CITY COMMISSION
CITY OF OTSEGO
Allegan County, Michigan

Commissioner Krueger, supported by Commissioner Moore, moved the adoption of the following ordinance:

ORDINANCE NO. 174

AN ORDINANCE TO AMEND CHAPTER 14 - SECTIONS 14-31, 14-33, 14-34, 14-36, & ADDITION OF SECTION 14-40, 14-41, 14-42
ARTICLE II. - PEDDLERS, SOLICITORS, TRANSIENT MERCHANTS, AND FOOD TRUCKS

THE CITY OF OTSEGO ORDAINS:

Amendment. That Sections 14-31, 14-33, 14-34, 14-36, & Addition of Section 14-40, 14-41, 14-42 of the Code of Ordinances, City of Otsego, Michigan are amended to read as follows:

Sec. 14-31. - Definitions. *Addition:*

City Public Park means City-owned property located throughout the City of Otsego, commonly referred to as Brookside Park, Memorial Park, Northside Park and Riverfront Park. This property is classified as Restricted Use.

Downtown Property means real property within the Central Business District on the City Zoning Map including parking lots and any other property within downtown Otsego. Downtown property does not include the public right-of-way. This property is classified as Restricted Use.

Food Truck means a truck, trailer, stand or similar mobile structure used to prepare and sell food of any kind.

M-89 Food Truck Eligible Property means any property located along M-89 (Allegan Street) that is at least 0.5 acre in size and has at least two (2) points of entry to the public right-of-way. This property is classified as Restricted Use.

Person means any person, firm, association, corporation, limited liability company, partnership or two or more persons having a joint or common interest.

Sec. 14-33. – Exemptions. *Addition:*

(3) Any person who has a regularly established place of business within the City of Otsego that is on the City tax rolls shall be exempt from the Food Truck provisions of this Article.

(4) A Food Truck operator who is operating as part of an event wholly sponsored by the City of Otsego shall be exempt from the annual Food Truck license fee required by Section 14-39.

(5) A Food Truck operator who only gives away (and does not sell) prepackaged food shall be exempt from the annual Food Truck license fee required by Section 14-39.

Sec. 14-34. - Registration and identification card required. *Amended:*

(a) Except as provided in Section 14-33, no person shall *operate a food truck or* engage in the business of being a transient merchant without first having registered with the city. No registration shall be recognized except upon certification of the city clerk and upon satisfaction of other requirements and conditions of this article. Each registered transient merchant *or food truck operator* shall be required to obtain from the city a transient merchant *or food truck operator* identification card. *For transient merchants,* such identification card shall be conspicuously displayed on his person at all times while engaging in the business of being a transient merchant. *For food truck operators, such identification card shall be conspicuously displayed on the truck and visible to the public at all times while in operation.* Transient merchant identification cards shall be valid for 30 days. *Food truck identification cards shall be valid for one year*.

(b) Any person who carries on or engages in the activities of a transient merchant but is exempt from registration pursuant to Section 14-33 shall conspicuously display on his person a card or tag which identifies the person by name and the organization which the person represents.

Sec. 14-36. – Areas of operation. *Addition:*

(a) Prohibited Areas.
(b) Permitted Food Truck Areas. Food trucks licensed under this Article shall be permitted to operate in the following areas, as defined in this Article:

1. *Downtown Property*
2. *City Public Parks*
3. *M-89 Food Truck Eligible Property*

Sec. 14-40. – Food Truck License Required. *Addition:*

(a) A person shall not engage in business as a Food Truck without having first obtained a Food Truck License from the City Clerk. A Food Truck license shall be obtained under the provisions of this Article. A person, being a Food Truck Operator, shall not peddle or engage in business in any manner in which a license is required under Chapter XIV of this Code.

(b) Applications for a Food Truck license under the provisions of this Article shall include, in addition to the information required by Sec. 14-34 and Chapter XIV, and other information that the City Clerk may require, the following information:

1. *The full name and mailing address of the applicant at the time of the filing of the application.*
2. *The full name and mailing address of the business or organization, if any, that will be involved in the Food Truck Business.*
3. *The anticipated locations and dates where the Food Truck will be set up and operating for the licensing year.*
4. *A copy of the current and valid annual food service license issued by the local County or State Health Department shall be submitted with the application.*

Sec. 14-41 – Duties of Food Truck Operators. *Addition:*

Persons holding a license under the provisions of this Article shall do or perform all the following:

(c) Posting of license. Licensees must post the license issued under the terms of this article in a conspicuous location at the place where his or her business is conducted, where it shall remain in plain sight during the entire time during which such business is conducted.

(d) Permission shall be granted. For operation on private property, the Food Truck Operator must gain written approval from the owner of such private property prior to operation. For public property, written approval must be issued by the City Manager.

(e) Building entrance or exit. Licensees must not place or operate his or her business in the entrance or exit areas of any building or parking area so as to hinder ingress or egress to the building or property.

(f) Compliance with code. Licensees must not violate any provision of this Code or any state or federal law relating to the business in which he or she is engaged, or any regulation which is promulgated under any such law.

(g) Nuisance. Licensees must not create a nuisance under any provision of this Code.

(h) Restricted property use. A licensed Food Truck Operator may operate no more than one (1) day per week within a Restricted Use Property.

(i) Private service or catered events. The limitations of Section 41-14(f) is waived for a licensed Food Truck Operator serving residents or employees on private property, provided that such private property is not located on M-89 (Allegan Street) or is a Restricted Use Property as defined herein. Drive-up traffic is not allowed during private service or catered events.

Sec. 14-42 – Violations designated municipal civil infraction. *Addition:*

A person who violates any provision of this Article is responsible for a municipal civil infraction, subject to payment of a civil fine as set forth in section 2-216. Repeat offenses under this article shall be subject to increased fines as set forth in section 2-216.

Effective Date. This ordinance shall take effect upon the latter of publication or the passage of twenty (20) days' time following its final adoption in accordance with the City Charter.

YEAS: Commissioners: Stacey Withee, Lauri Krueger, Jason Smith, Chuck Moore Jr., Wayne Rayburn.

NAYS: Commissioners: None.

ABSTAIN: Commissioners: None.

ABSENT: Commissioners: None.

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I certify that this is a true and complete copy of an ordinance adopted by the City Commission of the City of Otsego at a regular meeting held on June 5, 2023.

Dated: June 5, 2023

Angela Cronen, City Clerk

1ST READING – MAY 15, 2023
PUBLICATION – MAY 25, 2023
2ND READING & ADOPTION – JUNE 5, 2023
EFFECTIVE DATE – JUNE 25, 2023