Village of Weston, Wisconsin
AGENDA ITEM COVERSHEET
Requested for Official Consideration and Review

REQUEST FROM:	**JENNIFER HIGGINS; DIRECTOR OF PLANNING AND DEVELOPMENT**
ITEM DESCRIPTION:	**ORDINANCE NO. 16-021 AN ORDINANCE CREATING SECTION 94.4.10(13) OF THE ZONING ORDINANCE ENTITLED *TEMPORARY SALES BY MOBILE FOOD VENDORS* AND ADDING THIS NEW TEMPORARY LAND USE TO THE TEMPORARY LAND USE CATEGORY WITHIN THE CHARTS DISPLAYED IN FIGURES 3.04 AND 3.05 OF THE VILLAGE ZONING ORDINANCE AND AMENDING SECTION 94.17.04 DEFINITIONS OF THE ZONING CODE TO CREATE DEFINITIONS RELATED TO THIS NEW USE.**
DATE/MTG:	**BOARD OF TRUSTEES; MONDAY, APRIL 18, 2016**
POLICY QUESTION:	Should the Village of Weston pursue an ordinance to include mobile food vending units as part of the zoning and licensing codes, which allows for their operation within the confines as the draft ordinance is written.
RECOMMENDATION TO:	I make a motion to approve Ordinance No. 16-0021.

LEGISLATIVE ACTION:

☒ Acknowledge/Approve	☒ Ordinance	☐ Proclamation
☐ Administrative Order	☐ Policy	☐ Reports
☐ Expenditure	☐ Procedure	☐ Resolution

FISCAL IMPACT ANALYSIS:

☐ Budget Line Item:	None
☐ Budget Line Item:	
☐ Budgeted Expenditure:	
☐ Budgeted Revenue:	

STATUTORY / RULEMAKING / POLICY REFERENCES:

☐ WI Statue:	
☐ WI Administrative Code:	
☐ Case Law / Legal:	
☒ Municipal Code:	DRAFT: 94.4.10(13) and 18.148
☐ Municipal Rules:	

PRIOR REVIEW:	PC and ETZ review at March 14, 2016 and April 11, 2016 (public hearing) Meetings

BACKGROUND:

Last year, staff was approached by several people wanting to operate a mobile food vending unit within the Village. This has become an increasingly popular food option for people around Central Wisconsin. To be pro-business, staff moved forward with compiling a draft ordinance to allow for such a use within the Village. It is important that the Village allows for these uses, as for many of these small business owners it is a stepping stone to owning and operating their own restaurant. If and when they choose to make that big step, staff hopes that with by welcoming this use in the Village the business owner would choose Weston for their brick and mortar location. Please note that if the Board chooses to approve

VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

ORDINANCE NO. 16-021

AN ORDINANCE CREATING SECTION 94.4.10(13) OF THE ZONING ORDINANCE ENTITLED *TEMPORARY SALES BY MOBILE FOOD VENDORS* AND ADDING THIS NEW TEMPORARY LAND USE TO THE TEMPORARY LAND USE CATEGORY WITHIN THE CHARTS DISPLAYED IN FIGURES 3.04 AND 3.05 OF THE VILLAGE ZONING ORDINANCE AND AMENDING SECTION 94.17.04 DEFINITIONS OF THE ZONING CODE TO CREATE DEFINITIONS RELATED TO THIS NEW USE.

WHEREAS, the Village of Weston is authorized to prepare, amend and adopt a zoning ordinance under Wis. Stats. §§ 62.23 and 61.35; and

WHEREAS, the Village adopted a new Chapter 94 in March 2015, to serve as the Village's general zoning ordinance and the Village's extraterritorial zoning ordinance for the portions of the Town of Weston defined as the extraterritorial zoning area; and

WHEREAS, Village Staff has been tasked to create regulations for temporary sales of mobile food vendors in the Village; and

WHEREAS, Village Staff is proposing amendments to Chapter 94 Zoning and Chapter 18 Businesses to provide regulations for temporary sales of mobile food vendors; and

WHEREAS, the Plan Commission has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Village limits; and

WHEREAS, the Joint Town and Village Extraterritorial Zoning Committee has recommended enactment of the Zoning Ordinance amendments set forth below, for applicability within the Extraterritorial Zoning limits of the Town of Weston; and

WHEREAS, the Joint Village and Town of Weston Extraterritorial Zoning Committee and Village Plan Commission have held a joint public hearing on this ordinance, on April 11, 2016, in compliance with Wis. Stat. § 62.23, and following such hearing the Board considered public comments and the recommendation of the Village Plan Commission and Joint Village and Town of Weston Extraterritorial Zoning Committee; and

