

Ordinance No. 2020-2

**An Ordinance Regarding Regulation of Transient Merchants,
Direct Sellers, Solicitors and Mobile Food Establishments**

The Village Board of the Village of Bristol, Kenosha County, Wisconsin, do ordain as follows:

SECTION I. REPEAL AND ADOPTION OF PROVISIONS.

Title 7, Chapter 7 of the *Village of Bristol Code of Ordinances* is repealed and re-adopted to read as follows:

Title 7 ► Chapter 7

Direct Sales; Transient Merchants; Mobile Food Establishments

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Sec. 7-7-1 Registration Required.

The purpose of this Chapter is to protect the residents of the Village of Bristol in direct consumer transactions, solicitation activities, sales from mobile food establishments. It shall be unlawful for any person, business or organization to engage in such activities within the Village of Bristol without being registered for that purpose as provided herein.

Sec. 7-7-2 Definitions.

In this Chapter the following definitions shall be applicable:

- (a) **Clerk-Treasurer.** The Village of Bristol Clerk-Treasurer or in his/her absence the Village Administrator.
- (b) **Charitable Organization.** Shall include any benevolent, philanthropic, religious, patriotic or eleemosynary person, partnership, corporation, association or organization, or one purporting to be such registered under Sec. 440.42, Wis. Stats. Examples are, but not limited to, Boy/Girl Scouts, FFA, 4-H, United Way, American Heart Association, etc.
- (c) **Direct Seller.** Any individual who, for himself or herself, or for a partnership, association, organization or business, sells goods or takes sales orders for the later delivery of goods, at any location other than the permanent business place or residence of said individual, partnership, association, organization or business, and shall include, but not be limited to, peddlers and transient merchants. The sale of goods includes donations required by the direct seller for the retention of goods by a prospective customer or donor.

- (d) **Goods.** Personal property of any kind, and shall include goods provided incidental to services offered or sold.
- (e) **Merchandise.** Shall include personal property of any kind, and shall include merchandise, goods, or materials provided incidental to services offered or sold. The sale of merchandise includes donations required by the seller for the retention of merchandise by a donor or prospective customer.
- (f) **Permanent Merchant.** Any person who, for at least one (1) year prior to the consideration of the application of this Chapter to said merchant:
 - (1) Has continuously operated an established place of business within the Village of Bristol; or
 - (2) Has continuously resided in the Village and does business from his/her residence.
- (g) **Person.** All humans of any age or sex, partnerships, corporations, associations or organizations, groups and any other description of a collection of people working in concert or for the same purpose or objective.
- (h) **Solicitor.** Any person who plans, conducts, manages or carries on any campaign or drive in the Village for the purpose of soliciting contributions, travels from residence to residence for or on behalf of any charitable organization or any other person, organization, or who engages in the business of, or holds himself/herself out to persons in the State as independently engaged in the business of soliciting contributions for such purpose.
- (i) **Transient Merchant.** Any direct seller who engages in the retail sale of merchandise at any place in the Village of Bristol temporarily, and who does not intend to become and does not become a permanent merchant of such place. The sale of goods includes donations required by the transient merchant for the retention of goods by a donor or prospective customer. For purposes of this Chapter, sale of merchandise includes a sale in which the personal services rendered upon or in connection with the merchandise constitutes the greatest part of value for the price received, but does not include a farm auction sale conducted by or for a resident farmer of personal property used on the farm, or the sale of produce or other perishable products at retail or wholesale by a resident of this state.

Sec. 7-7-3 Exemptions.

The following shall be exempt from all provisions of this Chapter:

- (a) **Regular Delivery Routes.** Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.
- (b) **Wholesalers.** Any person selling merchandise at wholesale to dealers in such merchandise.
- (c) **Agricultural Products.** Any person selling Wisconsin agricultural products which the person has grown.
- (d) **Deliveries by Permanent Merchants.** Any permanent merchant or employee thereof who takes orders at the home of the buyer for merchandise regularly offered for sale by such merchant within this county and who delivers such merchandise in their regular course of business.
- (e) **Requested Home Visits.** Any person who has an established place of business where the merchandise being sold or is offered for sale on a regular basis, and in which the buyer has initiated contact with, and specifically requested, a home visit by, said person.

