

CHAPTER 838

Regulation of Mobile Food Vehicles

838.01 Purpose	838.07 Permit Fees
838.02 Definitions	838.08 Prohibition Against the Transfer of a Permit
838.03 Scope of Chapter	838.09 Operation of Mobile Food Vehicles
838.04 Mobile Food Vehicle Permit Required	838.10 Enforcement
838.05 Application for Mobile Food Vehicle Permit	838.11 Severability
838.06 Rules and Regulations	838.99 Penalty

838.01 PURPOSE.

(a) The City of Avon recognizes and supports the vitality and activity that is created by outdoor business activities at special events within the French Creek Business District, in city parks and in other locations. However, the operation of such business or other uses within public street rights-of-way requires careful consideration and review to ensure that such uses function in a manner as to create the aforementioned benefits without any undue negative effects.

(b) The purpose of establishing these regulations is to create a pleasant and vibrant downtown environment for visitors and residents, to provide an opportunity for limited operations in park and residential areas, to prevent the obstruction of pedestrian, bicycle and motor vehicle traffic, to ensure that adequate efforts are made to protect the health, safety and welfare of the public by requiring permits for mobile food vehicles and to establish minimum requirements for the operation of such vehicles related to their location, hours of operation, sanitation, cleanliness, etc.

838.02 DEFINITIONS.

When used in this chapter, unless the context otherwise requires, the following terms shall have the following meanings:

- (a) The Mayor shall mean the Mayor of the City of Avon.
- (b) Food Establishment shall mean a business operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption.
- (c) Mobile Food Vehicle shall mean a Food Establishment that is located upon a vehicle including motorcycles and bicycles, or which is pulled by a vehicle, where food or beverage is cook, prepared or served for individual portion service. This definition includes but is not limited to: mobile food kitchens, pushcart vendors, bicycle cart vendors, mobile food trucks, canteen trucks, and coffee trucks. This definition does not apply to “meals on wheels” program vehicles or food home delivery services.
- (d) Private Party shall mean a social gathering on private property not open to the public.
- (e) Special Event for the purpose of this chapter, shall mean any outdoor activity or series of outdoor activities open to the public specific to an identifiable time and place most often produced in conjunction with community organizations, held on public property including street rights-of-way, non-profit organization property or non-residential private property and generally occurring once a year and for which a Special Event Permit is required. A special event includes but is not limited to:

(1) Any activity involving entertainment and/or amplified sound, food, beverage, merchandise sales or any activity promoted as a festival, sports event, trade show, craft show, public dance, concert or performance;

(2) Any activity that may substantially increase or disrupt the normal flow of traffic on any street or highway;

(3) Any activity which involves the use of public facilities; or

(4) Any activity which involves the use of City services that would not be necessary in the absence of such an event.

(f) Seasonal Special Event Vendor Permit: Vendors anticipating operating at more than one Special Event in Avon during the course of the calendar year may pay a one-time fee, following all required application and inspection requirements to be pre-approved for the year. Vendors must still be approved to participate by each Special Event organizer/sponsor and must notify the Mayor's Office one week in advance that they will be operating in Avon for specific Special Events.

838.03 SCOPE OF CHAPTER.

The provisions of this section shall apply to mobile food operations for "Special Events" which receive a Special Event Permit from the City or for private parties as defined in this chapter.

838.04 MOBILE FOOD VEHICLE PERMIT REQUIRED.

(a) No person or business entity, including a religious or charitable organization, shall operate a Mobile Food Vehicle upon any public or private space without a permit issued by the Mayor.

(b) A Mobile Food Vehicle permit is required for each and every Mobile Food Vehicle.

(c) There are two (2) types of Mobile Food Vehicle permits:

(1) A one-time special event permit which is valid for five (5) days; and

(2) A seasonal special event permit which is valid for the calendar year in which it is received.

838.05 APPLICATION FOR A MOBILE FOOD VEHICLE PERMIT.

(a) Single Application. There shall be made available by the Mayor a single application form to apply for each Mobile Food Vehicle permit. The application shall provide the following:

(1) A description of the necessary inspections and fees.

