

ORDINANCE NO. 2021-0818B
AN ORDINANCE FOR MOBILE FOOD VENDORS

WHEREAS, The Village Board intends to pass an Ordinance for Mobile Food Vendors in the Village of Elizabeth to promote the health and safety of the residents of the Village of Elizabeth.

BE IT ORDAINED BY THE VILLAGE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF ELIZABETH, ILLINOIS:

WHEREAS, The Village Board intends to approve an Ordinance for Mobile Food Vendors in the Village of Elizabeth.

It is hereby ordained that the Village of Elizabeth approves an Ordinance for Mobile Food Vendors in the Village of Elizabeth.

WHEREAS, mobile food vending is a popular and diverse part of local economies across the United States;

WHEREAS, the Village of Elizabeth desires to support economic development, foster opportunities for small businesses and encourage mobile food vending; and

WHEREAS, the Village of Elizabeth seeks to protect public health and safety by ensuring mobile food vendors follow clear, narrowly tailored regulations that address demonstrable health and safety risks.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE BOARD OF THE VILLAGE OF ELIZABETH AS FOLLOWS:

SECTION 1. DEFINITIONS.

The following words and phrases in this section shall have the meanings given, except where the context clearly indicates a different meaning:

- A. Applicant: A person applying to the Village of Elizabeth to operate as a mobile food vendor.
- B. Customer: Any person with whom a mobile food vendor conducts business, or any person who stops to contemplate conducting business with a mobile food vendor.
- C. Food Vending Vehicle: Any motorized vehicle used to sell food or beverages by a mobile food vendor.
- D. Mobile Food Vendor: Any person who dispenses food or beverages from a food vending vehicle for immediate service and/or consumption.

- E. Prepackaged Food: Any commercially labeled and processed food that is prepackaged to prevent direct human contact with the food product upon distribution from the manufacturer, a food facility, or other approved source.
- F. Private Property: All property that is not public property.
- G. Public Property: Any property owned and operated by The Village of Elizabeth. Public property includes all rights-of-way except public sidewalks and rights-of-way in city-owned parks.
- H. Sell: To transfer or exchange for value, to expose or offer for sale or exchange, or to procure, store, keep or have in one's possession or control for the purpose of selling.
- I. Person: Any individual, group of individuals, firm, partnership, company, corporation, trustee, association, or any public or private entity and includes the individual or entity's employees or agents.

SECTION 2. MOBILE FOOD VENDING BUSINESS PERMITTED.

- A. No person may operate as a mobile food vendor in the Village of Elizabeth without obtaining a mobile food vending license under this chapter and any other licenses or permits that may be required by other applicable state or county law.
- B. A separate mobile food vending license shall be required for each food vending vehicle operated by a mobile food vendor.
- C. A violation of this Chapter may result in the suspension or revocation of a mobile food vending license and civil penalties.

SECTION 3. LICENSE APPLICATION AND GENERAL STANDARDS.

- A. **Application requirements.** An applicant shall submit a written application, under oath, to the Village of Elizabeth on a form provided by the Village of Elizabeth for a mobile food vending license. The application shall contain the following information:
 - 1) The applicant's name, address and telephone number;
 - 2) The name, address and telephone number of any associated entities or organizations that the applicant is representing and copies of documents verifying that relationship;
 - 3) The applicant's primary residence and/or business addresses for the past five years;
 - 4) The nature of the food or beverages that the applicant will sell for the purpose of the Village of Elizabeth establishing the applicant's food type classification; and