- (f) **Prior Sales Transactions.** Any person who has had, or one who represents a company which has had, a prior business transaction, such as a prior sale or credit arrangement, with the prospective customer.
- (g) **Services Not Offering Merchandise.** Any person selling or offering for sale a service unconnected with the sale or offering for sale of merchandise.
- (h) **Auctions; Sales Authorized by Statute.** Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.
- (i) **Charitable Organizations; Limited Exemptions.** Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization, provided that there is submitted to the Village Clerk-Treasurer proof that such charitable organization is registered under Sec. 440.41, Wis. Stats. Any charitable organization engaging in the sale of merchandise and not registered under Sec. 440.41, Wis. Stats., or which is exempt from that statute's registration requirements, shall be required to register under this Chapter.
- (j) **Alleged Transient Merchants.** Any person who claims to be a permanent merchant, but against whom complaint has been made to the Village Clerk-Treasurer or that such person is a transient merchant, provided that there is submitted to the Village Clerk-Treasurer proof that such person has leased for at least one (1) year, or purchased, the premises from which he/she is conducting business, or proof that such person has conducted such business in this Village for at least one (1) year prior to the date complaint was made.
- (k) **Persons Licensed by Examining Boards.** Any individual licensed by an examining board as defined in Sec. 15.01(7), Wis. Stats.
- (l) **Village Authorized Events.** This Chapter does not apply to transient merchants while doing business at special events authorized by the Village Board.
- (m) **Resident Minors; School Extracurricular Activities Fundraising.** Minors under eighteen (18) years of age who are residents of the Public School District of which the Village of Bristol is a part, and any other person regardless of age who is a participant in or is raising money for local school extracurricular programs, youth programs, or local sports organizations.
- (n) **School Fundraising.** Any group or individual selling merchandise for the primary purpose of raising funds for a public or private school engaged in the education of children from kindergarten through high school or any extracurricular group affiliated with such a school.
- (o) **Estate Sales.** Any family member holding an estate sale of the personal property of a deceased member of their family.
- (p) **Garage Sales.** Any person holding an occasional sale of personal property items from their residence (i.e., garage sale).
- (q) **Political or Religious Activities.** Any individual engaged in proselytizing, canvassing, campaigning or pamphleteering regarding political or religious views and not engaged in selling any merchandise or soliciting any funds or services.

Sec. 7-7-4 Registration.

It shall be unlawful for any direct seller, transient merchant or solicitor to engage in direct sales or solicitation for contributions of money or other items of value within the Village of Bristol without registration as provided herein:

- (a) **Application Information.** Applicants for registration must complete and return to the Village Clerk-Treasurer a registration form furnished by the Village which shall require the following information:
 - (1) Name, permanent address, email address, and telephone number, and temporary address, if any, of the person(s) conducting the sales or solicitation activities; such information shall be kept current with the Village Clerk-Treasurer during the application review period and at all times a registration is in effect;
 - (2) Height, weight, color of hair and eyes, and date of birth;
 - (3) Name, address and telephone number of the person, firm, association, organization or business that the transient merchant, direct seller or solicitor represents or is employed by, acts as agent for, or whose merchandise is being sold;
 - (4) Temporary address and telephone number from which business will be conducted, if any, and documentation that the applicant has permission to be at that temporary address;
 - (5) Copy of current driver's license or other form of current photographic identification;
 - (6) Nature of the business or solicitation to be conducted and a brief description of the merchandise offered and any services offered or the purpose of the organization for which solicitation is performed;
 - (7) Proposed method of delivery of merchandise, if applicable;
 - (8) Make, model and license number of any vehicle(s) to be used by applicant in the conduct of his/her business or solicitation;
 - (9) The last three (3) cities, villages, or towns where applicant conducted similar business or solicitation activities just prior to making this registration.
 - (10) Place where applicant can be contacted for at least seven (7) days after leaving the Village of Bristol; and
 - (11) Statement as to whether the applicant has been convicted of any crime or ordinance violation within the last five (5) years; the nature of the offense and the place of conviction.
- (b) **Identification and Certification.** Applicants shall also present to the Village Clerk-Treasurer for examination:
 - (1) A state certificate of examination and approval from the sealer of weights and measures where applicant's business requires use of weighing and measuring devices approved by state authorities; and
 - (2) A state health officer's certificate where applicant's business involves the handling of food or clothing and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than ninety (90) days prior to the date the application for license is made.
- (c) **Registration Fee.**
 - (1) At the time of filing applications, a registration fee per Section 1-3-1 shall be paid to the Village Clerk-Treasurer to cover the cost of investigation of the facts stated in the applications and for processing said registration. Every member of a group must file

a separate registration form. The primary applicant shall pay a registration fee per Section 1-3-1 plus a CIB investigation fee; each assistant under the application shall also be required to pay the CIB records check fee.

- (2) The applicant shall sign a statement appointing the Village Clerk-Treasurer his/her agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant, in the event the applicant cannot, after reasonable effort, be served personally.
 - (3) Upon payment of said fees and the signing of said statement, the Village Clerk-Treasurer may register the applicant as a transient merchant, direct seller or solicitor and date the entry. Registration fees shall be paid prior to the registration and prior to sales or solicitation activities starting. The registration fee shall be doubled in the event such activity is commenced prior to registration approval.
 - (4) Said registration shall be valid for a period of one (1) year from the date of entry, subject to subsequent refusal as provided in Sec. 7-7-5(b) below.
 - (5) No registration fee shall be charged to a charitable organization, its agents or employees. Solicitors of funds/donations for charitable or other such organizations from outside Kenosha County shall comply with all disclosure and registration requirements herein, including payment of the cost of the CIB records check.
 - (6) Such registration shall be for a calendar year and shall expire on December 31 following its issuance, provided however, that the fee shall be one-half (1/2) of the amount stipulated for a calendar year if registration is applied for on or after July 1 of any year.
- (d) **Bond.** Every applicant who is not a resident of Kenosha County or who represents a firm whose principal place of business is located outside of the State of Wisconsin shall file with the Village Clerk-Treasurer a surety bond in the amount of Five Hundred Dollars (\$500.00), conditioned that the applicant will comply with all provisions of the ordinances of the Village of Bristol and the State laws regulating peddlers, canvassers, solicitors, direct sellers and transient merchants, and guaranteeing to any person doing business with the person registered that all money paid as a down payment will be accounted for and applied according to the representations made; and further guaranteeing that property purchased for future delivery will be delivered according to such representations. Action on such bond may be brought by any person aggrieved.

