

## ORDINANCE NO. 2017-1

### AN ORDINANCE CREATING CHAPTER 335 OF THE CODE OF ORDINANCES PROVIDING FOR THE REGULATION OF MOBILE FOOD ESTABLISHMENTS AND MOBILE DESSERTS ESTABLISHMENTS

The Common Council of the City of Richland Center, Wisconsin, does ordain as follows:

#### SECTION 1:

Chapter 335 of the Code of Ordinances providing for the regulation of mobile food establishments and mobile desserts establishments is adopted to read as follows:

#### CHAPTER 335

#### REGULATION OF MOBILE FOOD ESTABLISHMENTS AND MOBILE DESSERTS ESTABLISHMENTS

**335.01 City Permit Required.** No person shall operate a mobile food establishment in the City of Richland Center without obtaining a City permit as required under this Chapter.

**335.02 Definitions.** In this Chapter the following definitions apply:

(1) "Mobile food establishment" means a restaurant or retail food establishment where food is served or sold from a movable vehicle, push cart, trailer, or boat which periodically or continuously changes location, including movable concession stands designed to operate as a temporary food establishment and/or traveling retail food establishments as those terms are used in Wis. Admin. Code Chap. ATCP 75 "Appendix" (the "Wisconsin Food Code").

(2) "Mobile food establishment" does not include the following:

(a) A vehicle which is used solely to transport or deliver meals prepared somewhere other than in or on the vehicle to specific persons.

(b) A common carrier regulated by the state or federal government.

(c) An establishment under hire, contract or special request to provide food service to a private group, organization or business and is not serving to members of the general public provided the establishment is in full compliance with all state applicable food and health code requirements.

(3) "Mobile desserts establishment" means a sub-class of mobile food establishment which serves only individual portions of ice cream, ice milk, frozen custard, frozen yogurt, dessert mix, sundaes, or other frozen desserts that are prepackaged and totally enclosed in a wrapper or container and which have been manufactured, prepared and wrapped in a licensed

food establishment.

**335.03 Regulations Pertaining to All Mobile Food Establishments.** Mobile food establishment units operating within the City of Richland Center shall comply with all of the following:

(1) All mobile food establishments shall comply with all state food and health code requirements applicable to the establishment, including but not limited to having in force any license required under state law.

(2) All required state and City of Richland Center licenses and permits shall be conspicuously displayed on the mobile food establishment while in operation.

(3) Mobile food establishments shall operate only between the hours of 7:00 a.m. and 10:00 p.m.

(4) All mobile food establishments including mobile desserts establishments shall provide at least one leakproof container for the deposit of waste. Mobile food establishment operators are required to remove or otherwise properly dispose of all waste, litter or garbage generated by their operations and patrons on a daily basis including that which may be reasonably seen from the location of operation on the ground or otherwise not in a proper disposal container.

(5) All mobile food establishment units must have signage posted, in lettering not less than three inches in height, in plain view to all patrons, which provides the name of the operator.

(6) Mobile food establishments other than mobile desserts establishments shall operate only on private property in Commercial, Industrial or Industrial Park zoning districts and only with the consent of the owner or person in legal possession of the property unless the City Council or, in the case of City parks, the Board of Park Commissioners, has granted the operator specific permission to operate on city property or in a city park on specific dates and times.

**335.04 Regulations Specific to Mobile Desserts Establishments.**

(1) A mobile desserts establishment may operate on the public streets within any City zoning district provided it is parked on a street only while serving customers present or approaching for service or while it is not open for service.

(2) Mobile desserts establishments operating on public streets shall not obstruct any public street, sidewalk, trail access or visibility of cross walks, street corners, driveways or intersections and operators shall take affirmative steps to direct customers waiting for service to refrain from causing any such obstructions.

**335.05 City Permit Application.** Applications to operate a mobile food establishment unit shall be filed by the owner of the unit with the City Clerk on a form prescribed by the City Clerk.

(1) Such form shall require the following information be provided:

(a) The full legal name, address and telephone number of the person who owns and operates the unit. Where the unit is operated by a corporation, limited liability company firm, association or other legal entity the application shall state the full legal name, name, address and telephone number of the registered agent representing the entity.

