

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

ABDALLAH ISMAIL,
4260 S 26TH ST.
MILWAUKEE, WI 53221-2284

ASYA, LLC,
(d/b/a THE FATTY PATTY)
4260 S 26TH ST.
MILWAUKEE, WI 53221-2284

Plaintiffs,

Declaratory Judgment
Case Code: 30701
Case No. 26-CV-

v.

CITY OF MILWAUKEE
200 E. WELLS ST.
MILWAUKEE, WI 53202

Defendant.

SUMMONS

THE STATE OF WISCONSIN, To each person named above as a Defendant:

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The complaint, which is attached, states the nature and basis of the legal action.

Within 45 days of receiving this summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the court, whose address is **Milwaukee County Clerk of Courts, 901 North 9th Street,**

Room 104, Milwaukee, Wisconsin 53233, and to the **Wisconsin Institute for Law & Liberty**, Plaintiff's attorneys, whose address is **1241 North Franklin Place, Milwaukee, Wisconsin 53202**. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 days, the court may grant judgment against you for the award of money or other legal action requested in the complaint, and you may lose your right to object to anything that is or may be incorrect in the complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future, and may also be enforced by garnishment or seizure of property.

Dated: May 7, 2026

Respectfully Submitted,

WISCONSIN INSTITUTE
FOR LAW & LIBERTY

*Electronically signed by
Kirsten A. Atanasoff*

Daniel P. Lennington (#1088694)
Lucas T. Vebber (#1067543)
Rebecca C. Furdek (#1101543)
Kirsten A. Atanasoff (#1116561)

1241 N. Franklin Place
Milwaukee, WI 53202
Phone: (414) 727-9455

dan@will-law.org
lucas@will-law.org
rebecca@will-law.org
kirsten@will-law.org

Attorneys for Plaintiffs

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COMPLAINT

Plaintiffs Abdallah Ismail and ASYA, LLC, by their undersigned attorneys at the Wisconsin Institute for Law & Liberty, hereby allege as follows:

INTRODUCTION

1. This lawsuit seeks to vindicate the rights of certain Wisconsin citizens to earn an honest living free from anticompetitive, protectionist, and irrational government regulation.

2. Through his LLC, Plaintiff Abdallah Ismail owns The Fatty Patty food truck located on Water Street. The Fatty Patty serves gourmet, made-to-order, 100% Zabiha Halal, fresh-never-frozen burgers across five locations in the greater

Milwaukee area, including the food truck on Water Street in downtown Milwaukee (the “Water Street Food Truck”).

3. Like many other food truck operators, Plaintiff Ismail has found success in the business. With lower barriers to entry than traditional brick-and-mortar restaurants and more flexibility to go to where the customers are, the food truck business offers an attractive option for individuals looking to try their hand in the culinary industry, allowing them to hone specialty cuisines and to serve a diverse clientele.

4. Food trucks benefit their communities. They give customers the option to select from a diverse array of foods from every culture and for every occasion—from breakfast food to dessert to Halal burgers—and offer a niche specialty that often would not be possible in a traditional restaurant. Their ability to travel to where customers want them to be gives them operational flexibility; their lower operating costs help keep prices more affordable; and they provide quick, convenient service.

5. Food trucks have found niche markets in all sorts of areas. In areas like Milwaukee’s downtown—where bars and hungry bar patrons abound—food trucks have become a staple for a quick late-night bite.

6. But a new ordinance in the City of Milwaukee threatens the food truck business—and with it, the livelihoods of people like Mr. Ismail—by forcing them to close shop right at the beginning of their busiest and most profitable hours, and far earlier than they historically have closed.

7. The purported rationale for this ordinance is equally as absurd as expecting patrons to eat their post-bar meal before 10pm: that the food trucks are to blame for downtown Milwaukee's violent crime problem.

8. But using the food trucks as a scapegoat for Milwaukee's violent crime problems is just a thinly veiled pretext for economic protectionism, which is not a valid exercise of government power. The ordinance's author, along with one of its main public sponsors, both revealed the true problem they seek to solve: limiting the competition food trucks pose to brick-and-mortar restaurants. But that is an illegitimate reason to interfere with livelihoods under Wisconsin law. This Court should stop it.