Sec. 7-4-5 Investigation.

- (a) **Background Investigation.** Upon receipt of each application, the Village Clerk-Treasurer shall refer the application to an appropriate law enforcement agency, which will be requested to make and complete an investigation of the statements made in such registration, said investigation to be completed within five (5) days from the time of referral.
- (b) **Basis for Denial of Application.** The Village Clerk-Treasurer shall refuse to register the applicant and issue a permit if it is determined, pursuant to the investigation above, that:

the application contains any material omission or materially inaccurate statement; complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding three (3), in which the applicant conducted similar business; the applicant was convicted of a crime, statutory violation or ordinance violation within the last five (5) years, the nature of which is directly related to the applicant's fitness to engage in direct selling or solicitation; or the applicant failed to comply with any applicable provision of Section 7-7-4(b) above.

Sec. 7-7-6 Appeals.

Any person denied registration may appeal the denial through the appeal procedure provided by ordinance or resolution of the Village Board or, if none has been adopted, under the provisions of Sections 68.07 through 68.16, Wis. Stats. (Title 4 of this Code of Ordinances).

Sec. 7-7-7 Regulation of Sales or Solicitation Practices.

- (a) **Prohibited Practices.** Transient merchants, direct sellers and solicitors shall:
- (1) Be prohibited from calling at any dwelling or other place between the hours of 9:00 p.m. and 9:00 a.m. except by appointment; calling at any dwelling or other place where a sign is displayed bearing the words "No Peddlers," "No Solicitors" or words of similar meaning; calling at the rear door of any dwelling place; or remaining on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
 - (2) Not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any merchandise offered for sale, the purpose of his/her visit, his/her identity or the identity of the organization he/she represents. A charitable organization solicitor shall specifically disclose what portion of the sale price of merchandise being offered will actually be used for the charitable purpose for which the organization is soliciting. Said portion shall be expressed as a percentage of the sale price of the merchandise.
 - (3) Not impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales are made from vehicles, all traffic and parking regulations shall be observed.
 - (4) Not make any loud noises or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a one hundred (100) foot radius of the source.
 - (5) Allow rubbish or litter to accumulate in or around the area in which he/she is conducting business.
- (b) **Disclosure Requirements.**
- (1) After the initial greeting and before any other statement is made to a prospective customer, a transient merchant, direct seller or solicitor shall expressly disclose his/her name, the name of the company or organization he/she is affiliated with, if any, and the identity of merchandise or services he/she offers to sell.

- (2) If any sale of merchandise is made by a transient merchant, direct seller or solicitor or any sales order for the later delivery of merchandise is taken by the seller, the buyer shall have the right to cancel said transaction if it involves the extension of credit or is a cash transaction of more than Twenty-five Dollars (\$25.00), in accordance with the procedure as set forth in Sec. 423.203, Wis. Stats.; the seller shall give the buyer two (2) copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of Sections 423.203(1)(a)(b) and (c), (2) and (3), Wis. Stats.
 - (3) If the transient merchant or direct seller takes a sales order for the later delivery of merchandise, he/she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date and whether a guarantee or warranty is provided and, if so, the terms thereof.
- (c) **Credit Cards.**
- (1) No transient merchant, direct seller or solicitor may present to or deposit into a credit card system for payment, or cause another another person to present or deposit into a credit card sales draft generated by a direct sale or contribution that is not a sale or contribution by that seller or solicitor to the holder of the credit card.
 - (2) No transient merchant, direct seller or solicitor may, by means of a business relationship with a merchant, obtain access to a credit card system unless the access is authorized by that merchant's written agreement with the credit card system operator, or with an acquirer registered or authorized by the credit card system operator.
- (d) **Misrepresentations.** No person may employ, solicit or cause a merchant to violate this Section. No transient merchant, direct seller or solicitor may do any of the following, directly or by implication, in contacting a person for purpose of solicitation or sales:
- (1) Misrepresent the transient merchant's, direct seller's or solicitor's identity, affiliation, location or characteristics.
 - (2) Misrepresent the nature, purpose, or intended length of a direct sale or solicitation.
 - (3) Misrepresent the terms of the transaction or solicitation, or any document related to that transaction or solicitation.
 - (4) Misrepresent the cost of the goods or services offered or promoted by the direct seller or transient merchant, or fail to disclose the material cost payable by the consumer.
 - (5) Misrepresent the nature, quantity, material characteristics, performance or efficiency of the goods or services offered or promoted by the transient merchant or direct seller.
 - (6) Misrepresent or fail to disclose restrictions, limitations or conditions on the purchase, receipt, use or return of the goods or services offered or promoted by the direct seller or transient merchant.
 - (7) Misrepresent the material terms of a direct seller/transient merchant refund, cancellation, exchange, repurchase or warranties policies.
 - (8) Misrepresent that the direct seller/transient merchant is offering consumer goods or services free of charge or at a reduced price.
 - (9) Misrepresent that the direct seller/transient merchant/solicitor is affiliated with any governmental or third-party organization or association.

