Transient Merchant or Vendor (including Mobile Food Vending) as defined in the Code of the City of Monroe within the City of Monroe.
2. Vending, serving, or offering for sale food and/or beverages from a mobile retail vending unit, and which may include the ancillary sales of branded items consistent with the food or vendor, such as a tee shirt that bears the name of the company, restaurant or organization engaged in mobile retail vending. Vendors of Food Truck or Mobile Retail Vending Units described in this section shall obtain a permit for each unit. If more than one individual is operating a single unit, then "vendor" shall mean all individuals operating such unit or units.

B. Permits not Required.

The following activities are exempt from the permit application requirement:

- (1) Any person engaged in the retail sale of goods, wares or merchandise at a permanent location in the City and subject to the City's ad valorem real or personal property taxes.
- (2) Any person representing any recognized religious or charitable organization which has a valid license issued by the State of Michigan under the provisions of Act 169 of the Public Acts of 1975.1
- (3) Any person representing any established public or private school, provided that sales are under the sponsorship of the school.
- (4) Any honorably discharged member of the armed forces, pursuant to Act 20 of the Public Acts of 1989, being MCLA § 35.441 and § 35.442.
- (5) Any person exempt from the licensing requirements of this section by virtue of state or federal law.

C. Any person requesting an exemption under Subsection B hereof shall bear the burden of proving, by a preponderance of the evidence, that he or she falls under the exemption provisions as contained in that subsection.

**§436-5 - Permit Assignment Prohibited**

All permits issued by the City allowing for vending as described in this chapter shall contain a clause prohibiting the assignment or transfer.

**§436-6 - Permit Display**

All permits required by this Chapter shall be prominently displayed and affixed to the vehicle or upon his or her person if not operating a vehicle. Any person shall display his or her license for review and inspection when so requested by any representative of the City or citizen.

No person shall be so engaged in business requiring a permit without having displayed the permit in full view at the location of the business.

#### **§436-7 - Permit Expiration**

Permits issued under this Chapter by the Clerk/Treasurer's office shall be valid only for the calendar year in which they are issued and for the purpose or unit identified on the permit. There shall be no proration of fees. Fees are nonrefundable once paid to the Clerk/Treasurer's office.

#### **§436-8 - Permit Application**

- A. No person shall be issued a permit to engage in any activity described in this Chapter without first having submitted a completed license application on a form provided by the office of the Clerk/Treasurer.
- B. Upon submission of the necessary permit application, each person, unless otherwise exempt, shall pay a nonrefundable permit application fee, as determined by the Clerk/Treasurer and approved by the Mayor and City Council by resolution.
- C. Each application for a permit may contain such information as deemed appropriate by the Clerk/Treasurer, including but not limited to the following:
  - (1) The applicant's name, date of birth, social security number, permanent address, business address and telephone number at the time of submission of the application, and any prior business addresses used for the previous three years, tax identification number of entity (if any), and number of employees.
  - (2) Description of the type of vehicle to be operated, and certification by the applicant that the applicant possesses a valid driver's license.
  - (3) The name of the person, firm, partnership, corporation or other business entity represented, if different from the applicant, together with the address of the registered office of the business and registered agent designated in Michigan for service of legal process, and the address of the nearest local or district office.
  - (4) A description of the nature of the business represented and the goods, wares, items or merchandise to be sold.
  - (5) The exact locations within the City where the applicant will conduct his or her business.
  - (6) The length of time for which the permit is required and the expected days and hours of operation.
  - (7) A complete listing of all such prior applications filed with the Clerk/Treasurer's office within the last five years.
  - (8) A statement indicating whether the permit will operate from a lot, room, building, structure or vehicle or will be vending on foot or from a vehicle.
  - (9) A statement of all criminal offenses which the applicant has been convicted of within the last five years by any court.

- (10) A statement stating whether or not the applicant has ever had any licenses required by this City or any state or municipal authority revoked, suspended or denied within the last five years and under what circumstances.
- (11) A copy of a valid current Michigan sales tax license, or, if exempt, a copy of a current exemption certificate, if required for the goods, wares or merchandise sold.
- (12) Any such other reasonable information that the Clerk/Treasurer deems necessary to process the application and fulfill the purposes of this chapter.
- (13) The type of vehicle and the motor vehicle registration number or bicycle license number thereof.
- (14) If the vehicle is classified as a motor vehicle, the applicant shall also provide the Clerk/Treasurer with the following:
  - (1) The report on an inspection by the Department of Public Safety regarding the safety and suitability of the Vehicle.
  - (2) A certificate of insurance showing that the applicant is carrying the following minimum amounts of insurance: public liability insurance of \$1,000,000 for injuries, including those resulting in death from any one occurrence and on account of any one accident, and property damage insurance of \$1,000,000 for damages on account of any one accident or occurrence. Certificates shall contain an agreement signed by the insurance company that prior to modification, cancellation or termination of the subject policy, written notice shall be sent to the Clerk/Treasurer by the insurance company and that the City of Monroe shall be named as an additional named insured.