PARTIES

9. Plaintiff Abdallah Ismail is an adult citizen of the State of Wisconsin, residing at 4260 S. 26th Street, Milwaukee, WI 53221-2284. Mr. Ismail runs the Water Street Food Truck.

10. Plaintiff ASYA, LLC is a limited liability corporation organized under Wisconsin law with its principal place of business located at 4260 S. 26th Street, Milwaukee, WI 53221-2284. ASYA, LLC owns the Water Street Food Truck and holds the food peddlers license that allows that food truck to operate in Milwaukee. Mr. Ismail is the sole member of ASYA, LLC.

11. Defendant City of Milwaukee is a municipal corporation of the State of Wisconsin. It is the City's Ordinance that is the subject of this action. Milwaukee's City Hall is located at 200 E. Wells Street in the City of Milwaukee.

JURISDICTION AND VENUE

12. This is an action for declaratory and injunctive relief under Wis. Stat. §§ 806.04 and 813.01.

13. Venue in this Court is proper pursuant to Wis. Stat § 801.50(2).

BACKGROUND

Plaintiffs' Business

14. The Water Street Food Truck has been operating on Water Street for nearly ten years. This was The Fatty Patty's very first location and remains its most profitable one as well.

15. Prior to 2023, the Water Street Food Truck would stay open until 2am or 3am on the weekends, depending on how busy of a night it was. On weekdays, it would stay open until around midnight, again depending on demand.

16. The peak business hours for the Water Street Food Truck have consistently been after 10pm.

17. Mr. Ismail estimates that, prior to 2023, he did 80% or more of his business after 10pm.

18. In 2023, an ordinance required food trucks like The Fatty Patty's Water Street Food Truck to close down at 1am.

19. While it was a hit to his business, Mr. Ismail made it work as best he could.

20. Now, however, newly created Milwaukee City Ordinance (“MCO”) § 68-37-1-e-1-b. will require him to shut down *another 3 hours earlier*. In fact, it will require him to shut down right when his busiest time normally starts.

21. Mr. Ismail estimates that this new ordinance will cause him to lose another 60-70% of his *current* business at the Water Street Food Truck, after having already lost a substantial portion of his historic business when the 2023 Ordinance took effect.

22. To Mr. Ismail, closing at 10pm means closing the Water Street Food Truck—The Fatty Patty’s first and most profitable location, which has been operating for nearly ten years. It simply does not make economic sense for him to set up shop at 5pm (the earliest he typically starts to get business in the area) just to shut down 5 hours later—right when he normally begins to see a long line form and business is consistently steady.

23. Milwaukee’s new ordinance substantially burdens Mr. Ismail’s right to earn an honest livelihood—as he has been doing for years—without any legitimate justification to do so.

Background on City of Milwaukee’s Regulation of Food Trucks

24. This is not Milwaukee’s first time stifling the food truck business and—unfortunately—it is unlikely to be the last.

25. As alleged herein, Milwaukee previously struck a blow to food truck business back in May of 2023, passing an ordinance that required food trucks in parts

of the city, including the Water Street area where The Fatty Patty has a food truck, to close by 1am (hereinafter the “2023 Ordinance”).

26. Prior to the 2023 Ordinance, food trucks citywide could operate until 3am on weekdays and 3:30am on weekends.

27. The 2023 Ordinance introduced for the first time a number of arbitrary restrictions on the operation of food trucks:

- a. A requirement that food trucks park at least 50 feet away from brick-and-mortar restaurants.
- b. Two zones for food trucks: Type 1 Zone, where time restrictions control when food trucks can be present and food trucks are allowed on a first-come, first-served basis; and Type 2 Zone, where density restrictions control and food trucks must have a parking permit to be present.
- c. In the Type 1 Zone, a requirement that all trucks close down by 1am and that they cannot spend more than six hours in the same spot in a 12-hour period.
- d. Parking assignments based on seniority in the Type 2 areas.
- e. A restriction that a food truck cannot sell on private property unless it is selling only to employees of a specific business.

28. Since The Fatty Patty’s Water Street Food Truck operates in a Type 1 Zone, Plaintiffs had to begin shutting down at 1am once the 2023 Ordinance took effect.

29. Before the 2023 Ordinance was adopted, Mr. Ismail received advanced notice from Ald. Brostoff letting him know the restrictions being considered.