- (10) Misrepresent any aspect of a personal investment opportunity offered to the customer, including any aspect such as risk liquidity, earnings potential or profitability.
- (11) Represent that the transient merchant/direct seller has specially selected the customer unless such representation is true and the transient merchant/direct seller discloses to the consumer the specific basis on which the transient merchant/direct seller makes the representation.
- (12) Represent that the direct seller or transient merchant is conducting a special sales promotion, is making a special limited offer to a few persons, is making a special offer for a limited period of time, or is authorized to place the offered foods or services in a limited number of residences unless the representation is true and the direct seller/transient merchant concurrently discloses to the consumer the specific basis on which the representation is made.
- (13) Represent that the direct seller/transient merchant is participating in a contest or conducting a survey unless such representation is accurate.
- (14) Fail to disclose, in connection with any purported offer of free goods or services in a direct sale, any cost which the consumer must incur and any and all conditions which the consumer must meet in order to receive those free goods or services.
- (15) Make any false, deceptive or misleading representation to the customer.

Sec. 7-7-8 Suspension or Revocation of Registration.

- (a) **Revocation of Registration.** Registration may be revoked by the Village President, Village Administrator, Village Clerk-Treasurer or a law enforcement officer after notice if the registrant made any material omission or materially inaccurate statement in the application for registration, made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales or solicitation, violated any provision of this Chapter or was convicted of any crime or ordinance or statutory violation which is directly related to the registrant's fitness to engage in direct selling or solicitation. The permittee may request, in writing, a hearing before the Village Board on such revocation.
- (b) **Hearing Notice.** Written notice of the hearing shall be served personally or pursuant to Section 7-7-4(c) on the registrant at least seventy-two (72) hours prior to the time set for the hearing; such notice contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

Sec. 7-7-9 Special Event Vending Permit.

- (a) **Permit Required.** There shall be a per day fee for a Special Event Vending Permit per Section 1-3-1. The Village Board will determine whether an applicant party or organization qualifies for a Special Event Vending Permit to conduct specified activity related to a civic event, fair, festival or community promotion event on municipal property and public right-of-ways. The permit shall set forth the dates of the special event, its location parameters, and the location(s) where such business or vending will occur. Such permit shall be valid

only during the dates and at the locations specified. In addition, the vendor shall have adequate liability insurance in force as required by this Section.

(b) **Exclusive Vending Rights During Special Events.**

- (1) During a special event the Village Board may, and after public hearing, suspend specifically enumerated restrictions on transient merchants, direct sellers and/or mobile food establishments on any street, alley, sidewalk, public property, boat landing and/or public park or recreation area. Alternative rules and procedures may be established by the Village Board for the special event.
- (2) To encourage the integrity, comprehensiveness and success of a special event taking place on any street, alley, sidewalk, public property, boat landing or public park or recreation area, the Village Board may, after public hearing, reserve up to fourteen (14) days during any vending year when some or all aspects of licensing and regulation of transient merchants, direct sellers, and/or mobile food establishments will be suspended in the perimeter of the special event. During any special event, the rules, guidelines and procedures as set forth in the resolution approved by the Village Board shall take precedence.
- (3) For each such specific day during which certain or all vending permits have been declared to be suspended, the Village Board may by separate resolution and after public hearing, authorize the sponsor of a special event to select vendors, mobile food establishments, salespersons and vending sites for the duration of the special event within its perimeter. The event's sponsor shall contact the Village Board at least one (1) week before the public hearing with an outline of the rules, regulations, fees, areas affected and a proposed resolution for exclusive vending rights. The determinations of the Village Board as to any specific day during which a transient merchant, direct seller and/or mobile food establishment permit will not be suspended shall be by resolution adopted in advance of such specific day.
- (4) No person holding a transient merchant, direct seller, solicitor, or mobile food establishment permit may sell or offer for sale any goods or foods during a Village-authorized special event unless authorized by the sponsor of the special event as specified above.

Sec. 7-7-10 Mobile Food Establishments.

- (a) **Purpose.** The purpose of this Section is to establish standards for mobile food vending activities with the objective of protecting the public health, safety and welfare, while accommodating a variety of commercial uses within appropriate areas in the Village of Bristol which promote an active and social pedestrian, business and tourism environment. This Section also recognizes the importance of conventional restaurant establishments ("brick and mortar" businesses with physical fixed structures) in the Village given their investments, property taxes generated, and the ongoing vitality they bring to the community; such establishments are generally open to serve the needs of the public throughout the calendar year. An overall objective of this Section is to provide a positive business climate in the Village of Bristol which provides fair business opportunities for both conventional fixed location restaurants and mobile food vending operations offering the public a variety of food choices.

(b) **Definitions.** The following definitions and terms shall be applicable when used in this Section, except where the context clearly indicates a different meaning:

- (1) **Edible Goods.** Includes, but are not limited to:
 - a. On-site prepared food, including, but not limited to, sandwiches, wraps, tacos, burritos and shaved ice.
 - b. Prepackaged and mostly prepared food including, but not limited to, sausages, weiners, pizza, ice cream, and desserts.
- (2) **Ice Cream Truck.** A mobile food establishment which sells either frozen dessert, ice cream or frozen yogurt servings that are pre-packaged or enclosed in a wrapper or container having been wrapped, packaged or manufactured elsewhere or ice cream or similar frozen product that is not pre-packaged. An ice cream truck is considered to be a "mobile desserts establishment."
- (3) **Licensee.** A mobile food vendor that holds required permits and licenses necessary for operating a mobile food establishment from the Village of Bristol, the County, and the State of Wisconsin and its agencies.
- (4) **Mobile Desserts Establishment.** A mobile food establishment that serves individual portions of ice cream, ice milk, frozen custard, frozen yogurt, dessert mix, sundaes, and other frozen desserts which are either placed in a bowl or edible cone or are pre-packaged having been manufactured, prepared or wrapped in a licensed food preparation establishment. A mobile desserts establishment is a "mobile food establishment" under this Section.
- (5) **Mobile Food Establishment.** A restaurant or retail food establishment where food is served or sold from a movable vehicle, push cart, stand, trailer, boat or similar such unit which periodically changes, or is capable of changing, locations and requires a service base to accommodate the unit for servicing, cleaning, inspections and maintenance. It includes retail food service operations which are built to be mobile by design and constructed on wheels, a push cart or a motorized vehicle, vessel, truck, van, trailer, or boat to sell or serve food directly to the public. This definition includes movable concession stands and similar temporary stations not operating from a properly zoned and licensed fixed location restaurant and which are designed to operate as temporary or traveling food service establishments as those terms are used in ATCP 75, Wis. Adm. Code, "Appendix" ("Wisconsin Food Code") and Ch. 97, Wis. Stats. Not included in this definition/term are vehicles used solely to transport or deliver food, a common carrier regulated by the federal or state government, or an establishment under hire, contract or special request to provide food catering service to a private group, organization or business and is not serving directly to the general public on a retail basis, provided the establishment is in compliance with all state and county health and food code requirements.
- (6) **Mobile Food Vendor.** The licensed owner of a mobile food establishment, or the owner's employee or agent, or any business which sells edible goods from a mobile food establishment within the Village of Bristol.
- (7) **Sell.** The act of exchanging a good for profit or in return for a donation.
- (8) **Service Base.** An establishment operated under license or permit of an appropriate regulatory authority where food is manufactured, prepared, stored, portioned or packaged, or any combination of these processes, where such food is intended for consumption at another place, and where such units are serviced, cleaned, supplied,

and/or maintained, and where the equipment, utensils, and facilities are serviced, cleaned and sanitized. The service base may also be the location where food for the mobile unit is prepared. All equipment at the service base must be in full compliance with the requirements of the Wisconsin Food Code [Ch. ATCP 75, Wis. Adm. Code – Appendix].

(9) **Vehicle.** Any motor vehicle as defined in Sec. 340.01(35), Wis. Stats., or trailer as defined in Sec. 340.01(17), Wis. Stats. "Vehicle" shall also include any bicycle, boat, or other self-propelled device.

(10) **Vend.** To sell or transfer the ownership of an article to another person for a price in money.

(c) **Licensing Requirements.**

(1) **License Required; Fees.**

a. Unless operating in conjunction with a Special Event Vending Permit per Section 7-7-9, no mobile food establishment or mobile food vendor shall sell or vend, or offer to sell or vend, food products, goods, wares, merchandise, produce or any other similar items whatsoever in the Village without first having obtained a license from the Village Clerk-Treasurer and, in addition, licenses and permits from appropriate county and state agencies and authorities.

b. Each mobile food establishment unit or stand shall be licensed individually and separately.

c. Permits shall be issued on an annual basis, effective from January 1 through December 31 of the same year.

d. The license fee to operate a mobile food establishment shall be as established in Section 1-3-1. If an applicant requests a license under this Section for an existing Village-based restaurant or other business which also sells food to additionally vend from a mobile food establishment location, such license fee shall be as prescribed in Section 1-3-1.

e. Required fees shall be paid at the time of license application.

f. Mobile food establishments exempt from the fee requirements of this Section are those operated by tax-exempt, non-profit organizations granted exemption under Section 501(c)(3) of the Internal Revenue Code or other educational institutions, churches, religious organizations, educational or benevolent organizations, or youth organizations operating not for profit for local benefit for the area including, but not limited to the Village of Bristol, to raise funds for such purposes; or operated by the Village of Bristol.

