ENTITLED: "AN ORDINANCE AMENDING VARIOUS SECTIONS OF CHAPTER 8.40, FOOD AND FOOD SERVICE ESTABLISHMENTS, TITLE 8, HEALTH AND SAFETY, OF THE CODE OF THE CITY OF CHEYENNE, WYOMING."

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEYENNE, WYOMING:

Section 1. That various sections of Chapter 8.40, Food and Food Service Establishments, of Title 8, Health and Safety, of the Code of the City of Cheyenne, Wyoming, are hereby amended as set out in this ordinance. Sections currently existing within Chapter 8.40 not set out within this ordinance remain unchanged.

8.40.010 Purpose—Authority—General provisions.

B. Pursuant to the authority granted cities and towns by Wyo. Stat. Section 15-1-103(a)(v), the licensing and regulating of food services, including food service establishments, food stands, wagons and pushcarts, mobile food trucks, mobile food units, and temporary parade vendors, and milk products are governed by this chapter.

8.40.020 Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

"Complimentary food distribution" means the offer, temporarily, of food or drink items at no cost to the general public from a food stand, wagon or pushcart.

"Fixed location—Food stands, wagons or pushcarts" means stands, wagons or pushcarts for use at one designated fixed temporary location providing approved and inspected pre-packaged food items and/or those food items requiring only limited preparation (minimal cooking and seasoning) as approved by the health officer. Specifically, a pushcart shall mean a nonself-propelled vehicle limited to serving nonpotentially hazardous foods or pre-packaged foods as approved by the health officer.

[...]"Mobile food truck” means a motorized, wheeled vehicle or towed, wheeled vehicle designed and equipped to prepare and serve food.

8.40.040 Licenses and permits required.

A. It is unlawful for any person to operate a food service establishment, a fixed food stand, wagon or pushcart, mobile food truck, or a-mobile food unit, or operate as
a temporary parade vendor, or provide milk and milk product sales without first obtaining a license or permit from the city clerk. Licenses and permits issued must be posted and displayed in a conspicuous place at the licensed or permitted premises of any food service establishment, food stand, upon the mobile food truck or mobile food unit, or be immediately available upon request at any pushcart, as applicable.

B. Before any license or permit will be issued, with the exception of milk and milk product sales, an applicant must first have applied for a state of Wyoming Food Service license or permit through the Cheyenne-Laramie County health department, and a sales tax permit through the Wyoming Department of Revenue. A separate application fee, including any applicable annual renewal fee, assessed and collected by the health department, is required prior to issuance of a city license and/or permit. The health officer may also require a site plan, with an accompanying fee, be submitted by the applicant for review and approval.

8.40.050 Authority—Inspections required—Deficiencies.

The health officer is authorized by the city to issue permits as required. The health officer and other city representatives, as required by the city clerk, will conduct on-site inspections, if deemed necessary by the health officer and the city clerk, of any premises, equipment or products to be used in the offering of food items for consumption to the general public, either through sales or gratuitously. Whenever health and safety deficiencies are noted by the health officer, the officer shall post in a conspicuous place upon the premises a list of the deficiencies noted during the inspection upon the premises of the food service establishment or upon the food stand, pushcart, mobile food truck, or mobile food unit, as applicable. The list must remain posted until such time as the deficiencies are remedied. The health officer may charge an inspection fee for the performance of the inspection.

The chief of the fire department or his or her designee will inspect any food service establishment, food stand, pushcart, mobile food truck, and mobile food unit. Before the issuance of any business license pursuant to the provisions of this chapter, the vendor shall obtain proof of successfully completing a fire inspection and furnish said proof to the city clerk as part of the business license application.

8.40.063 Food service establishments—Sidewalk cafes.

A. Any person licensed through the office of city clerk as a food service establishment may request a permit from the city authorizing encroachment upon a portion of the public right-of-way for the purpose of operating a sidewalk cafe as an extension of their regular food services provided under their annual food service establishment business license.