- 5) Whether the applicant was denied a license to operate as a mobile food vendor or whether the applicant had a mobile food vending license suspended or revoked and, if so, the reasons for the denial, suspension or revocation.
- B. Requirements for each food vending vehicle.** In addition to the written application, an applicant shall provide the following information for each food vending vehicle:
- 1) A list of all vehicle license numbers, vehicle descriptions, vehicle identification numbers, and vehicle registration for the food vending vehicle(s);
 - 2) Proof of vehicle insurance for the food vending vehicle(s); and
 - 3) A copy or proof of any additional licenses or permits required by the State or municipality for the food vending vehicle(s).
- C. Requirements for food vending vehicle drivers.** Any person who drives a food vending vehicle shall hold a current [classification/level required by this state for food vending vehicles] driver's license.
- D. Requests for information.** The applicant shall complete the application and submit additional information requested by the Village of Elizabeth as allowed by this section. The applicant may submit one application for all vehicles which require a license but shall pay a separate licensing fee for each license. Failure to submit a complete application may result in denial of a license.
- E. Issuance of License.** The Village of Elizabeth shall issue a mobile food vending license to the applicant upon receipt of a complete application and the applicant's food vending vehicle(s) passing an initial inspection. Licenses shall be valid for one year.
- F. Substitution of licensed food vending vehicles.** Licenses are not transferable, nor shall a license authorize the activities licensed by any person other than the licensee, except that the sale of a food vending vehicle identified in a license application, when replaced by another food vending vehicle on a one-for-one basis, will not invalidate the original license nor require a new license application. When replacing a food vending vehicle with another vehicle, the licensee shall provide the Village of Elizabeth the information required by subdivision B of this section.
- G. Transfer of assets.** If a mobile food vendor transfers its mobile food vending business assets, the recipient of the assets shall, before operating, apply for and obtain a new mobile food vending license from the Village of Elizabeth.

- H. **Fees.** The Village of Elizabeth is authorized to establish a reasonable schedule of fees not to exceed twenty dollars (\$20.00) for a mobile food vending event. An applicant shall pay the event fee established by the Village of Elizabeth unless otherwise exempted.
- I. **Unlawful conduct.** It is unlawful for any person to intentionally provide false information or to intentionally omit information on an application for a license under this Chapter.

SECTION 4. MOBILE FOOD VENDING VEHICLE OPERATIONS.

- A. **Compliance with state and local law.** Mobile food vendor shall follow any applicable state and local laws, including without limitation all fire codes, zoning codes, occupational tax codes, and any other applicable state or local code provisions.
- B. **Taxes:** If requested by the Village, the vendor must provide proof that they are paying/reporting sales tax.
- C. **Location of operations.** A mobile food vendor may operate in the following locations:
 - 1) **Public property.** Must provide location and obtain permission.
 - 2) **Private property.** A mobile food vendor may operate on private property under the following circumstances:
 - (i) The vendor has permission of the property owner and/or his other designee.
 - 3) **No interference with pedestrians or vehicles.** A mobile food vendor shall not interfere with or obstruct the passage of pedestrians or vehicles along any street, sidewalk or parkway.
- D. **Operational standards.** When operating, a mobile food vendor shall:
 - 1) Maintain a food vending vehicle in good operating order and visual appearance;
 - 2) Serve customers through its service window;
 - 3) Provide a waste receptacle for customers which is clearly marked and request its use by customers;
 - 4) Pick up, remove and dispose of all refuse within twenty-five (25) feet of the vendor's operating area at the conclusion of service;
 - 5) Submit to and pass any required health inspections; and

- 6) Display its mobile food vendor license and health certificate in a conspicuous location in its operating window for public view.

E. Rulemaking authority.

- 1) The Village of Elizabeth may promulgate administrative rules regulating mobile food vendors and mobile food vending vehicles to implement this Chapter. Any rule adopted by the Village of Elizabeth must be narrowly tailored to address a demonstrable health or safety risk.
- 2) Rules adopted pursuant to this section may not:
 - (i) Impose operating hours that differ from the operating hours imposed on restaurants;
 - (ii) Require a mobile food vendor that only serves prepackaged food to have a handwashing sink in the vendor's food vending vehicle;
 - (iii) Limit the number of mobile food vendor licenses issued;
 - (iv) Require the mobile food vendor to obtain any additional permits from the Village of Elizabeth, unless the mobile food vendor seeks to operate in a local, public park;
 - (v) Require a mobile food vendor to be fingerprinted;
 - (vi) Require a mobile food vendor to install a GPS tracking device on the vendor's vehicle;
 - (vii) Require a mobile food vendor to stay in constant motion except for when serving customers;
 - (viii) Require a mobile food vendor to maintain insurance that names the Village of Elizabeth as an additional insured unless the vendor is attending an event sponsored by the Village of Elizabeth; and
 - (ix) Require a mobile food vendor to submit to inspections beyond the number and scope of the health inspections conducted by the Jo Daviss County Health Department unless there is an investigation of a reported foodborne illness.