(2) **License Renewals.** Upon renewal of a mobile food establishment license, each applicant shall reapply and provide the Village Clerk-Treasurer with documentation of information which is new or changed from the original application, along with the renewal fee prescribed in Section 1-3-1. The applicant shall submit the application and renewal fee within thirty (30) calendar days after the expiration to be considered a renewal request.

(3) **Transfer of License; Unit Specific License.** A license issued under this Section shall not be transferable from person to person; in such circumstances, a new application is required. A license is valid for one (1) vehicle, cart, trailer or other vending unit and shall not be transferable between vehicles.

- (4) ***Alteration of License; Failure to Display License.*** No person shall alter or change in any manner a license issued under this Section, and such alteration or the failure to display the license in a conspicuous location on the mobile unit or stand or to show the license upon the demand of any Village enforcement official or actual or prospective customer shall be cause for license suspension or revocation.

(d) **License Application Requirements.**

- (1) ***Required Applicant Information.*** Applications to operate a mobile food establishment unit shall be filed by the owner of the unit with the Village Clerk-Treasurer and shall include the following information:
- a. Name, address, telephone number(s) and email address of the person, firm, association, or business that owns the unit.
 - b. Birth date, height, weight, and eye/hair color of the applicant.
 - c. The length of time for which the right to conduct business is requested.
 - d. The location(s) from which the applicant desires to operate the unit.
 - e. The make, model and license number of any mobile food establishment and transport vehicle to be used in the operation.
 - f. A copy of the applicant's valid food and beverage licenses/permits required and issued by the State of Wisconsin and the County, including, but not limited to, a Seller's Permit from the Wisconsin Department of Revenue, and a Mobile Food Establishment License and Service Base License issued by the Wisconsin Department of Agriculture, Trade and Consumer Protection.
 - g. A copy of any written permission to operate on private property, if applicable.
 - h. The address and ownership of the service base.
 - i. A copy of the vendor's proof of liability insurance as required herein.
 - j. A general description of the type of food products which will be offered to the public.
 - k. A general description explaining:
 1. Any power needs of the unit, including sources.
 2. Wastewater and solid waste storage of the unit and disposal of such wastes.
 3. Food preparation, cooking and storage that will occur on the unit.
 4. Potable water source.
 5. Any transportation or use of liquid or compressed fuels with the unit.
 - l. An explanation of the zoning district(s) in which the mobile food establishment would be located.
 - m. If applicable, the three (3) locations where the applicant conducted business preceding the application, including a listing of any licenses or permits required and the governmental entity of issuance.
 - n. A statement as to whether the applicant has been arrested or convicted of any crime or ordinance violation, including the nature of the offense and the place of arrest and/or conviction.
 - o. If any persons other than the applicant will be operating the unit without the presence of the applicant, such persons shall also provide, as applicable, the information required in this Subsection.
- (2) ***Identification.*** At the time of filing of an application pursuant to this Section, the applicant shall present to the Village Clerk-Treasurer a driver's license or some other acceptable form of proof of identity with photograph.

- (3) **Insurance.** At the time of application, the applicant shall provide the Village Clerk-Treasurer with proof of liability insurance for each mobile food establishment. As evidence of liability insurance, the licensee shall provide a certificate of insurance, in a form acceptable to the Village, evidencing having in effect liability insurance and with a photocopy of the endorsement naming the Village and its officials, employees and agents as additionally named insured (a statement of such coverage on the certificate of insurance alone is not sufficient) in an aggregate amount of not less than One Million Dollars (\$1,000,000.00). If such policy is cancelled, not renewed, or is materially changed, the licensee shall promptly notify the Village in writing.

(e) **Issuance of License or Denial.**

- (1) **Background Investigation.** Upon receipt of a complete application, the Village Clerk-Treasurer shall forward the application to an appropriate law enforcement agency and/or any other applicable municipal departments to review the application, conduct a background investigation, and make a recommendation regarding issuance of a license.
- (2) **Application Determination.** Following review of the application for compliance with the requirements of this Section and receipt of the law enforcement authority's recommendation, the Village Clerk-Treasurer shall issue the mobile food establishment license, deny the application, or issue the license with conditions.
- (3) **Application Denials.** An applicant for a mobile food establishment license may be denied when it is determined that:
- a. The application contains a material omission or materially inaccurate statement.
 - b. The applicant is under eighteen (18) years of age.
 - c. The applicant has been convicted of any felony, misdemeanor, or ordinance offense which substantially relates to the licensed activity.
 - d. The circumstances of a pending criminal charge against the applicant substantially related to the licensed activity.
 - e. The applicant is found to have unpaid civil judgment(s) which relate to the responsibilities of the licensed activities. The relevance of such judgments shall be considered by the Village in light of the nature and the amount of the judgment and the relationship of the judgment to the purpose of the license.
 - f. The applicant has failed to comply with any regulatory requirement of this Section and that, in the Village's sole discretion, there is a public safety, health or general welfare reason that supports the denial of the license application.
 - g. Complaints of a material nature have been received against the applicant in other communities in which the applicant conducted similar business.
- (4) **Appeals.** If the Village Clerk-Treasurer denies an application for a mobile food establishment license, the applicant may file a written appeals request with the Village Clerk-Treasurer within fifteen (15) days after the Village has mailed a notice of denial to the applicant. If the applicant files a timely appeals request, the Village Clerk-Treasurer shall schedule an appeals hearing before the Village Board or designated committee thereof. Following such hearing, the Village Board, or designated committee thereof, may only approve the application on appeal if the applicant is qualified under this Section, and conditions may be placed on such approval.
- (5) **License Suspension or Revocation.** The Village Board, after notice and hearing, may revoke or suspend any license issued under this Section, for no less than ten (10)

