

ORDINANCE NO. 2021- 13

AN ORDINANCE PERMITTING AND REGULATING MOBILE FOOD VENDORS  
IN THE TOWN OF FERDINAND, INDIANA

WHEREAS, there is a growing interest in food trucks, food concession carts, and other forms of mobile food sales;

**WHEREAS**, it is the intent of the Town Council of the Town of Ferdinand, Indiana, ("Town Council") to encourage Mobile Food Vendors who attract residents and tourists, and who add to the vibrancy of the Town of Ferdinand, Indiana, and while providing a framework under which such businesses operate;

WHEREAS, the current municipal code of the Town of Ferdinand, Indiana ("Town") does not address the regulation of mobile food vending;

**WHEREAS**, it is appropriate to establish reasonable regulations to govern mobile food vending in the Town, in an effort to provide reasonable opportunities for Mobile Food Vendors to operate within the Town;

**WHEREAS**, the Town Council finds that such regulations are needed in order to protect the public health, safety, and welfare of the Town of Ferdinand, Indiana, and the citizens and inhabitants thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF FERDINAND, INDIANA, as follows:

SECTION 1. There is hereby added to the Municipal Code of Ferdinand, Indiana, Chapter 2.06 the language of which shall be as follows:

Chapter 2.06. Mobile Food Vendors

SECTION 2. (2.06.010) Purpose of Chapter. The purpose of this Chapter is to regulate the activities of individuals, firms, or corporations engaging in the practice of mobile food sales to sustain a safe and consistent standard of operation and to promote public health, safety; and welfare of the Town of Ferdinand, Indiana and the citizens and inhabitants thereof. The requirements of this Chapter are in addition to the requirements of the Mobile Food Vendor Rules issued by the Dubois County Health Department which are then in effect and a Mobile Food Vendor must comply with both. A Mobile Food Vendor must first obtain an approved permit from the Dubois County Health Department. No food can be prepared in or stored in any private home or non-permitted facility.

SECTION 3. (2.06.020) Definitions. For the purpose of this Chapter, the following terms, phrases, words and abbreviations shall have the definitions given herein. When not inconsistent with the context. words used in the present tense include future tense, words in the plural number include the singular number and words in the singular number include the plural number:

- (1) "Town Council" shall refer to the Ferdinand Town Council.
- (2) "Town" shall refer to the Town of Ferdinand, Indiana.
- (3) "Park Board Approval" shall refer to the approval of the Ferdinand Park Board if permittee wishes to operate at 5<sup>th</sup> St. Park; 18<sup>th</sup> St. Park; or Old Town Lake.
- (4) "Food" shall mean any raw, cooked, or processed edible substance, ice, beverage, drink consumption.
- (5) "Food Caterer" shall refer to a person or company hired and paid to provide and serve food, usually for a large group and at a specific location address separate from where the food is prepared. A food caterer does not include someone preparing and selling food to individuals.

- (6) "Food Vending Pushcart" shall mean any box or container with wheels that is not propelled or moved by an engine and was designed and manufactured specifically for the purpose of selling food.
- (7) "Mobile Food Vehicle" shall mean a self-contained food establishment that is on wheels, self-propelled or moved by an engine, weighs no more than sixteen thousand (16,000) pounds, and for which the primary purpose of the vehicle is the sale and/or production of food.
- (8) "Mobile Food Vendor" ("Vendor") includes any individual person, firm, or corporation who operates, sells, serves, or gives away food or beverages from any mobile food vending pushcarts and/or mobile food vehicles.
- (9) "Mobile Food Vendor Permit" ("Permit") shall mean a permit which has been issued pursuant to the requirements of this ordinance.
- (10) "Special Event" shall mean any event so designated by the Town Council or Park Board of Ferdinand, Indiana. Special Event shall include, but not be limited to, sports tournaments and league play, both of which rely upon their own concession stand business.