2026 Ordinance

30. With the enactment of the 2023 Ordinance, food trucks in the time-limited zone had to close by 1am.

31. In April 2026, however, Ald. Bauman introduced an amendment to MCO § 68-37-1-e-1-a and the creation of MCO § 68-37-1-e-1-b, which would further shrink the time window during which food trucks in the time-restricted areas could operate (hereinafter the “2026 Ordinance”).

32. Prior to the 2026 Ordinance, the City Code provided for creation of a “Type 1” zone, which is a “Time-Limited Food Peddler Zone.”

33. The City has created two such zones—one downtown, and one in Burnham Park, a neighborhood southwest of downtown.

34. Under the 2023 Ordinance, those zones had limited hours and no food truck could operate in them from 1am until 6am.

35. Under the 2026 Ordinance, those general restrictions are changed from 1am until 11pm such that no food trucks can operate in those zones from 11pm until 6am.

36. However, the 2026 Ordinance creates an even earlier restriction time of 10pm to 6am specifically for the area the Ordinance calls the “Downtown” time-limited food peddler vehicle zone.

37. From east to west, this “Downtown” zone runs from Lake Michigan to Interstate 43. From north to south, the zone runs from Pleasant Street to the Menomonee River.

38. This zone encompasses Fiserv Forum, the Milwaukee Art Museum, the Third Ward, the Summerfest grounds, portions of Lake Park, the Amtrak station, the Milwaukee Public Museum, and, of course, Water Street, among many other popular locations downtown.

39. Mr. Ismail would have shown up at the meeting where the 2026 Ordinance was considered before its passage and shared his concerns if he had known about that meeting. But, unlike the hearing to consider the 2023 Ordinance after it was first proposed, food truck operators like Mr. Ismail were not given any specific notice about the proposed 2026 Ordinance.

40. Upon information and belief, the only food truck operators that were given specific notice were those in the Burnham Park area, which is in Ald. Zamarripa’s district. And that is the only other currently active time-limited food peddler vehicle zone. Ald. Zamarripa explained that she provided notice to the food truck operators in her district, and one of them appeared at the hearing to testify against the 2026 Ordinance.

41. The vast majority of the impacted food truck area, however, is not in Ald. Zamarripa’s district. And those food truck operators—like Mr. Ismail—explained they did not know the hearing was occurring. *See* “They should have let us know,” Food Truck Owners Say of Earlier Closing Time, *Milwaukee Journal Sentinel* (Apr.

30, 2026), <https://www.jsonline.com/story/news/2026/04/30/food-truck-owners-protest-milwaukeees-earlier-closing-time/89872071007/>.

42. Since learning about the 2026 Ordinance, Mr. Ismail has vociferously spoken out against it. He has contacted City leaders, including the Ordinance's author, as well as Mayor Cavalier Johnson, to express his concerns, to no avail.

The Passage of the 2026 Ordinance

43. The 2026 Ordinance was introduced and sponsored by Ald. Bauman, who represents Milwaukee's District 4. District 4 includes bars and businesses along Water Street.

44. When introducing the 2026 Ordinance at the City Council meeting on April 10, 2026, Ald. Bauman explained the proposal was "basically in response to MSOE."

45. Before testimony, Ald. Zamarripa expressed that she had negotiated with Ald. Bauman for a slightly later closing time (11pm), which would apply to the Burnham Park zone, which is located in her district. She explained that she notified the food truck operators in her district's zone about the hearing and that at least one of them was present in the audience and would likely want to testify.

46. Kendall Breunig appeared at the hearing as a representative of MSOE. Mr. Breunig identified himself as an alumnus of the university and as a member of its Board of Regents. He disclosed that he owns property half a block away at an office complex.

47. One of the first things Mr. Breunig said was “The food trucks are not the problem. It’s the crowds that gather around them, and especially later at night. The crowds do not patronize the restaurants. They’re there to hang out.”

48. Mr. Breunig continued, “the other thing is... you know, MSOE has on the first floor ... two restaurants, we have a new Sushi Bay that just opened and we have QDOBA ... This affects them. If you have a business and you’re paying thirty thousand, sixty thousand dollars a year in property taxes, and there’s nothing stopping a food truck from parking in front of your business, that’s not really fair.”