**§436-9 - Criminal Background Check and Vehicle Permit Application Requirements**

- A. A portion of the fee for each applicant requesting a permit to vend may be used to conduct a criminal background investigation regarding the applicant if deemed appropriate by the Clerk/Treasurer. The Director of Public Safety shall report the findings of his or her investigation to the Clerk/Treasurer, who may, if finding the applicant not to be suitable based on the investigation, deny the application.
- B. Each person, firm or corporation owning or leasing a vehicle from which the vending will be made shall file an application with the Clerk/Treasurer on a form provided by the Clerk/Treasurer. Said form shall contain the following: permanent address and local address of any Vehicle or the business entity of the applicant.

#### **§436-10 - Permit Issuance or Refusal; Revocation; Appeal**

- A. No later than 45 days after the receipt of a properly completed application, and any required fees, the Clerk/ Treasurer, upon being satisfied that the applicant is of good moral character and the proposed activity is consistent with public health, safety and welfare, shall issue a permit.
- B. All permit refusals shall be in writing, addressed to the applicant and stating, with particularity, the reason(s) for the refusal.
- C. No permit shall be granted to a minor.
- D. Any applicant aggrieved by a final determination by the City Clerk/ Treasurer in denying the issuance of a license or revoking a license may appeal said determination in writing to the City Manager within seven days from the decision. The City Manager shall review the documentation and any statement from the applicant together with any other relevant information and make a final decision within 30 days from the date of the receipt of the appeal letter.

#### **§436-11 - Replacements Permits**

- A. Additional copies of permits to replace those lost, spoiled, destroyed or rendered partially or wholly illegible may be obtained from the Clerk/ Treasurer for a fee. Said fee shall be determined by the Clerk/Treasurer and approved by the Mayor and City Council by resolution. No more than one copy of a permit shall be issued to or in the possession of any permit holder at one time.
- B. The original copy must be surrendered to the Clerk/Treasurer prior to the issuance of a replacement permit. In the event that the original permit is lost or destroyed, the permit holder shall be required to execute an affidavit stating such fact and indicating the circumstances thereof.
- C. The additional copy of the permit shall be clearly marked "duplicate" in plain letters across the face thereof by the Clerk/Treasurer.

#### **§436-12 - Time and Place restrictions.**

No person shall be engaged in vending before 8:00 a.m. or after 8:00 p.m. except when specifically authorized as part of a special event approved by the City or authorized by the owner of the private property upon which the person intends to operate – provided that such operation does not constitute a nuisance by virtue of the noise, light, or sound of the operation and that such operation does not restrict travel on the public roadways and sidewalks of the City. During any special events, the City may restrict or prohibit participation by any or all vendors authorized by this ordinance in the City's sole discretion and authority. If a group of mobile vending unit owners desires to have an

event or gathering of mobile vending units, such event or gathering shall obtain approval for such conduct as a special event.

**§436-13- Prohibited actions, activities or conduct.**

No person, while vending shall engage in the following prohibited actions, activities or conduct:

- A. Alter, remove or obliterate any entry made upon a permit issued pursuant to this chapter, or deface such permit in any way, or allow the alteration to be done by another.
- B. Refuse and/or fail to produce a valid permit when requested by any representative of the City or other individual.
- C. Transfer, with or without consideration, any permit previously issued.
- D. Remain in a private residence or upon any private property or premises after the owner, occupant or agent has requested, ordered or commanded the vendor to leave.
- E. Use any weighing or measuring device in the conduct of his or her business, or have in his or her possession any weighing or measuring device, unless the device has been examined, approved and sealed by the Inspector of Weights and Measures.
- F. Sell or offer for sale any unsound, unripe or unwholesome food, or any defective, faulty, incomplete or deteriorated item or article of merchandise, unless the goods are so represented to prospective customers.
- G. Use any noisemaking device, amplifier or the human voice to call attention to his or her wares, goods or items in such a manner as to create a disturbance, as provided for in the Code of the City of Monroe.
- H. Vend unless the vehicle is lawfully parked or stopped.
- I. Vend except from the side of the truck away from moving traffic and as near as possible to the curb or edge of the street.
- J. Vend to a person standing in the roadway unless the roadway is closed to traffic.
- K. Stop on the left side of a one-way street to vend.
- L. Proceed in reverse to make or attempt a sale.
- M. Commit any act that is prohibited under the existing ordinances of the City.
- N. Commit any act that is prohibited under existing state and federal law.
- O. Upon receipt of a complaint alleging prohibited conduct, as listed in immediately above, the Clerk/Treasurer, or his or her designee, shall conduct an investigation to determine whether the complaint is valid. If the Clerk/Treasurer, or his or her designee, reasonably determines that the complaint is valid, he or she may take such reasonable action, including revoking the permit as is warranted by the nature of the prohibited action, activity or conduct. Any enforcement action taken shall in no way affect, or is intended to affect, the imposition of any penalty described in § 1-27 of this Code of the City of Monroe.