**SECTION 4.** (2.06.030) Permit Required.

- (1) It shall be unlawful for a Mobile Food Vendor to engage in their respective businesses within the corporate limits of the Town of Ferdinand, Indiana, without obtaining a Mobile Food Vendor Permit from the Dubois County Health Department and then from the Town of Ferdinand in compliance with the provisions of this chapter. The obtaining of a permit by an employer or principal shall in no way relieve any employee or agent of that employer or principal of their legal obligation to obtain a permit, if their activity falls within the jurisdiction of this ordinance.
- (2) A Mobile Food Vendor shall obtain a separate permit for each Mobile Food Vehicle and/or Food Vending Pushcart they wish to operate. All permits issued under the authority of this Chapter shall not be transferable.
- (3) If any permit holder desires to continue in business after the expiration of a permit, a new permit must be obtained as required under this Chapter.
- (4) Permits issued under the provisions of this chapter shall contain the information prescribed by the Town Council.
- (5) The Town Council reserves the right to determine if an application for a permit is satisfactory and complete or if it unfairly jeopardizes the fundraising efforts of an organization participating in a Special Event. Neither the Park Board nor the Town Council shall authorize a Mobile Food Vendor permittee to compete with concession stand business during league play or sports tournaments conducted on park property.
- (6) Each Mobile Food Vendor must obtain all necessary and required licenses prior to applying for the Town permit and must comply with all regulations established by the Dubois County Health Department and/or other regulatory bodies then in effect.
- (7) Nothing contained in this Chapter shall relieve a Mobile Food Vendor from obtaining other required licenses and/or permits from other regulatory bodies.

**SECTION 5.** (2.06.040) Application. Applicants for any Mobile Food Vendor Permit under this Chapter must file a written sworn application signed by the applicant with Town Hall showing at minimum the following information:

- (a) The name, full address, telephone number, and email (if applicable) of the mobile food vending business, business owner, and business operator;
- (b) The intended locations of operation of the Mobile Food Vendor;
- (c) The duration of the permit being sought (specific dates listed);

- (d) The intended hours of operation of the Mobile Food Vendor,
- (e) The name, the telephone number, the email address of the private property owner (if applicable) and the full address of the private property on which the Mobile Food Vendor intends to operate, if applicable;
- (f) A complete menu of food being sold;
- (g) Proof of Dubois County Health Permit;
- (h) Proof of insurance, if operating on property owned and maintained by the Town, in compliance with the Town minimum insurance requirements;
- (i) Park Board Approval, if operating on park property;
- (j) Letter of approval from private property owner if operating on private property; and
- (k) Dated Mobile Food Vendor's signature verifying that they shall abide by the provisions of this Chapter.

**SECTION 6. (2.06.050) Investigation of Applicant.**

- (1) Upon receipt by Town Hall of any application for a permit under the provisions of this Chapter, the Ferdinand Police Department may investigate a Mobile Food Vendor's criminal history and moral character as it deems necessary for the protection of the public good and welfare.
- (2) If, as a result of the investigation, the applicant's moral character and business responsibility are found to be such as to endanger or be detrimental to the public and its good and welfare, the permit shall be denied or, if issued, revoked by the Ferdinand Police Department.

**SECTION 7. (2.06.060) Permit Fees.**

- (a) Each applicant shall pay a permit fee in accordance with the schedule set forth below:
  - (b) One Week Permit: \$25.00
  - (c) 30 Day Permit: \$ 50.00
  - (c) 90 Day Permit: \$120.00
  - (d) One Year Permit: \$240.00
- (2) A permit becomes active for a consecutive period of time on the day that the permit is approved. Applicant shall indicate the specific dates of anticipated use.
- (3) In the event the permit is revoked, the Town shall retain all funds. No refund will be given in the event of inclement weather.
- (4) No permit shall be issued until the permit fee has been paid.

