

TOWN OF NEW WHITELAND, INDIANA

ORDINANCE NO. 2024-03

**AN ORDINANCE AUTHORIZING AND ENACTING
REGULATIONS FOR MOBILE FOOD VENDORS**

WHEREAS, pursuant to Indiana Code Chapter 36-8-2, the Town of New Whiteland (the "Town"), by its Town Council ("Council") may, among other things, regulate conduct and use of property that might endanger the public health, safety, or welfare, and may regulate businesses and solicitations by persons offering goods or services;

WHEREAS, pursuant to Indiana Code Sections 36-9-2-5 and 36-9-2-7, the Town, may, among other things, regulate the use of public ways;

ACCORDINGLY, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW WHITELAND, INDIANA, AS FOLLOWS:

Section 1. Applicability

(1) The provisions of this section apply to Mobile Food Vehicles used in Town to store, prepare, display and/or serve food or beverages, whether operated on public or private property. Mobile Food Vehicles, for purposes of this Ordinance shall refer to food service vehicles that are generally self-contained, readily movable, and which may be towed or self-propelled. In Town, for purposes of this Ordinance shall mean and refer to the annexed territory of the Town of New Whiteland.

(2) The requirements of this section shall not apply to the following:

- (a) Any person selling, at a lawfully established local market, produce, fruits, vegetables, flowers, herbs, honey, or other similar items grown or cultivated by that person.
- (b) Any person delivering fresh or prepared food or groceries to an established home or business in Town.

Section 2. Permit Required

(1) Any vendor wishing to operate a Mobile Food Vehicle must first apply for a mobile food permit on a form prescribed by the Council and pay a permit fee in an amount set by the Council, from time to time, which shall be paid at the time the application is submitted.

(2) Vendors, as a condition of obtaining a permit, shall provide copies of all required State and County permits and the then current Mobile Food Unit Requirements adopted by the Johnson County Health Department, and proof of general liability insurance in amounts of not less than \$250,000, per occurrence, and \$1,000,000, in the aggregate.

(3) Separate applications and permits shall be required for each Mobile Food Vehicle.

(4) Each application shall be submitted to and reviewed by the Town's Code Enforcement Officer, who, upon confirming that the applicant has met all applicable requirements, and paid the requisite fee, shall issue a permit.

(5) A permit shall be valid for the specified term as set by the Council, from time to time.

(6) Failure to comply with any provision of this Ordinance, or any applicable County or State statute, ordinance, rule, regulation, or requirement may result in permanent permit revocation or temporary permit suspension.

Section 3. General Regulations

(1) It shall be unlawful for any person, including any religious, charitable, or nonprofit organization to operate a Mobile Food Vehicle within the Town without a permit.

(2) A Mobile Food Vehicle must strictly comply with all requisite State and County statutes, ordinances, rules, and regulations, including, without limitation, the requirements of 410 IAC 7-24, and all applicable regulations and requirements of the Johnson County, Indiana Department of Health, all of which are, by reference, made a part of this Ordinance.

(3) A vendor shall obtain a property owner's written consent prior to and as a condition of operating a Mobile Food Vehicle on private property. A vendor shall present the property owner's consent upon request of the Town's Code Enforcement Officer or a Town police officer.

(4) No Mobile Food Vehicle shall be operated on any property owned or managed by the Town unless written approval has been given by the Council or its authorized representative. This rule shall not apply to "Ice Cream Man" vendors who may operate on Town streets pursuant to Section D of this Ordinance.

(5) No Mobile Food Vehicle shall be operated within 100 feet of the closest property boundary of any lawfully operating restaurants, or other food service businesses, unless with the consent of all those businesses. This distance restriction shall apply from one hour before the regularly advertised opening time until one hour after the regularly advertised closing time of the restaurants or other food service businesses to which it applies.

(6) No Mobile Food Vehicle unit shall be operated within 500 feet from the nearest point of the property boundary on which any lawfully permitted special event or festival is being conducted unless prior approval has been granted by either the organizer/operator of the special event or the Council.

(7) A Mobile Food Vehicle shall always be operated in strict compliance with all applicable motor vehicle laws of the State of Indiana and Town traffic and parking ordinances. No Mobile Food Vehicle shall be parked or operated within fifteen (15) feet of a fire hydrant.

(8) Mobile food vehicles shall not interfere with or obstruct the free passage of pedestrians or vehicles along any street, sidewalk, road, or parking lot drive aisle or be operated in a way that would endanger public safety or public.

(9) The volume of music or other sounds broadcast from a Mobile Food Vehicle shall be adjusted to be heard only by those in the immediate vicinity Mobile Food Vehicle. "Ice Cream Man" Vendors, as defined in Section D of this Ordinance may broadcast traditional, calliope, "ice cream man," style music while touring neighborhoods in Town.