WHEREAS, the Village Board finds the proposed amendment is reasonable, consistent with the Village Comprehensive Plan, and in the public interest;

NOW, THEREFORE, the Village Board of Weston, Marathon County, Wisconsin, do ordain as follows:

SECTION 1: Chapter 94 Zoning Ordinance is hereby amended to provide as follows:

Section 94.4.10: Temporary Land Use Types

(13) **Temporary Sales by Mobile Food Vendors**

Includes the short-term sale of products and foods outside the confines of a building. Foods and beverages are made by the licensed mobile food vendor. Examples of this land use category include, but are not limited to, mobile retail food establishment, temporary retail food establishment, pushcart, ice cream vendor and temporary food stands. This category does not include "Seasonal Sales of Farm Products" (including farmers' markets), "Drive-in or Drive-through Sales or Service," or licensed mobile food vendors associated with a licensed and approved "Outdoor Assembly or Special Event."

Performance Standards:

1. Each such use shall require the issuance of a "Mobile Food Vendor" License from the Village Clerk per Section 18.148 of the Municipal Code.
2. Vending shall only be permitted to operate between the hours of 7:00 a.m. and 30 minutes after the provided closing hours for Class "B" licensed alcohol establishments as provided in Wis. Stat. §125.32(3).
3. No mobile food vending unit may be set up at any one location for more than a 7-day period. Mobile food vending units that operate out of a motorized vehicle shall be parked in a parking stall overnight as to not inhibit traffic flow.
4. All mobile food vendor units shall be located on a hard or gravel surface, as defined by this Chapter.
5. All mobile food vendor units shall adhere to the setbacks of the hard or gravel surface of the respected zoning district as defined in Figure 5.02(2) Non-residential District Setbacks and Height Standards within this Chapter.
6. Written permission from the property owner or designee granting the permission to vend food from a mobile food vending unit on their property.
7. No mobile food vendor unit shall be located or operate within a rural, open space or residentially zoned district, with the exception of the PR – Parks and Recreation district or unless the mobile food vendor is identified under Section 18.148(d)(2) of Licensing.
8. No mobile food vendor unit shall be located or operate within the right-of-way, which includes, but not limited to, the street and sidewalk, with the exception of a mobile ice cream vendor. No vending shall be made in a public street from a vehicle or other on-street unit except from the curbside of said vehicle or on-street unit. Vehicle or pedestrian flow shall not be impeded in any way. All vending from the right-of-way shall cease at sunset.
9. No mobile food vendor unit shall be located within 10 feet of a fire hydrant or designated bus stop and shall not be located within the vision triangle as described in Chapter 71.
10. No mobile food vendor unit shall be located on the same parcel or any adjacent parcel where a business is selling the same or similar products during the hours of operation of said business, unless written permission is granted by the owner of said business and such documentation is provided with the required application.
11. No mobile food vendor unit shall be located or operating within 1000 feet of school property during school hours, unless written permission is granted by the school

superintendent or designee and such documentation is provided with the required application.

12. It shall be prohibited for any mobile food vendor units to be connected to any public source of water, sewer or electricity.
13. The utilization of public property, such as light poles, utility pole, planters is prohibited.
14. The utilization of a drive-up or drive-through window for motorized vehicles is prohibited.
15. The licensee or designated operator of the mobile food vendor unit shall be present at all times during which food is being displayed and sold, except that the operator may leave his/her vending location and mobile vending unit unattended during lawful vending hours for a maximum of 30 minutes per day.
16. The Everest Metropolitan Police Department or the Village shall have the authority to remove or cause the removal of any mobile food vendor unit, any of its accessories or product that is in violation of this chapter or poses a risk to the health, safety or welfare of the general public. In addition to any forfeiture that may be imposed, the violator shall also be liable for any removal, towing and storage charges incurred by the Village or any of its associated agencies as a result.
17. Any signs that are attached to the mobile vending unit are exempt from the requirements of filing a sign permit, but shall adhere to all regulations within Article 13.