**SECTION 8. (2.06.070) Insurance and Indemnity.**

- (1) Applicants operating on property owned and maintained by the Town shall provide a certificate of liability upon approval of the permit which shall insure the applicant and name the Town of Ferdinand, Indiana, as additional insured, against the following liabilities and in the following amounts relative to such activity:
  - (a) General Liability: \$1,000,000;
  - (b) Automotive Liability \$1,000,000; and
  - (c) Proof of Workers Compensation.
- (2) Mobile Food Vendors who are operating a Food Vending Pushcart are exempt from providing proof of automotive liability insurance. Mobile Food Vendors who are self-employed and have no additional employees are exempt from providing proof of workers compensation-insurance.

SECTION 9. (2.06.080) Location Restrictions.

- (1) Mobile Food Vendors shall be permitted to operate on Town property pursuant to the map and schedule attached as Exhibit A.
- (2) Mobile Food Vendors may make special requests to operate on other locations owned and maintained by the Town of Ferdinand, Indiana not listed on Exhibit A.
- (3) The Town shall have the authority to designate other locations of permitted operation for Special Events.
- (4) With written consent of the property owners, Vendors may operate on private property that is in a commercial or agricultural or industrial zone.
- (5) Where a Vendor seeks to operate in a right of way, the Vendor shall not impede the use of a street, alleyway, and/or sidewalk.
- (6) Vendors shall abide by the Sight Visibility Triangle standards set forth in the municipal code.
- (7) No Mobile Food Vendor shall operate within 100 feet of a Special Event, unless granted approval by the coordinator of the Special Event;
- (8) No Mobile Food Vendor shall locate themselves in an area that significantly impedes or prevents the use of any Town property, or which could endanger the safety and/or property of the public.
- (9) No Mobile Food Vender shall locate themselves in Residentially Zoned areas.

SECTION 10. (2.06.090) Prohibited Hours.

- (1) Mobile Food Vendors are prohibited from operating or parking on any property owned and maintained by the Town between the hours of 11:00 p.m. and 6:00 a.m.
- (2) Mobile Food Vendors may make special requests to the Town Council to operate during prohibited hours.
- (3) Mobile Food Vendors cannot leave their pushcart or vehicle unattended and/or parked and not open for business for more than ten (10) hours before opening or ten (10) hours after closing, provided, however the park curfew of 11:00 p.m. remains in full force and effect.

SECTION 11. (2.0 6.100) Standard of Conduct.

- (1) Mobile Food Vendors shall conduct themselves at all times in an orderly and lawful manner.
- (2) Mobile Food Vendors are prohibited from using a device or machine to produce unreasonable amounts of sound or light (such as but not limited to bull horns, strobe lights, and neon signs).
- (3) Mobile Food Vendors are required to obey the commands of law enforcement and code enforcement officials.
- (4) No Mobile Food Vendor shall provide tables, seating, or any other dining arrangements.
- (5) No Mobile Food Vendor shall sell or otherwise provide alcoholic beverages,
- (6) Mobile Food Vendors must provide waste receptacles that are sufficient in size for both customer and employee waste. Mobile Food Vendors shall not use Town waste receptacles.

- (7) Mobile Food Vendors are responsible for the disposal of waste that is generated by the use of their waste receptacles.
- (8) Mobile Food Vendors are prohibited from disposing of any food, liquid, or other waste materials in sanitary and/or storm water sewers.
- (9) Mobile Food Vendors are permitted one sandwich board, which may not exceed five (5) feet in height and three (3) feet in width, or fifteen (15) square feet in area. In addition, the sandwich board must be within ten (10) feet of the Food Vending Pushcart or Mobile Food Vehicle and cannot impede pedestrian or vehicular traffic.
- (10) Mobile Food Vendors shall not utilize any Town or private electrical outlets while in operation. All electrical needs must be self-generated.
- (11) Mobile Food Vendors operating electrical equipment are required to use heavy-duty extension cords.
- (12) Mobile Food Vendors may operate a generator that produces no more than seventy-five (75) decibels.
- (13) Mobile Food Vendors must be parked a minimum of ten (10) feet away from nearby buildings or other Food Vending Pushcarts and/or Mobile Food Vehicles.
- (14) Mobile Food Vehicles operating deep frying appliances must be parked a minimum of twenty (20) feet away from nearby buildings or other Food Vending Pushcarts and/or Mobile Food Vehicles.
- (15) Mobile Food Vendors must be parked a minimum of one hundred (100) feet from the entrance of a restaurant or from an outdoor dining area.
- (16) Mobile Food Vendors must be parked a minimum of fifteen (15) feet from a fire hydrant.
- (17) Mobile Food Vendors are prohibited from smoking within eight (8) feet of their Mobile Food Vehicle or Food Vending Pushcart.
- (18) No Food Vending Pushcart or Mobile Food Vehicle shall operate with a drive through.
- (19) Mobile Food Vendors must display their permit at all times while in operation.
- {20} Food Vending Pushcarts and Mobile Food Vehicles can be inspected by the Ferdinand Police Department or Ferdinand Fire Department when deemed necessary.