(10) Except as provided herein, all signs must be permanently affixed to or painted on Mobile Food Vehicles and shall not extend more than six inches from the vehicle. No sign shall flash, cause interference with radio, telephone, television, or other transmissions; produce or reflect motion pictures; emit visible smoke, vapor, particles, or odor; be animated or produce any rotation, motion, or movement. Each Mobile Food Vehicle shall be permitted to display one sandwich board sign that does not exceed four feet in height, two feet in width or eight square feet in total area. Each sandwich board sign shall be located within ten feet of the location of the Mobile Food Vehicle and shall not be attached to any immovable fixture or object. Vendors shall not advertise products they are not authorized to sell.

(11) Liquid Waste, including grease and oil, shall be collected and in a grease trap or interceptor which shall not be discharged, emptied, or drained anywhere within the Town. All Mobile Food Vehicle vendors shall provide, at all times, a waste container for public use, the contents of which, along with all other trash and garbage originating from the operation of the Mobile Food Vehicle or otherwise deposited in the provided container, shall be collected and hauled away, each day, by the vendor. Spills of food or food by-products shall be thoroughly cleaned, and no gray water, grease, or other waste or by-products shall be discharged or diverted into any the storm water or sanitary sewer, gutter, ditch, yard, sidewalk, or street.

(12) Power sources required for a Mobile Food Vehicle shall be self-contained and in good working order. A Mobile Food Vehicle shall not use utilities drawn from a public right-of-way, without the Town's advanced written consent. A vendor may be charged for public utility services. Mobile Food Vehicles on private property may use electrical power from the property being occupied or an adjacent property, but only with the property owner's written consent. A vendor shall present the property owner's consent upon request of the Town's Code Enforcement Officer or a Town police officer. No power cable, cord, pipe, line, or equipment shall be extended across, at ground level, underground, or above ground, any Town property, right of way, sidewalk, or street, without the Town's advanced written consent. Sound emitted by generators powering Mobile Food Vehicles shall not exceed 70 A weighted decibels (dba).

(13) No Mobile Food Vehicle shall be parked on a public street or public parking lot overnight.

(14) Mobile Food Vehicles may be open to the public only between the hours of 6:00 A.M. and 10:00 P.M. local time.

Section 4. “Ice Cream Man Vendor” Exception Vendors who offer for sale, exclusively, cold or frozen, prepackaged and separately sealed food items, such as ice cream and frozen flavored ice, such as popsicles, which require no preparation and are offered for sale from a self-contained and self-propelled vehicle shall be referred to herein as “Ice Cream Man Vendors.” a definition which is meant to be descriptive and is not meant to have any gender preference or significance, but is included herein as a term because of its traditional familiarity.

Vendors who meet the “Ice Cream Man Vendor” Exception, after applying for and obtaining a permit from the Town, may tour neighborhoods in Town and offer their items for sale. “Ice Cream Man Vendors” shall not offer any item for sale, on any public street or public right of way, in Town, prior to noon or later than dusk on any day. “Ice Cream Man Vendors” shall not remain stationary, in one location on a public street in Town, for longer than 15 minutes at one time.

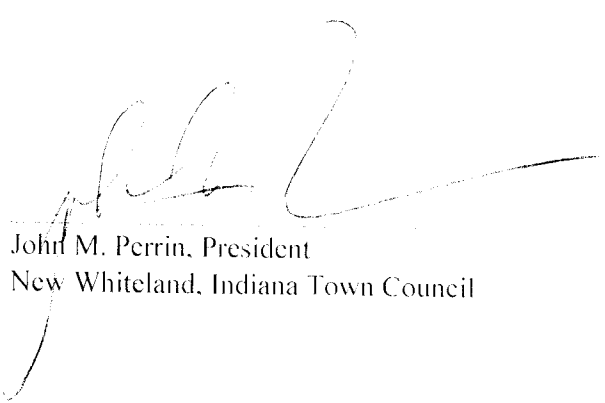
Section 5. Enforcement; Penalties


The Town’s Code Enforcement Officer and police officers shall be vested with enforcement authority to revoke or suspend Mobile Food Vehicle permits for violations of this Ordinance and may enforce against owners and/or operators of Mobile Food Vehicles or Ice Cream Man Vendors the Town’s nuisance ordinances and motor state and local motor vehicle statutes and ordinances, as they may apply, including the imposition of fines.

A vendor or other person who violates this Ordinance shall be subject to a one hundred and 00/100 dollars (\$100.00) fine for each violation, in addition to all other applicable fines and penalties.

Introduced at a regular meeting of the Town Council of the Town of New Whiteland, Indiana on the 1st day of May, 2024.

Adopted by majority vote of the Town Council of the Town of New Whiteland, Indiana on the 12th day of June, 2024.


John M. Perrin, President
New Whiteland, Indiana Town Council

Attest: 
Angela DeVoss,
New Whiteland Clerk Treasurer