1. The following definition shall apply in the interpretation and enforcement of this section: "Sidewalk cafe" means that portion of the public right-of-way that is kept, used, maintained and held out to the public solely as a place
where food and drink are served for consumption to patrons, seated at appropriate dining tables, from the immediately adjoining existing business premises licensed as a food service establishment. A sidewalk cafe is considered an extension of the existing business and all services to support the cafe must be supplied from within the adjoining building. Preparation (cooking) of food within the sidewalk cafe area, commercial advertising, signs or banners, except for the name of the food service establishment on awnings, umbrellas or valances, within the area are prohibited. All refreshments may be dispensed into and served in glassware. Glass bottles of any kind are not permitted.

8.40.070  Food stands, wagons or pushcarts—MOBILE FOOD TRUCKS—Mobile food units—Temporary parade vendors—Business license required—Application.

A.  Any person wishing to conduct business as a fixed-food stand, wagon or pushcart, mobile food truck, or mobile food unit must submit written application for a license on forms provided by the city clerk, together with payment of the required fee, to the office of the city clerk. Applications submitted must include the following documentation:

1.  […]

2.  Written list description of all the type of food items, whether pre-packaged, as well as those requiring limited preparation, or for preparation aboard a mobile food truck, proposed to be sold from the food stand, wagon, or pushcart, mobile food truck, or mobile food unit site. Items food item types not included on the list following approval by the health officer and issuance of the license may not be prepared or sold; and

3.  Affirmation vendor will obtain written consent of the owner of the property intended to be used as the site for conducting food stand, wagon or pushcart, mobile food truck, or mobile food unit sales, if such vendor intends to set up at a location on privately-owned property.

B.  The annual nonrefundable licensing fee will be seventy-five dollars ($75.00) per year, per fixed location of each food stand, wagon or pushcart, mobile food truck, or mobile food unit. Upon application and request by nonprofit, charitable or youth organizations, the city clerk may approve a reduced annual fee of twenty-five dollars ($25.00) per year, per fixed location of each stand, wagon or pushcart, mobile food truck, or mobile food unit.

C.  The annual nonrefundable licensing fee for a mobile food unit will be seventy-five dollars ($75.00) per year, per mobile food unit. The fourteen (14) day nonrefundable licensing fee will be fifty dollars ($50.00) per fourteen (14) day
period, per food stand, pushcart, mobile food truck, or mobile food unit. Upon application and request by nonprofit, charitable, or youth organizations, the city clerk may approve a reduced, nonrefundable licensing fee of ten dollars ($10.00) per fourteen (14) day period, per food stand, pushcart, mobile food truck, or mobile food unit.

8.40.080 Food stands, wagons, and pushcarts, MOBILE FOOD TRUCKS, AND MOBILE FOOD UNITS—Inspection.

Fixed—Food stands, wagons or pushcarts, mobile food trucks, mobile food units, temporary parade vendors, and complimentary food distribution areas proposed to be used for food preparation, prior to sales or distribution to the general public, must be available for inspection and approval by the health officer and various city representatives, as required by the city clerk. The preparation and sale of food products, including all equipment and items to be utilized in the preparation process, must meet state and local sanitation, health and safety requirements.

8.40.090 Food stands, wagons, pushcarts, MOBILE FOOD TRUCKS, AND MOBILE FOOD UNITS—Requirements—Approvals.

No person will operate a fixed food stand, wagon or pushcart, mobile food truck, or mobile food unit for the sale or vending distribution of any food items, other than approved and inspected pre-packaged items and/or items requiring only limited preparation (minimal cooking and seasoning) as approved by the health officer, without first obtaining a license or permit issued in accordance with the provisions of this chapter and Chapter 5.04. No license or permit from the city clerk will be required for persons wishing to provide complimentary food distribution to the general public, but inspection and approval by the health officer is mandatory prior to distribution. In all instances, the city's zoning regulations will be enforced.