49. Mr. Breunig explained “my point of that is I think that the ordinance right now is a good intermediate step. I think the long-term solution is to tie locations food trucks are allowed at to licensed food dealers and have a distance from it ... That wouldn’t be unreasonable.”

50. At that point, Ald. Bauman jumped in to say “we looked at that as an option but we thought it would be very hard to enforce. MPD would have to be out there with tape measures basically measuring where food trucks start and end.”

51. Milwaukee Police Department Chief of Staff Heather Hough briefly testified that she was in support of this ordinance.

52. Finally, a food truck owner testified that she operates a truck in the Burnham Park area, which is subject to the 11pm closing time. She testified that, in her experience, she never witnessed any crime or any police presence in that area. She further testified she already had to lay off one employee with the previous time

limits and that, if this ordinance passes, she will have to lay off one additional employee.

53. The Committee proceeded to a vote and recommended the Ordinance's passage by 4 to 1.

54. The 2026 Ordinance then went to a vote at the Common Council on April 22, where it passed unanimously, though one member was absent.

55. The next day, Mayor Cavalier Johnson signed the 2026 Ordinance into law.

56. The 2026 Ordinance is slated to take effect this Saturday, May 9, 2026.

CAUSES OF ACTION

CLAIM ONE: VIOLATION OF THE RIGHT TO EARN A LIVING UNDER THE WISCONSIN CONSTITUTION

57. Plaintiffs reallege and incorporate the preceding allegations of the complaint.

58. Article I, Section 1 of the Wisconsin Constitution provides: "All people are born equally free and independent and have certain inherent rights; among these are life, liberty and the pursuit of happiness; to secure these rights, governments are instituted, deriving their just powers from the consent of the governed." Wis. Const. art. I § 1.

59. This section protects "inherent rights" and was written "to be broad enough to cover every principle of natural right, of abstract justice." *Black v. State*, 113 Wis. 205, 226, 89 N.W. 522 (1902) (Marshall, J., concurring). Such inherent rights

include an “independent right to liberty.” *Matter of Guardianship of L.W.*, 167 Wis. 2d 53, 69, 482 N.W.2d 60 (1992).

60. This right to liberty includes the right to pursue an honest livelihood. *See, e.g., Peppies Courtesy Cab Co. v. City of Kenosha*, 165 Wis. 2d 397, 401, 475 N.W.2d 156, 158 (1991).

61. This right boasts a deep history in Wisconsin jurisprudence. *See State ex rel. Winnkler v. Benzenberg*, 101 Wis. 172, 76 N.W. 345 (1898) (explaining Wisconsinites have a “right . . . to pursue . . . [a] calling”); *Taylor v. State*, 35 Wis. 298, 301 (1874) (“Should it be enacted that no person should keep a store for the sale of ordinary merchandize, or a shoemaker’s or tailor’s shop, a printing office or a law office, within a certain specified distance of a dwelling house, it is probable that the courts would not hesitate to hold that such legislation is . . . an unjustifiable restriction upon, and interference with, the fundamental rights of the citizen.”).

62. Milwaukee City Ordinance 68-37-1-e-1-b violates Mr. Ismail’s right to liberty by arbitrarily and irrationally interfering with his right to earn an honest living without advancing any legitimate governmental interest.

63. The effect of this Ordinance is to shut down Plaintiffs’ most profitable location and cause similar harm to other food trucks like Plaintiffs’.

64. Even under the deferential rational-basis standard, this Ordinance fails.

65. The 2026 Ordinance is not substantially related to quelling violence on Water Street. No evidence of whether or how the operations of food trucks cause violent crime was presented in support of the Ordinance.

66. Moreover, Water Street is just a small part of the massive geographical area designated for the Ordinance's application.

67. The proffered purpose of the 2026 Ordinance—to curtail violence—bears no rational relationship to the restriction it imposes.

68. The *actual* purpose of the 2026 Ordinance—to insulate Ald. Bauman's restaurant constituents like Mr. Breunig from competition, as essentially admitted at the hearing—is not a legitimate governmental interest that passes rational basis scrutiny.

69. Because the Ordinance at issue infringes on Plaintiffs' right to earn an honest living without advancing any legitimate governmental interest, it violates the Wisconsin Constitution. This Court should declare it unconstitutional and enjoin its enforcement.