**SECTION 12.** (2.06.110) Safety Requirements.

- (1) All Mobile Food Vehicles must have an adequately rated fire extinguisher.
- (2) Mobile Food Vehicles operating deep fryer appliances must have a Class K rated fire extinguisher.
- (3) Each fire extinguisher provided by a Mobile Food Vendor shall have a label or tag securely attached that indicates the last time it was serviced. The label or tag must state the month the service took place and the individual, firm, or corporation responsible for servicing it. All fire extinguishers must have been serviced and validated within the last twelve (12) months.
- (4) Mobile Food Vehicles must have all fire extinguishers mounted at a minimum of three (3) feet in height and a maximum of five (5) feet in height.
- (5) Follow appropriate Dubois County safety regulations for food preparation and storage.

**SECTION 13.** (2.06.120) Suspension; Revocation; Penalties.

- (1) Permits issued under the provision of this Chapter may be revoked by the Town Council, Ferdinand Police Department or Ferdinand Fire Department after notice and hearing for any of the following causes:
- (a) Fraud, misrepresentation, or false statements contained in the application for the permit.
  - (b) Fraud, misrepresentation, or false statements made in the course of the business for which the permit is issued,
  - (c) Any violation of any of the provisions of this Chapter.
  - (d) Conducting the business for which the permit is issued in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- (2) Notice of hearing for revocation of a permit shall be given, in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice shall be mailed, postage prepaid, to the permit holder at their last known address, at least five (5) days prior to the date set for the hearing.
- (3) (a) **Penalties.** Any individual, firm, or corporation convicted of a violation of any provision of this chapter shall be fined in a sum not less than the applicable amount set forth below:

First Offense:	\$25.00
Second Offense:	\$100.00
Third Offense:	\$300.00
Fourth Offense:	\$600.00

Each day any violation of this chapter continues shall be considered a separate offense. The Town of Ferdinand, Indiana, shall also have the right to recover the costs of administering this offense, including but not limited to, filing fees and attorney fees.

- (b) **Enforcement.** Upon determination by the Town Council, Park Board, Ferdinand Fire Department or Ferdinand Police Department that there exists an emergency and that for the protection of the public welfare any permit should be immediately suspended, either may forthwith suspend the permit pending hearing as provided for in this Ordinance.
- (c) **Administrative Liability.** No officer, agent or employee of the Town of Ferdinand, Indiana, shall render themselves personally liable for any damage that may occur to persons or property, as a result of any act required or permitted in the discharge of their duties under this chapter. Any suit brought against any officer, agent or employee of the Town of Ferdinand, Indiana, as a result of any act required or permitted in the discharge of their duties under this chapter, shall be defended by the Town of Ferdinand until the final determination of the proceedings therein.

**SECTION 14.** (2.06.130) Right to Appeal.

- (1) Any individual, firm, or corporation aggrieved by a decision in regard to the denial or revocation of a permit as provided for herein shall have the right to appeal to the Town Council. Appeal shall be taken by filing with the Town Council, within fourteen (14) days after notice of the decision has been mailed to the last known address of the individual, firm, or corporation, a written statement setting forth the grounds for the appeal. The Town Council shall set the time and place for a hearing on the appeal and notice of the hearing shall be given to the individual, firm, or corporation in the manner provided for in herein for notice of bearing on revocation. The order of the Town Council on the appeal shall be final.