#### **§436-14 - Unauthorized Riders Prohibited.**

- A. The driver of a Mobile Retail Vending Unit shall not permit any unauthorized person to ride in or on the vehicle.
- B. No person shall ride in or on a Mobile Retail Vending Unit, unless he or she is employed by its owner or unless he or she is authorized, in writing, to do so by the owner or the Department of Public Safety.

#### **§436-15 - General Prohibitions**

- A. Vendors shall not operate on City-owned property or on public streets without prior authorization and approval of the City Clerk/Treasurer's office. No food service shall be allowed on the driving lane side of the mobile retail vending unit. If operating on a private street, the customer service area for mobile retail vending units shall be on the curb lawn or sidewalk when parked. Mobile retail vending units selling ice cream exclusively may be authorized to operate while travelling on public streets in areas zoned for residential use. All other mobile retail vending units shall vend from a particular location for at least one hour prior to moving to another location provided that such locations have been approved as part of a special event or are private property where the owner of the mobile vending unit has the prior authorization of the owner to operate.
- B. No food shall be sold, prepared or displayed outside of the food truck or mobile retail vending unit while on the location noted on the permit.
- C. Vendors shall provide appropriate waste receptacles at the site of the unit and remove all litter, debris and other wastes attributable to the vendor and/or customers on a daily basis.
- D. Vendors shall not use any flashing, blinking or strobe lights or similar effects to draw attention to the food truck or mobile retail vending unit; all exterior lights over 60 watts shall contain opaque hood shields to direct the illumination downward.
- E. Vendors shall not use loud music, amplification devices or crying out or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the City of Monroe
- F. There shall be no signage used by vendors except for what is allowed on the vehicle, food truck or mobile retail vending unit itself.
- I. Vendors are prohibited from locating, placing, or putting personal property outside of the food truck, including but not limited to dining furniture, fixtures, and equipment.
- J. No vendor shall utilize any electricity or power without the prior written authorization of the power customer; no power cable or similar device shall be extended at or across any street or sidewalk except in a safe manner. If unit is not self-contained and requires electric service, a permit issued by the City of Monroe Building Department is required and an additional fee shall be charged by the City.
- K. Vendors shall comply with all applicable City laws, regulations, and ordinances, including those regulating noise, signage, and loitering.



- L. Vendors shall not represent the granting of a permit under this chapter as an endorsement of the City.

**§436-16 - Other Permits Required.**

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

**§436-17 - Appearance tickets.**

The Monroe Police Department or such other officials as designated by the Monroe City Council are authorized to issue and serve appearance tickets with respect to a violation of this chapter pursuant to Michigan law.

**§436-18 - Civil infraction.**

A violation of this chapter is designated as a civil infraction subject to fines as set out in § 1-27E of the Monroe Code.

**§436-19 - Injunctive Relief.**

The City shall have the right to pursue injunctive or other relief from the Circuit Court for the County of Monroe in the event of a violation of this chapter in addition to all other remedies provided for by law or equity.

SECTION 2. Repeal of Chapter 360 - Food Trucks/Mobile Food Vending Units

Chapter 360 - Food Trucks/Mobile Food Vending Units of the Code of the City of Monroe is hereby repealed in its entirety.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they are/were commenced.

SECTION 3. Repeal of Chapter 374 - Hawkers, Peddlers and Transient Merchants

Chapter 374 - Hawkers, Peddlers and Transient Merchants of the Code of the City of Monroe is hereby repealed in its entirety.

SECTION 4. Repeal of Chapter 396 - Ice Cream Sales Vehicles

Chapter 396 -Ice Cream Sales Vehicles of the Code of the City of Monroe is hereby repealed in its entirety.

SECTION 5. SAVINGS CLAUSE.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they are/were commenced.

SECTION 6. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is declared unconstitutional by a court of competent jurisdiction, such decision or holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall be in full force and effect Twenty (20) days after final passage and publication.

First Reading	June 06, 2022
Public Hearing	June 20, 2022
Second Reading	June 20, 2022
Adoption	June 20, 2022
Publication	July 14, 2022

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Michelle J. LaVoy  
City Clerk-Treasurer

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Robert E. Clark  
Mayor