8.40.100 Responsibility for OF FOOD stands, wagons, and pushcarts, MOBILE FOOD TRUCKS, AND MOBILE FOOD UNITS FOR VENDOR-GENERATED REFUSE.

All persons conducting food sales or providing complimentary distribution of food items will be held responsible for shall maintaining clean the sidewalk, street, or premises adjacent to and within a twenty-five feet (25') radius of any fixed-location point of sale or distribution from any food stand, wagon or pushcart, mobile food truck, mobile food unit, or complimentary distribution area. Such cleaning shall consist of picking up and disposing of any paper, cardboard, wood, plastic, or other types of containers, wrappers, or any litter resulting from the vendor's operations, from any rubbish, refuse and/or liquid waste resulting from use of the premises. Rubbish, refuse and/or liquid waste must be disposed of in a proper manner. The licensee shall provide a suitable container for the placement of such litter by customers.

[Editing note: Section 8.40.110 is entirely repealed and replaced by the following section]

8.40.110 Food stands, pushcarts, mobile food trucks, and mobile food units—Restrictions—Operation.
A. Food stands and pushcarts may operate:

1. upon a public sidewalk or public non-right-of-way space with written consent of the immediately adjacent business owner, if any, who may be affected by the proposed sales site, and upon private property, with consent of the private property owner;

2. within a city-owned recreational park, only after application and approval by the city clerk; and

3. upon a closed street, only after application and approval by the city clerk and in conjunction with a special community event, activity, or celebration, if the street has been approved for closure by the police chief, risk manager, and traffic engineer;

B. Food stands and pushcarts may not operate:

1. upon a public sidewalk in such a manner that impedes or interferes with free movement of vehicular, bicycle, or pedestrian traffic or visually obstructs the safe movement of vehicular, bicycle, or pedestrian traffic; or

2. in any on-street parking space in the public right-of-way, unless such street is closed pursuant to application and approval of a special community event, activity, or celebration.

C. Food stands, pushcarts, mobile food trucks, and mobile food units may not operate within:

1. one hundred feet (100’) of the primary entrance of a restaurant, measured from the center of the primary entrance(s) of the restaurant by the most direct pedestrian path, without written consent of the restaurant owner(s);

2. fifteen feet (15’) of a fire hydrant;

3. ten feet (10’) of any crosswalk, whether at an intersection of public rights-of-way or at a mid-block crossing;

4. ten feet (10’) of any curb loading signed area;

5. ten feet (10’) of any public transportation stop;

6. five feet (5’) of any handicapped parking place or access ramp; or
7. any public alley.

D. Food stands, pushcarts, mobile food trucks, and mobile food units may not:

1. operate, store, leave unattended, or park such unit upon the public right-of-way after 3:00 A.M. and before 5:00 A.M., except as otherwise permitted by the city clerk and chief of police or as necessary for the owner of such vehicle to park within the right-of-way outside his or her residence or principal office during non-operational hours.

2. leave any such unit unattended in the public right-of-way during operations;

3. sell or distribute directly to any person situated in a motor vehicle if such sale or distribution may impede or interfere with free movement of vehicular, bicycle, or pedestrian traffic;

4. operate in diagonal parking spaces, unless such street is closed pursuant to application and approval of a special community event, activity, or celebration; or

5. operate within or upon any area or lot zoned pursuant to the city’s Unified Development Code as AR, RR, LR, MR, HR, NR-1, NR-2, NR-3, or any lot zoned NB, CB, CBD, MUR, MUB, or MUE, that is used as a residential lot, except if operated upon private property strictly in service of a private, special event and not in service of the general public.

E. Mobile food trucks and mobile food units must abide with the stopping, standing, and parking requirements as set forth in Title 10 of city code.

F. The interior kitchen length of any mobile food trucks and mobile food units shall be no longer than eighteen and one-half feet long (18.5’) if the vendor serves from the public right-of-way onto a public sidewalk. This limitation shall not apply to vendors serving the public from private property.