SECTION 15. (2.06.140) Exemption.

- (1) Ice cream trucks, caterers, food delivery drivers, and other food service vehicles that do not park or locate in any one place for longer than ten (10) minutes are exempt from the jurisdiction of this Chapter.
- (2) Lemonade stands, bake sales, and other stands operated by children for the purpose of selling homemade foods are exempt from the jurisdiction of this Chapter.
- (3) Approved vendors for Town-sponsored events such as the Folk Fest are not required to additionally apply for a food truck permit in order to participate as a vendor for that Town-sponsored event.
- (4) Non-motorized trailers which serve an ancillary use to a Food Vendor at a Special Event designated by the Town Council or Park Board (i.e. additional utensil, food items or equipment storage) are exempt from the jurisdiction of this Chapter.

SECTION 16. (2.06.150) Prior Ordinances. All ordinances and/or parts of ordinances in conflict herewith are hereby repealed.

SECTION 17. (2.06.160) Separability. If any section, sub-section, sentence, clause, phrase or portion of this Ordinance shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereunder,

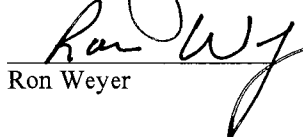
SECTION 18 (2.06.170). Effective Date. This Ordinance shall be in full force and effect from and after its passage by the Town Council, and completion of any other legal requirements, all in the manner as provided by law.

PASSED AND ADOPTED by the Town Council of the Ferdinand, Indiana, this 17 date of August, 2021.

FERDINAND TOWN COUNCIL

  
Kenneth J. Sicard

  
Debra Johnson

  
Ron Weyer

ATTEST:

  
Tamara M. Miller, Clerk-Treasurer

## MOBILE FOOD VENDOR PERMIT APPLICATION

<b>PART A IDENTIFICATION</b>			
<b>Name of Business</b>			
Address of Business (if applicable)	City	State	Zip
Phone Number	Email Address		
<b>Name of Operator (required)</b>			
Address	City	State	Zip
Phone Number	Email Address		

<b>PART B. DETAILS</b>			
<b>LOCATIONS OF OPERATION</b> (Check all that apply) <input type="checkbox"/> 5 <sup>TH</sup> St. Park <input type="checkbox"/> 18 <sup>th</sup> St. Park <input type="checkbox"/> Old Town Lake <input type="checkbox"/> Town Hall P. Lot <input type="checkbox"/> Private Property <input type="checkbox"/> Other:	<b>PERMIT DURATION</b> <input type="checkbox"/> One Week: \$ 25.00 <input type="checkbox"/> 30 Days: \$ 50.00 <input type="checkbox"/> 90 Days: \$120.00 <input type="checkbox"/> One Year: \$240.00	<b>Hours of Operation</b>  From:                      to  <b>List Dates:</b> <i>*Prohibited hours of operation: 11:00 p.m. to 6:00a.m.</i>	<b>Food Vending Method</b>  <input type="checkbox"/> Food Vending Pushcart <input type="checkbox"/> Mobile Food Vehicle

<b>PART C. REQUIREMENTS</b>			
Private Property Owner			
Phone Number	Email Address		
<b>Please include the following items with your completed application:</b> 0 Complete menu of food being sold. 0 Proof of Dubois County Health Permit. 0 Proof of Park Board Approval, if park property. 0 Proof of insurance, if applicable. 0 Letter of approval If operating on non-park property of the Town of Ferdinand. 0 Letter of approval from private property owner If operating on private property.			

Owner's Certificate: <i>I hereby certify that I as a Mobile Food Vendor shall abide by the provisions Municipal Code.</i>	
Applicant's Signature: <b>X</b> _____ Date: _____	

<b>FOR OFFICE USE ONLY</b>		
Approval:	Approval Date:	Permit Number: