

ORDINANCE 24-67



**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY
OF WESTFIELD, INDIANA REGULATING MOBILE FOOD VEHICLES AND
MOBILE FOOD VENDORS WITHIN THE CITY AND REPEALING AND
REPLACING ORDINANCE 14-06 AND ORDINANCE 17-12**

WHEREAS, the City of Westfield, Indiana ("City") is a duly formed municipal corporation within the State of Indiana, governed by its duly elected Mayor and Common Council ("Council");

WHEREAS, pursuant to Ind. Code § 36-8-2-4, the City may regulate conduct, use, or possession of property that might endanger the public health, safety, or welfare;

WHEREAS, pursuant to Ind. Code § 36-8-2-10 and Ind. Code § 36-8-2-11, the City may regulate the operation of businesses, crafts, professions, and occupations, and may regulate solicitation by persons offering goods or services to the public;

WHEREAS, the Council may, from time to time, find it necessary and desirable to repeal and replace previously adopted ordinances to assure that the desired purposes are carried out; and

WHEREAS, the Council finds that repealing and replacing current ordinances regulating mobile food vehicles and mobile food vendors within the City will promote community health, safety, efficiency, and business development, and will be in the best interests of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Westfield, Indiana, that:

Section 1. Recitals. The foregoing recitals are fully incorporated herein by reference.

Section 2. Definitions. For purposes of this Ordinance, the following definitions shall apply:

- a. **Mobile Food Vehicle:** Any motorized, wheeled or towed vehicle used to store, prepare, display or serve food or beverages intended for individual portion service. This term shall not include food delivery services that deliver food or beverages (both alcoholic and nonalcoholic) ordered by a purchaser to a

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specific address provided by the purchaser, mobile ice cream or snow cone vendors that are stationary for no more than 15 minutes at a time, or non-incorporated sales by children.

- b. Mobile Food Vendor: A person, persons, or entity owning or operating a Mobile Food Vehicle.

Section 3. Operations Generally. It is unlawful to operate as a Mobile Food Vendor in the City except in accordance with the provisions of this Ordinance.

Section 4. Business License Required. No person shall operate a Mobile Food Vehicle within the corporate limits of the City without obtaining a license as set forth in this Ordinance. A separate license shall be required for each Mobile Food Vehicle.

Section 5. Business License- Application. Any person desiring a license under this Ordinance shall submit a fully completed application to the Department of Community Development at least fourteen (14) days prior to the proposed date of operating the Mobile Food Vehicle. The application must set forth or have attached the following information as specified:

- a. The applicant's name, current physical address, telephone number, email address and date of birth;
- b. The name, current physical address, tax identification number, and telephone number of the person, firm, limited liability company, corporation or organization which the applicant is employed by or represents;
- c. If the applicant is employed by or represents a firm, limited liability company or corporation, the applicant shall provide the name and current physical address of all members of the firm or limited liability company, or all officers of the corporation, as the case may be;
- d. The type of products to be sold;
- e. The names of municipalities or governmental units to which the applicant has applied for a license of similar character within the twelve (12) months prior to the date of application; and
- f. The designation of a resident of the State of Indiana as a registered agent for purposes of receiving notices from the City of Westfield or other service of process, as a result of doing business in the City.

Section 6. Business License – Prerequisites. An application for a license under this Ordinance shall not be considered unless proof of the following is provided with the application:

- a. All applicable permits required by the Hamilton County Health Department or other governmental agencies, including but not limited to a food service establishment license, certified food handler certificate, or alcoholic beverage catering license.
- b. Proof of registration as a business with the Indiana Secretary of State;
- c. Proof of an employer identification number;
- d. If business is to be conducted on or in property owned or managed by the City Parks Department, a letter of approval from said department;
- e. Proof of insurance in accordance with the amounts established by this Ordinance;
- f. A copy of the Indiana registration for the vehicle; and
- g. A copy of a valid driver's license.

Section 7. Business License- Duration and Fee. All licenses are for a calendar year and the renewal amount is for consecutive years only. Each applicant shall pay a license fee in accordance with the schedule set forth below:

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|----------------------------------|----------|
| a. One (1) Year License: | \$150.00 |
| i. After June 30 th : | \$100 |
| b. Renewal: | \$100.00 |

No refunds or deductions shall be allowed from the fee for a license issued pursuant to this Ordinance for any part of the term of which the license does not engage in such business

Section 8. Business License- Fee Exemptions. The following listed organizations and/or entities, while required to obtain a license under this Ordinance, are exempt from having to pay any fees so long as the proceeds thereof are to be used exclusively for religious, charitable, educational or scientific purposes:

- a. Religious Institutions;
- b. Schools;
- c. Nonprofit organizations; and
- d. Fraternal organizations;

Pursuant to Ind. Code 25-25-2-1, while all honorably discharged veterans are required to obtain a license under this Ordinance, they are exempt from any fees.

Section 9. Business License – Insurance and Indemnity. Each applicant for a license shall provide a certificate of liability insurance to the Department of Community Development upon a form provided by the City of Westfield insuring the

applicant, and naming the City of Westfield as co-insured, against the following liability and in the following amounts relative to such activity:

1. Personal Injury: \$100,000.00 per occurrence and \$300,000.00 in the aggregate; and
2. Property Damage: \$25,000.00 per occurrence and \$50,000.00 in the aggregate.