G. Mobile food trucks or mobile food units may not park upon any public right-of-way for the purpose of selling food in such a manner or under such conditions as to impede or interfere with free movement of vehicular, bicycle, or pedestrian traffic or visually obstruct the safe movement of vehicular, bicycle, or pedestrian traffic.

H. Mobile food trucks or mobile food units may utilize parking places parallel to the public sidewalk to serve customers thereon.

8.40.120 Expiration of license—Renewal.
A. Fixed food stands, wagons or pushcarts, mobile food trucks, and mobile food unit licenses issued under the provisions of this chapter will expire one year from the date of issuance or renewal, except those licenses issued on a temporary basis in conjunction with food sales for special community events, activities or celebrations. Those licenses issued on a temporary basis will be effective for the dates of operation requested and approved in the application form, but not to exceed the temporary license period with the licensing fee effective for one year.

B. Licensees conducting sales upon closed streets pursuant to Section 8.40.110 must make arrangements for the immediate removal of the food stand, wagon or pushcart, mobile food truck, or mobile food unit following the special community event, activity or celebration.

8.40.130 Temporary parade vendor permit—Application—Restrictions.

A. The provisions of this chapter applicable to fixed-location food stands, wagons and pushcarts do not apply to any temporary parade vendor wishing to provide sales of approved and inspected pre-packaged food or drink items, as approved by the health officer, in conjunction with special community parade events on public streets.

B. [ . . . ]

C. Temporary parade vendor permittees must not impede the flow of vehicular, bicycle, or pedestrian traffic or pose any threat to the health and safety of parade observers or participants, including any live animals.

8.40.140 Complimentary food items—Penalty for noncompliance.

Persons wishing to provide to the general public complimentary food and drink items which require only limited preparation (minimal cooking and seasoning), as approved by the health officer, must contact the health officer for required inspections and approval of food preparation facilities and food items proposed to be offered.

Failure to acquire necessary approvals and inspections by the health officer prior to complimentary food items being offered to the general public is a misdemeanor offense and may be punishable pursuant to the general penalty provision of this city code.

8.40.150 — Milk and milk products—Regulations generally—Adoption.

The inspection of dairies, dairy herds and milk plants and the production, processing, handling, transportation, sampling, examination, grading, labeling and sale of all fluid milk, cream and milk products sold for ultimate consumption within the city is regulated by the provisions of this chapter and the requirements of the Wyoming Department of Agriculture, Grade A Pasteurized Milk Ordinance, 1989, as amended. A copy of the Grade A Pasteurized Milk Ordinance is on file
with the Wyoming Department of Agriculture, Food and Drug Division, and is adopted and made a part of this chapter by this reference.

8.40.160 — Milk and milk products—Licenses or permits.

Applicable permits or licenses are required for persons desiring to operate a dairy or dairy trucks for the distribution or offering for sale any milk or milk products (except for manufacturing purposes) and will be issued upon approved applications as filed with the city clerk. If required, proof of application with the Wyoming Department of Agriculture, Food and Drug Division, and also with the Wyoming Department of Revenue (sales tax permit) must accompany the application form. The nonrefundable license fee will be seventy-five dollars ($75.00) per year. Licenses are effective for one year from date of issuance and are not transferrable to another owner.

8.40.170 — Milk and milk products—Notice of additional sources of supply.

Any person issued a license or permit under the provisions of Section 8.40.160 shall notify the office of city clerk and the State of Wyoming Department of Agriculture, Food and Drug Division, upon the addition of any producer to their source of supply.

Section 2. That this ordinance shall be in full force and effect upon its approval, publication, and upon and after January 1, 2018.

FIRST READING: 

October 23, 2017

SECOND READING:

November 13, 2017

THIRD AND FINAL READING:

November 27, 2017

(SEAL)

Marian J. Orr, Mayor

Attest:

Carol Intlekofer, City Clerk

Publish: Wyoming Tribune Eagle

December 1, 2017