and no more than ninety (90) days, for violation of any provision of this Section, any state law or local ordinance which would make continued vending contrary to the public health, safety or welfare, or for fraud or misrepresentation in sales or solicitation under this Section. Written notice of the hearing shall be provided to the licensee a minimum of seventy-two (72) hours prior to the hearing date. The notice shall state the time and location of the statement and include a statement of the facts which the proposed revocation or suspension is based.

- (f) **Conduct of Business Requirements.** Mobile food establishments operating within the Village, and as a condition of license, shall comply with all of the following regulations:
- (1) **Compliance With Regulations.** A licensee shall comply with all applicable state, county and local food, safety and health regulations and permits applicable to the unit and the related sale, storage and preparation of food and beverages, including, but not limited to, the Wisconsin Food Code.
 - (2) **Display of Licenses and Permits.** All state, county and local permits and licenses shall be conspicuously displayed on the mobile food establishment unit while in operation.
 - (3) **Inspections.** Licensees of a mobile food establishment and their employees shall permit inspections by state, county and local health and sanitation authorities. Public health and sanitation authorities may conduct follow-up inspections upon finding violations of sanitation and health requirements to verify compliance.
 - (4) **Service Base Requirements.**
 - a. Every mobile food establishment shall have a designated service base meeting the requirements of the Wisconsin Food Code [Ch. ATCP 75, Wis. Adm. Code – Appendix] to store and prepare food and supplies.
 - b. A mobile food establishment shall return to its service base a minimum of once every twenty-four (24) hours for service, unit storage, equipment cleaning, discharging of solid or liquid wastes, refilling water tanks and ice bins, and storing of single-serve food items.
 - (5) **Misrepresentation.** A licensee shall not fraudulently misrepresent the character, quality or quantity of any food article offered for sale or offer for sale any tainted or spoiled food, nor intentionally misrepresent to any prospective customer the purpose of his/her solicitation, the name of the business and its owner, the supply source of the food or goods for sale, or the disposition of the sale proceeds.
 - (6) **Permitted Public Property Vending Locations; Authorized Zoning Districts.**
 - a. The Village Board by resolution and accompanying map, adopted herein by reference, shall designate specific Mobile Food Establishment Vending Locations within the Village where vending from mobile food establishments is permitted, subject to compliance with the requirements of this Section. Vending is prohibited in other non-designated locations.
 - b. Mobile food establishments shall only operate in designated public right-of-way locations or municipal parking lots. Such locations are not reserved and may be used on a "first come/first used" basis. Mobile food establishments shall at all times comply with applicable traffic and parking regulations in such locations.
 - c. Mobile food establishments shall not operate in public parks, boat landings and recreational areas unless permitted under a Special Event Vending Permit [Section 7-7-9] or as authorized as part of a community, civic or promotional event

specifically authorized by the Village Board (i.e., festival, special community event, food cart night, parade, etc.).

- d. Unless otherwise excepted herein, no designated vending location shall be in an area zoned residential.
- e. Venders shall only offer to the public food items from a mobile food establishment unit.

(7) ***Limits on Public Property Vending Locations; Required Setbacks; Vending Hours.***

- a. No mobile food establishment shall be located or conduct sales within two hundred (200) feet of a conventional restaurant unless the owner of such restaurant gives written permission to locate and operate at a closer distance. A copy of such written permission shall be provided to the Village.
- b. A mobile food establishment unit owned and operated by a restaurant or other business may be permitted to be placed and operated on that business property located in the Village, provided all other applicable licensing, fees and regulatory provisions of this Section are complied with.
- c. No mobile food establishment shall be operated within three hundred (300) feet of a school property.
- d. No mobile food establishment shall be operated within two hundred (200) feet of a Village park, boat landing or recreation area during hours any authorized concessions are being sold from any building or pavillion therein.
- e. No mobile food establishment shall be operated within five hundred (500) feet of any carnival, fair, festival, special event or civic event sanctioned by the Village or under a Special Event Vending Permit unless written permission is given by the sponsoring organization of such event. A copy of such written permission shall be provided to the Village.
- f. No more than two (2) mobile food establishment units shall be located per block.
- g. No mobile food establishment on public property shall operate more than six (6) hours per day at a stationary location.
- h. Permitted vending hours from public property are 8:00 a.m. to 9:00 p.m.