(2) A description of the areas of the City where the operation of Mobile Food Vehicles are limited or prohibited.

(b) Submission of Materials. Each application shall include the following materials:

(1) The name of the business and its owner or owners, the mailing address of the business, and mobile telephone number of the operator.

(2) A description of the proposed plan of operation for the Mobile Food Vehicle operation.

(3) A plan illustrating the proposed location(s) of the Mobile Food Vehicle.

(4) Certification that the Mobile Food Vehicle has passed all necessary inspections required by the City of Avon Fire Department and the Lorain County Health Department.

- (5) A certificate of insurance providing general liability coverage in the minimum amount of one million dollars (\$1,000,000.00) in the aggregate in a form acceptable to the City.
- (c) Approval Process. An application must be submitted to the Mayor.
 - (1) The Mayor or his or her designee may work with the applicant or permit holder to modify a location(s) at any time: (i) before the issuance of a permit; (ii) after the issuance of a permit, if it is determined that the granting of a permit or the approval of a location or service route constitutes a public nuisance or otherwise endangers public health, safety or order or by the request of the permit holder.
 - (2) Within thirty (30) days of the submission of a completed application, the Mayor shall either issue or deny the application for a permit.
 - (3) If the application is denied in whole or in part, the Mayor shall state the specific reasons for the denial. Any applicant who has been denied a permit may appeal such denial by submitting a written appeal request to the Planning Department within ten (10) days of the date of the denial. The appeal shall be heard by the Board of Zoning and Building Appeals within thirty (30) days of receipt of said appeal upon procedures established by the Board of Zoning and Building Appeals. The decision of the Board of Zoning and Building Appeals may be appealed by the applicant or the Lorain County Common Pleas Court as is provided in Chapter 2506 of the Ohio Revised Code.

838.06 RULES AND REGULATIONS.

- (a) General. The following rules and regulations apply:
 - (1) No operator of a Mobile Food Vehicle shall park, stand or move a vehicle and conduct business within areas of the City where the permit holder has not been authorized to operate for a Special Event or private party or gathering;
 - (2) The issuance of a permit does not grant or entitle the exclusive use of a location to the Mobile Food Vehicle permit holder, other than the time and place as approved for the term of the permit;
 - (3) No Mobile Food Vehicle shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches and standup counters, unless a proposal for such seating/standup arrangements is submitted with the permit application and approved by the Mayor;
 - (4) Permit holders shall provide customers with single service articles, such as plastic silverware and paper plates, and a waste container for their disposal. All Mobile Food Vehicles shall offer a waste container for public use that the operator shall empty at his or her own expense if not provided by the Special Event sponsor.
 - (5) No Mobile Food Vehicle shall make or cause to be made any unreasonable or excessive noise in violation of Section 648.10 of the City's Codified Ordinances.
 - (6) No permittee shall employ the use of flashing or moving lights on or near a Mobile Food Vehicle as part of its operation.
 - (7) A Mobile Food Vehicle may not operate on public property, including right-of-way, unless the Mayor has otherwise granted approval on the

Special Event Permit application for its operation at the particular location during specific times.

- (8) The City reserves the right to relocate a mobile food truck to an alternate location as determined by the Mayor if the approved location needs to be used for emergency purposes or other public benefit.
- (9) Mobile Food Vehicles shall adhere to all applicable parking regulations for commercial vehicles.

(b) A Mobile Food Vehicle must be licensed by the health district in which the home base or business headquarters is located. Said license is valid throughout the State of Ohio and must be on site for validation. In addition, Mobile Food Vehicles shall at all times be in compliance with all applicable governmental rules and regulations, including but not limited to those of the Lorain County General Health District and the State of Ohio.

(c) Without exception, a permit under 838.04(c) is required for all Mobile Food Vehicles in use within the City and the Avon Fire Department shall inspect all Mobile Food Vehicles to ensure compliance with all applicable federal, state and local fire safety statutes, regulations, ordinances and codes. Inspections and approvals by the Avon Fire Department are valid for the life of the permit. No Food Establishment or Mobile Food Vehicle shall operate within the City of Avon unless it has a permit from the City of Avon and has been inspected and approved for operation by the Avon Fire Department.