(b) The length of time for which the right to conduct business is desired.

(c) The make, model and license number of any vehicle to be used in the operation of the unit.

(d) The location or locations upon which the unit will be operated.

(e) A copy of the applicant's valid food and beverage license issued by the State of Wisconsin.

(f) A photograph of the unit.

(2) At the time of filing the application, the applicant shall present the following to the Clerk for examination and copying:

(a) Any state license required for the unit.

(b) A driver's license or some other proof of identity of the operator or, if the unit is owned or operated by a corporation, limited liability company firm, association or other legal entity, of an officer or the registered agent of the entity.

(3) All City permits shall be effective for one calendar year, from January 1 to December 31 of the same year.

### **335.06 Exemptions From City Permit Requirement for 501(c) Tax Exempt Entities.**

(1) No City permit shall be required for a mobile food establishment operated by organizations which are tax-exempt under sec. 501(c) of the Internal Revenue Code for fund-raising purposes which are operated a maximum of 12 days per calendar year and which are therefore not required to be licensed by the Wisconsin Department of Agriculture, Trade and Consumer Protection. A mobile food establishment operated by a tax-exempt organization more than 12 days per calendar year which is required to have a state license is also required to have a City permit.

(2) Notwithstanding the foregoing, mobile food establishments operated by tax-exempt organizations and claiming exemption from the City permit requirement shall file with the City Clerk the name, address and contact phone number of a person empowered to represent the organization.

(3) Any mobile food establishment which claims exemption due to its operation by an organization which is tax-exempt under sec. 501(c) shall, upon demand, furnish to the City copies of documentary evidence of its recognition as a tax exempt entity by the Internal Revenue Service.

(4) Mobile food establishments operated by tax-exempt organizations shall operate in conformity with all other regulations set forth in this Chapter.

**335.07 City Permit Fees.** The annual fees for City permits shall be as follows:

(a) Mobile food establishment other than a mobile desserts establishment which are required to have a City permit: \$50.00

(b) Mobile desserts establishment: \$50.00

**335.08 Finding of Public Nuisance.** The Common Council hereby finds and determines that the operation of a mobile foods establishment not meeting the required licensing standards of the Wisconsin Department of Agriculture, Trade and Consumer Protection poses a threat to the health and well being of members of the public and, therefore, hereby declares any such establishment operating without a state license to constitute a public nuisance and may be proceeded against as such.

### **335.08 PENALTY FOR VIOLATIONS.**

(1) **FORFEITURE.** Any person, partnership, corporation, limited liability company, voluntary association or other legal entity who shall violate or fail or refuse to comply with any section of this chapter may be prosecuted for such violation and shall, upon conviction, forfeit to the City of Richland Center not less than \$100.00 nor more than \$400.00, plus all applicable costs, fees and surcharges imposed under Ch. 814 Wis. Stats., and in the event such forfeiture, costs, fees and surcharges are not paid, such person, any partner of such partnership, or any officer, director or managing member of any corporation or limited liability company or any officer of such voluntary association may, upon order of the Circuit Court, be imprisoned in the Richland County jail until such forfeiture, costs and assessment are paid, but not to exceed 90 days, or may be subject to any other sanctions imposed by the Court for such failure to pay. Each day that a violation is maintained or permitted to exist shall constitute a separate violation.


(2) **OTHER REMEDIES.** In addition to or as an alternative to the imposition of a forfeiture or other procedures under this Chapter, the City may, in circumstances deemed appropriate by the City, proceed by court action against any violation or violator of this Chapter for injunction or other remedy available to the City.

(3) **REMEDIES NOT EXCLUSIVE.** Such proceeding seeking other remedies shall not be deemed waived by the City by the imposition of a forfeiture for the same violation, nor shall imposition of a forfeiture be deemed a waiver of or a bar to proceeding for other remedies.

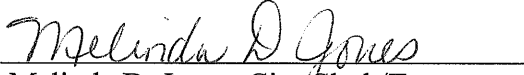
**SECTION 2:**

This ordinance shall be in full force and effect from and after its passage and publication.

Enacted the 21st day of March, 2017

  
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Paul F. Corcoran, Mayor

ATTEST:

  
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Melinda D. Jones, City Clerk/Treasurer