**CLAIM TWO: VIOLATION OF EQUAL PROTECTION UNDER THE
WISCONSIN CONSTITUTION**

70. Plaintiffs reallege and incorporate the preceding allegations of the complaint.

71. The Ordinance at issue also violates Plaintiffs' right to equal protection, which is also guaranteed by Article I, Section 1 of the Wisconsin Constitution.

72. The Ordinance arbitrarily treats food trucks on Water Street differently than brick-and-mortar bars and restaurants on Water Street.

73. While food trucks are undoubtedly different than brick-and-mortar restaurants and bars, they are not different in any way that is material to the proffered purpose of the Ordinance.

74. If violence on Water Street were the issue to be solved, there would be no reason to draw a line between food trucks and brick-and-mortar establishments.

75. Indeed, if that were the issue of central concern, shutting down brick-and-mortar restaurants and bars earlier would seem to be just as necessary as shutting down food trucks.

76. If it is the patrons of food trucks that are thought to cause violence, Plaintiffs point out that virtually all of their customers come from bars or other businesses in the Water Street area. Those customers come to Water Street for entertainment and social activities. The food trucks simply offer them food while they are there.

77. If consuming alcohol is the problem leading to violence, Plaintiffs' food truck does not serve alcohol, but brick-and-mortar businesses in the area largely do.

78. If anything, satiating hunger is known for bringing tempers down and fostering congeniality, not for causing violence.

79. On the other hand, it's more likely to stir the pot to tell a group of hungry customers who have been waiting in line for any significant amount of time that the

food truck they are waiting on must now close, and that they waited in line for nothing.

80. For these reasons, and others, there is no substantial distinction between food trucks and brick-and-mortar restaurants and bars for purposes of this Ordinance.

81. The only explanation as to why the City wants to distinguish between the two is to protect brick-and-mortar restaurants and bars by driving food trucks out of business.

82. Wisconsin Supreme Court Justice Rebecca Dallet has encouraged judges interpreting the Wisconsin Constitution to “read Article I, Section 1 as providing broader protections for individual liberties than the Fourteenth Amendment.” *Matter of Adoption of M.M.C.*, 2024 WI 18, ¶ 50, 411 Wis. 2d 389, 5 N.W.3d 238, (Dallet, J., concurring). Indeed, Wisconsin “ha[s] a long history of interpreting our constitution to provide greater protections for the individual liberties of Wisconsinites than those mandated by the federal Constitution.” *Id.*

83. While “the Fourteenth Amendment’s protections extend only to those rights ‘so rooted in the traditions and conscience of our people as to be ranked as fundamental,’ the inherent rights contemplated by Article I, Section 1 are not so limited.” *Id.* (quoting *Reno v. Flores*, 507 U.S. 292, 303 (1993)).

84. While the Wisconsin Supreme Court’s lack of occasion to decide such challenges has left case law “[un]settled,” Justice Dallet went onto note that this “should be encouraging to litigants” bringing equal protection challenges. *Matter of*

Adoption of M.M.C., 2024 WI 18, ¶ 59 (Dallet, J., concurring). That unsettled caselaw leaves it “up to us—judges, lawyers, and citizens—to give effect to the fundamental guarantees of Article I, Section 1.” *Id.*

85. For the reasons explained above, the law fails to advance any legitimate governmental interest. Thus, it would fail even the deferential rational-basis review.

86. This Court should give effect to the fundamental guarantees of Article I, Section 1 of the Wisconsin Constitution and recognize that Plaintiffs have broad equal-protection rights that have been here violated by the government’s arbitrary differentiation between classes.

REQUEST FOR RELIEF

Plaintiffs therefore request the following relief:

A. Declare that Milwaukee Ordinance 68-37-1-e-1-b violates Plaintiffs’ right to earn a living under the Wisconsin Constitution.

B. Declare that Milwaukee Ordinance 68-37-1-e-1-b violates Plaintiffs’ equal protection rights under the Wisconsin Constitution.

C. Award costs under Wis. Stat. § 814.04.

D. Award any such other relief as the Court deems appropriate.

Dated: May 7, 2026

Respectfully Submitted,

WISCONSIN INSTITUTE FOR
LAW & LIBERTY

Electronically signed by

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