838.07 PERMIT FEES.

(a) Application Fee. The application fee for a permit for a Special Event shall be fifty dollars (\$50.00) per Special Event.

(b) Seasonal Special Event Fee. The one-time application fee for a Seasonal Special Event permit is \$125.00 for the calendar year.

(c) Exemptions. There shall be no application fee for the following:

- (1) a private party or gathering;
- (2) Mobile Food Vehicles owned and operated in Avon by Avon-based restaurants; or
- (3) Mobile Food Vehicles being operated pursuant to contract with the City.

838.08 PROHIBITION AGAINST THE TRANSFER OF A PERMIT.

(a) Transfers for Value Prohibited. No person holding a permit for a Mobile Food Vehicle shall sell, lend, lease or in any manner transfer or assign a Mobile Food Vehicle permit except as provided for under (b) below.

(b) Non-value Transfers as part of the Sale of a Business. Notwithstanding subsection [838.08\(a\)](#), a permit holder may transfer a permit as part of the sale of a majority of the stock in a corporation holding such permit, as part of the sale of a majority of the membership interests of a limited liability company holding such permit, or as part of the sale of a business or substantially all of its assets; provided that there shall be no allocated or actual value for the transfer of the permit.

- (1) Prior to any such transfer, the transferor shall notify the Mayor in writing and the transferee shall submit a food vehicle permit application for approval to the Mayor pursuant to the process set forth in Section [838.05](#).
- (2) Any such transfer shall be subject to the terms and conditions of the original permit.

838.09 OPERATION OF MOBILE FOOD VEHICLES.

(a) Operation Without Permit. No Mobile Food Vehicle shall be operated without a valid Mobile Food Vehicle permit issued by the Mayor pursuant to this Chapter.

(b) Unattended Vehicles Prohibited. No Mobile Food Vehicle shall be parked on the street overnight, or left unattended and unsecured at any time food is kept in the Mobile Food Vehicle. The owner or operator of any Mobile Food Vehicle found to be in violation of this subsection may be charged with a violation of this chapter.

(c) A Mobile Food Vehicle operating at an unauthorized location, or beyond the hours for which the Special Event or private party has been permitted, shall be deemed operating without a permit in violation of this section and may be subject to enforcement under Section [838.10](#).

838.10 ENFORCEMENT.

(a) Enforcement. The provisions of this chapter may be enforced by the Mayor, the Avon Police Department, or the Avon Fire Department.

(b) Revocation, Suspension, Modification. In addition to any other penalties specified in 838.99, once a permit has been issued it may be revoked or suspended, for failure to comply with the provisions of this chapter.

(1) Anyone holding a permit that has been revoked or suspended may within ten (10) days of notice of the same, appeal as is provided in Section [838.05](#)(c)(3) above. The Mayor may suspend a permit for no more than three (3) days without notice or hearing, if he or she notifies the permit holder in writing (email is deemed an acceptable writing) that there is a probability of a violation of public safety, health or order. In such a case, anyone holding a permit that has been suspended may request a hearing within seventy-two (72) hours of notice of the suspension in order to determine whether the suspension is justified.

(2) A violation of the rules and regulations under this chapter shall be grounds for the revocation of a permit issued by the Mayor.

838.11 SEVERABILITY.

If any provision of this chapter is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

838.99 PENALTY.

(a) A violation of this chapter for which no penalty is specified is a minor misdemeanor and punishable as set forth in Section 698.02. of the Codified Ordinances of the City of Avon.

(b) Any violation of Sections 838.04(a) or (b), 838.06(a)(2),(5),(7), 838.06(b), or 838.06(c), 838.07(d) or 838.08 is guilty of a misdemeanor of the fourth (4th) degree punishable as set forth in Section 698.02. of the Codified Ordinances of the City of Avon.

(c) Each day that a permit holder is in violation of this chapter is a separate offense or violation.