(8) ***Vending From Private Property Locations.***

- a. Provided written permission is given by a private property owner, mobile food establishments may operate from that owner's private property. A copy of such permission shall be provided to the Village.
- b. Mobile food establishment vending from private property locations may only be conducted on non-residential properties zoned commercial or industrial.
- c. No more than two (2) mobile food establishments may operate from a private property parcel at one time.
- d. All applicable licensing, fees and regulatory provisions of this Section shall be complied with when there is vending from private property locations.

(9) ***Mobile Desserts Vending Locations.*** Mobile desserts establishments (i.e., ice cream vending trucks) may vend curbside from public right-of-way locations in any zoning district, excluding Village parks, boat landings and recreation areas. Mobile desserts establishments shall comply with all other licensing, fees and regulatory provisions of this Section.

(10) ***Safety and Refuse Disposal Requirements.***

- a. Mobile food establishment units shall not obstruct any public street, terrace, trail access or visibility of street corners, driveways, cross walks, or intersections. No licensee shall locate a mobile food establishment within twenty (20) feet of the intersection of a sidewalk with any other sidewalk. Licensees shall take affirmative steps to direct customers waiting for service to refrain from causing any such obstructions.
 - b. No mobile food establishment shall be located within fifteen (15) feet of the extension of any building entrance or doorway to the curb line.
 - c. Mobile food establishments operating in an authorized public right-of-way shall serve and dispense food products from the curbside of the unit only at all times.
 - d. Mobile food establishments shall not create any dining area within a public right-of-way, including, but not limited to, stools, chairs, tables, benches or stand-up counters.
 - e. No food service shall be prepared, sold or displayed outside of the mobile food establishment.
 - f. Mobile food establishments authorized to conduct business on a terrace or sidewalk area shall maintain within twenty-five (25) feet of its sales location a clean, sanitary, and hazard-free area, and shall not discharge or dispose of any material onto the street, terrace, sidewalk, ditch, gutters or storm drain. Such area shall be kept clean and free from refuse and litter at all times.
 - g. Operators of mobile food establishments shall provide a minimum of one (1) leak-proof container for deposit of waste.
 - h. Mobile food establishment licensees shall remove or otherwise properly dispose of all garbage, waste and litter generated by their operations and customers on a daily basis, including that waste and litter which may be reasonably viewed from the operation area of the unit on the ground or otherwise not properly disposed of.
- (11) **Utilities.** Mobile food establishments shall not connect to any public source of water, sewer disposal or electricity facilities unless specifically authorized by the Village prior to such use.
- (12) **Signage; Improper Use of Public Property.**
- a. Mobile food establishments shall not use any public property, such as, but not limited to, traffic signs, utility poles, municipal flower beds, or other amenities to attach, affix or place any signs, posters, electrical cords, ropes or other things used in its operations.
 - b. Signage may only be permitted when placed on the mobile food establishment unit. No separate free-standing signs are permitted.
 - c. All mobile food establishment units shall display signage which indicates the name of the operator and a valid telephone number. Such signage lettering shall be a minimum of three (3) inches in height and be in plain view to all patrons.
- (13) **Permitted Operators.** An on-street mobile food establishment shall only be operated by the person who has obtained a license under this Section or by an employee of the person who obtained a license under this Section.
- (14) **Vehicle Standards.**
- a. All mobile food establishments shall be in compliance with all applicable federal, state, county or municipal regulations regarding vehicle size. Any vehicle, trailer

- or other on-street units used for vending food shall be designed and manufactured specifically for the purpose of food vending.
- b. All mobile food establishments shall be self-contained in regard to water, gas, electricity and equipment necessary for unit operation.
 - c. Mobile food establishment vehicles and trailers shall have valid registration and license plates as required by Chapter 341, Wis. Stats.
 - d. No flashing, blinking, chaser, or strobe lights are permitted on any mobile food establishment unit.
 - e. Amplified sound or music from a mobile food establishment unit is prohibited.
- (15) **Farmers Markets; Auctions.** Vendors selling produce and similar food products (i.e., honey, cheese, jams, cider, etc.) at a Village-sponsored farmers market are exempt from the provisions of this Section, as are food trucks serving attendees at a bona fide auction or estate sale.
- (g) **Penalties.** A licensee who violates any provision of this Section, or any condition of license, regulation or order made hereunder, shall be subject to the penalties found in Section 1-1-6, and be subject to possible license suspension or revocation.

State Law Reference: Ch. 97, Wis. Stats.; Ch. ATCP 75, Wis. Adm. Code

SECTION II. SEVERABILITY.

If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or applications.

SECTION III. EFFECTIVE DATE.

This Ordinance shall take effect upon passage and publication as provided by law.

ADOPTED this 11th day of May, 2020.

VILLAGE OF BRISTOL, WISCONSIN



Village President



Village Clerk-Treasurer

INTRODUCED: 5/11/20
ADOPTED: 5/11/20
PUBLISHED: _____

State of Wisconsin:
County of Kenosha:

I hereby certify that the foregoing Ordinance is a true, correct, and complete copy of an Ordinance duly and regularly enacted by the Village Board of the Village of Bristol on the 11th day of May, 2020 and that said Ordinance has not been repealed or amended and is now in full force and effect.

Dated this 12th day of May, 2020



Amy Klemko, Clerk-Treasurer