Each applicant shall provide a document approved by the City of Westfield, in which the applicant agrees to indemnify and hold harmless the City for losses or expenses arising out of the operation of his/her business.

Section 10. Business License – Issuance. The Department of Community Development shall, within fourteen (14) days of receipt of the completed application, issue the business license to the applicant if the Department finds the following:

- a. Compliance with all provisions of this Ordinance and other applicable laws or regulations; and

The applicant has not had a prior license issued under this Ordinance, or any similar licenses authorized by a different governmental entity, suspended or revoked.

Section 11. Business License- Transferability. A license issued pursuant to this Ordinance shall not be transferable to another licensee, person, entity, or applicant.

Section 12. Business License- Identification. All licenses issued by the Department of Community Development under this Ordinance shall be prominently displayed on the Mobile Food Vehicle at all times and shall be shown to any person who requests to see the license. Failure to display or exhibit a license in accordance with this section may be grounds for suspension or revocation of said license.

Section 13. Operating Restrictions. Licensed Mobile Food Vehicles may operate only as permitted within the Westfield-Washington Township Unified Development Ordinance, Article 6.18 Temporary Uses and Events.

Section 14. Penalties. Any person, partnership, limited liability company or corporation which violates any provision of this Ordinance, shall be issued a citation and subjected to the following penalties. Each day the violation exists constitutes a new and separate violation.

- a. Operating a Mobile Food Vehicle without a business license:
 - i. First offense: \$1,500
 - ii. Second offense within any 12-month period: \$3,000
 - iii. Third offense, or each thereafter, within any 12-month period: \$5,000

- b. Failure to comply with any other provisions of this Ordinance or UDO Article 6.18:
 - i. First offense within any 12-month period: \$250
 - ii. Second offense: \$500
 - iii. Third offense, or each thereafter, within any 12-month period: \$1,000

Section 15. Penalties- Suspension or Revocation of License. In addition, the Department of Community Development may, after notice and hearing before the Westfield Board of Public Works & Safety, suspend or revoke, by written order, any license issued hereunder if the Department finds:

- a. The licensee has repeatedly violated any provision of this Ordinance or any rule or regulation lawfully made under and within the authority of this Ordinance;
- b. The licensee is operating the Mobile Food Vehicle licensed under this Ordinance in a manner contrary to state or local code; or
- c. Any fact or condition exists which, if it had existed at the time of the original application for such license, would have caused the Department of Community Development to previously refuse to issue the license.

Section 16. Official Warning. Any person charged with violating the provisions of this Ordinance may, in the discretion of the code enforcement officer, be issued an official warning. If an official warning is issued, it shall be considered as affording the violator one (1) opportunity to comply with this Ordinance's provisions.

Section 17. The provisions of this Ordinance repeal and supersede any and all inconsistent provisions in the Westfield Code of Ordinances, including but not limited to Ordinance No. 14-06, Ordinance No. 17-12, and Chapter 17, Article IV (Food Vendors) of the City of Westfield Code of Ordinances. All other City ordinances, code sections, resolutions, or parts thereof in conflict with the provisions and intent of this Ordinance are hereby repealed. Should any parts of this Ordinance be found unconstitutional or illegal, the remaining parts shall survive and be in full effect.

Section 18. This Ordinance shall be in full force and effect upon its passage by the City Council and approval by the Mayor, its publication in accordance with law and upon the passage of any applicable waiting period, all in accordance with Indiana law.

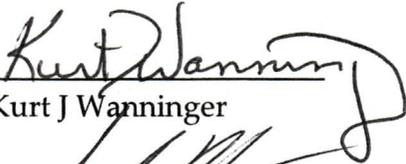
PASSED THIS 9th DAY OF DECEMBER, 2024 BY THE
WESTFIELD COMMON COUNCIL, HAMILTON COUNTY, INDIANA.

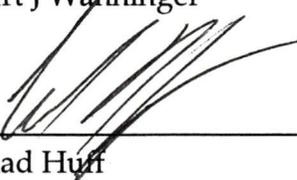
WESTFIELD COMMON COUNCIL

Voting For

Voting Against

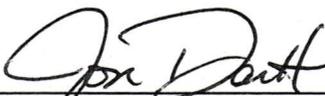
Abstain


Kurt J Wanninger


Chad Huff


Patrick T. Tamm

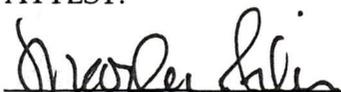

Joe Duepner


Jon Dartt


Noah Herron


Victor McCarty

ATTEST:



Marla Ailor, Clerk-Treasurer

I hereby certify that ORDINANCE 24-67 was delivered to the Mayor of Westfield on the 11th day of December, 2024, at 8:00 a.m.

Marla Ailor
Marla Ailor, Clerk-Treasurer

I hereby APPROVE ORDINANCE 24-67

this 11th day of December,
2024.

Scott A. Willis
Scott A. Willis, Mayor

I hereby VETO ORDINANCE 24-67

this _____ day of _____,
2024.

Scott A. Willis, Mayor

This document prepared by:
Lauren Gillingham-Teague, AICP, Senior Planner
City of Westfield, Community Development Department
2728 East 171st Street, Westfield, Indiana 46074 | (317) 804-3170

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law: Lauren Gillingham-Teague