Section 94.3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts

Figure 3.04: Allowable Uses in Rural, Open Space and Residential Zoning Districts

P = Permitted Use	C = Conditional Use	T = Temporary Use	Empty Cell = Prohibited Use

Land Use Category (#) Land Use Type	Zoning District (see key at end of figure)								
	FP	AR	RR-2; RR-5	PR	SF-L	SF-S	2F	MF	MH
Temporary Land Uses (see Section 94.4.10 for descriptions and standards for each land use)									
(1) Temporary Outdoor Sales				T					
(2) Garage, Yard, Estate, and In-Home Sales	T	T	T		T	T	T	T	T
(3) Outdoor Assembly or Special Event	T	T	T	T	T	T	T	T	T
(4) Contractor's Project Office	T	T	T	T	T	T	T	T	T
(5) Contractor's On-Site Equipment Storage Facility	T	T	T	T	T	T	T	T	T
(6) Relocatable Building	T	T	T	T	T	T	T	T	T
(7) On-Site Real Estate Sales Office		T	T	T	T	T	T	T	T
(8) Seasonal Outdoor Sales of Farm Products	T	T		T					
(9) Temporary Portable Storage Container	T	T	T	T	T	T	T	T	T
(10) Temporary Shelter	T	T	T	T	T	T	T	T	T
(11) Temporary Agricultural Structure	T	T							
(12) Temporary Unscreened Storage									

P = Permitted Use	C = Conditional Use	T = Temporary Use	Empty Cell = Prohibited Use

Land Use Category (#) Land Use Type	Zoning District (see key at end of figure)								
	FP	AR	RR-2; RR-5	PR	SF-L	SF-S	2F	MF	MH
(13) Temporary Sales by Mobile Food Vendors				T					

Key to Zoning Districts:

FP = Farmland Preservation
AR = Agriculture and Residential
RR-2 = Rural Residential (2 acre minimum)
RR-5 = Rural Residential (5 acre minimum)
PR = Parks and Recreation
SF-L = Single Family Residential-Large Lot
SF-S = Single Family Residential-Small Lot
2F = Two Family Residential
MF = Multiple Family Residential
MH = Manufactured Home

Section 94.3.05: Allowable Uses in Non-Residential and Mixed Use Zoning Districts

Figure 3.05: Allowable Uses in Non-Residential and Mixed Use Zoning Districts

P = Permitted Use	C = Conditional Use	T = Temporary Use	Empty Cell = Prohibited Use

Land Use Category (#) Land Use Type	Zoning District (see key at end of figure)							
	INT	B-1	B-2	B-3	BP	LI	GI	
Temporary Land Uses (see Section 94.4.10 for descriptions and standards for each land use)								
(1) Temporary Outdoor Sales	T	T	T	T	T	T	T	
(2) Garage, Yard, Estate, and In-Home Sales								
(3) Outdoor Assembly or Special Event	T	T	T	T	T	T	T	
(4) Contractor's Project Office	T	T	T	T	T	T	T	
(5) Contractor's On-Site Equipment Storage Facility	T	T	T	T	T	T	T	
(6) Relocatable Building	T	T	T	T	T	T	T	
(7) On-Site Real Estate Sales Office		T	T	T	T	T	T	
(8) Seasonal Outdoor Sales of Farm Products	T			T				
(9) Temporary Portable Storage Container	T	T	T	T	T	T	T	
(10) Temporary Shelter	T	T	T	T	T	T	T	
(11) Temporary Agricultural Structure								
(12) Temporary Unscreened Outdoor Storage Accessory to Industrial Use				T		T	T	

P = Permitted Use	C = Conditional Use	T = Temporary Use	Empty Cell = Prohibited Use

Land Use Category	Zoning District (see key at end of figure)							
(#) Land Use Type	INT	B-1	B-2	B-3	BP	LI	GI	
(13) Temporary Sales by Mobile Food Vendors	T	T	T	T	T	T	T	

Key to Zoning Districts:

INT = Institutional
B-1 = Neighborhood Business
B-2 = Highway Business
B-3 = General Business
BP = Business Park
LI = Limited Industrial
GI = General Industrial

Section 94.17.04: Definitions

Farmers' Market: The days the Village of Weston provides a time and space for vendors to peddle, vend, sell, serve, display, offer to sell or give away a grown or homemade good, product, food or beverage.

Mobile Food Vending Unit: Any motorized or non-motorized vehicle, trailer, kiosk, pushcart, pedal cart, stand, display, carried container, blanket, ground covering or other device designed to be portable and not permanently attached to the ground from which food and/or beverages are being peddled, vended, sold, served, displayed, or offered for sale or given away. This definition does not include a mobile wholesale delivery unit, a vehicle which is used solely to transport or deliver food, or a common carrier regulated by the state or federal government. See section 94.4.10(13).

Mobile Food Vendor: means a person who peddles, vends, sells, serves, displays, offers to sell or give away food or beverages from a mobile food vending unit.

SECTION 2: The amendment effectuated by this Ordinance shall apply within the municipal limits of the Village and within its extraterritorial zoning jurisdiction in the Town of Weston.

SECTION 3: SEVERABILITY. If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby. If an application of this Ordinance to a particular structure, land, or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land, or water not specifically included in said judgment. If any requirement or limitation attached to an authorization given under this Ordinance is found invalid, it shall be presumed that the authorization would not have been granted without the requirement or limitation and, therefore, said authorization shall also be invalid. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE. This ordinance shall take effect upon approval and publication.

Dated the 18th day of April, 2016

WESTON VILLAGE BOARD

By: Barbara Ermeling
Barbara Ermeling, its President

Attest:
Sherry Weinkauf
Sherry Weinkauf, its Clerk

APPROVED: 4/19/16

PUBLISHED: 4/20/16

Notice of Newly Enacted Ordinances

Please take notice that the Village Board of Weston, Wisconsin enacted on April 18, 2016, the following Ordinances:

- Ordinance No. 16-003 An Ordinance Amending Section 94.3.02 of the Zoning Ordinance Entitled Treatment of Allowable Uses by Zoning District.
- Ordinance No. 16-004 An Ordinance Amending Section 94.4.02(4)7. of the Zoning Ordinance Entitled Residential Land Use Types – Manufactured Home Community – Performance Standards.
- Ordinance No. 16-005 An Ordinance Amending Section 94.6.03(4), Figure 6.03 of the Zoning Ordinance Entitled Conditional (C), Prohibited (R), And Permitted (P) Uses in WHP Overlay Districts.
- Ordinance No. 16-006 An Ordinance Amending Section 94.13.08 of the Zoning Ordinance Entitled One-Time Event Signs.
- Ordinance No. 16-007 An Ordinance Amending Section 94.16.02(4) of the Zoning Ordinance Entitled Zoning Administrator Review and Recommendation, Section 94.16.02(5) of the Zoning Ordinance Entitled Notice of Public Hearing, Section 94.16.03 (4) of the Zoning Ordinance Entitled Zoning Administrator Review and Recommendation, Section 94.16.03(5) of the Zoning Ordinance Entitled Notice of Public Hearing, and Section 94.16.03(7) of the Zoning Ordinance Entitled Review Criteria for Amendments to the Official Zoning Map.
- Ordinance No. 16-008 An Ordinance Amending Section 94.16.06(2), (3) and (4) of the Zoning Ordinance Relating to the Conditional Use Permit Approval Process.
- Ordinance No. 16-009 An Ordinance Amending Section 94.16.11(4) and (5) of the Zoning Ordinance Relating to Variance Procedures.
- Ordinance No. 16-010 An Ordinance Amending Section 94.16.13(4) of the Zoning Ordinance Relating to Concurring Vote and Decision of an Appeal of a Zoning Interpretation.
- Ordinance No. 16-011 An Ordinance Amending Section 94.16.15(2) of the Zoning Ordinance Relating to Zoning Administrator Duties.
- Ordinance No. 16-012 An Ordinance Amending Section 94.3.03(13) of the Zoning Ordinance Entitled Utility Connections to Principal Building for Human Habitation.
- Ordinance No. 16-013 An Ordinance Amending Section 94.16.19(1) of the Zoning Ordinance Entitled Violations, and Section 94.16.19(3) of the Zoning Ordinance Entitled Penalties.
- Ordinance No. 16-014 An Ordinance Amending Figure 5.01 (1) of the Village Zoning Ordinance Entitled Rural, Open Space and Residential District Lot Dimension and Intensity Standards.
- Ordinance No. 16-015 An Ordinance Amending Section 94.5.08(1)(b) and (d) of the Zoning Ordinance Relating to Calculating Maximum Permitted Density in the AR District.
- Ordinance No. 16-016 An Ordinance Amending Section 94.16.09(4) of the Zoning Ordinance Relating to Site Plan Procedures Application Contents.

- Ordinance No. 16-021 An Ordinance Creating Section 94.4.10(13) of the Zoning Ordinance Entitled Temporary Sales by Mobile Food Vendors and Adding This New Temporary Land Use to the Temporary Land Use Category Within the Charts Displayed in Figures 3.04 And 3.05 of the Village Zoning Ordinance and Amending Section 94.17.04 Definitions of the Zoning Code to Create Definitions Related to This New Use.

The full text of the above Ordinances may be obtained at the office of the Village Clerk, 5500 Schofield Avenue, Weston, Wisconsin or through the Village's website at http://www.westonwi.gov.

Dated this 19th day of April, 2016
Sherry Weinkauf, Village Clerk

Published: 4/20/16