

## ORDINANCE 2024-10

### AN ORDINANCE AMENDING CHAPTER 26, BUSINESSES, OF THE CODE OF ORDINANCES FOR THE VILLAGE OF CHERRY VALLEY, ILLINOIS TO PROVIDE FOR THE REGULATION AND LICENSING OF MOBILE FOOD TRUCKS AND VENDORS

**WHEREAS**, the Village of Cherry Valley, Illinois (“Village”) has adopted a Code of Ordinances (“Code”) for the Village; and

**WHEREAS**, the Village of Cherry Valley wishes to permit and regulate the operation of Food Truck Vendors within the Village; and

**WHEREAS**, Chapter 26, Businesses, of the Village Code of Ordinances establishes the regulation of businesses operating within the Village; and

**WHEREAS**, the Village wishes to amend its Code by adding Article VI, Mobile Food Trucks and Vendors; and

**WHEREAS**, a Merchant is defined as “a person physically making sales retail street sales from of a sales vehicle” in Section 26-121 of the Code; and

**WHEREAS**, the Village desires to add clarifying language to specify that Section 26-121 does not apply to mobile food trucks and instead, Section 26-240 will govern mobile food trucks; and

**WHEREAS**, the Village has determined that amending the Code and adopting such an ordinance is in the best interest of the Village and its citizens.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Cherry Valley, Illinois as follows:

1. Chapter 26 (Businesses), Article III (Peddlers, Itinerant Merchants and Solicitors), Division 1 (Generally), Section 81 (Definitions) shall be amended and read as follows (additions shown as **bold and underlined**, deletions shown as ~~strikethrough~~).

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Business* means the business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

*Goods* means merchandise of any description whatsoever, and includes, but is not restricted to, wares and foodstuffs.

*Itinerant merchant* means any person whether as owner, agent or consignee, who engages in a temporary business of selling goods within the village and who, in the furtherance of such business uses any building, structures, vehicle, or any place within the village.

The definition of “itinerant merchant” excludes specifically Mobile Food Vendors, as that term is defined in Section 26-240 herein.

*Peddler* means:

- (1) Any person who travels from place to place by any means carrying goods for sale, or making sales, or making deliveries; or
- (2) Any person who, without traveling from place to place, sells or offers goods for sale from any public place within the village.

The definition of “Peddler” excludes specifically Mobile Food Vendors, as that term is defined in Section 26-240 herein.

*Solicitor* shall mean any person who travels by any means from place to place, taking or attempting to take orders for the sale of goods to be delivered in the future or for services to be performed in the future.

2. Chapter 26 (Businesses), Article III (Peddlers, Itinerant Merchants and Solicitors), Division 3 (Retail Street Sales), Section 121 (Definitions) shall be amended and read as follows (additions shown as **bold and underlined**, deletions shown as ~~strikethrough~~):

“Section 26-121. – Definitions.

*Merchant* means the owner or operator of a sales vehicle and/or a person physically making sales retail street sales from of a sales vehicle. **This does include mobile food vendors or mobile food trucks, both of which are defined in Section 26-240.**

*Retail street sales or street sales* means the sale of food products and non-alcoholic beverages intended for immediate consumption, from a sales vehicle, that is on a public highway or street. Sales of other goods or merchandise are prohibited under this division.

*Sales vehicle* means a licensed and registered, enclosed motorized vehicle in which food products are carried for purposes of retail sale on the streets of the village and which is equipped with functioning kitchen equipment, including but not limited to, refrigerators, freezers, and stoves to keep and prepare such food products in accordance with any and all applicable health and food safety laws, regulations, and codes.

*Safety arm* means a safety arm that can be extended out horizontally from the front right corner of the sales vehicle and which is meant to promote pedestrian safety, similar to the safety arms on school buses. The length of the safety arm shall be equal to the distance between the headlights of the sales vehicle as measured from the center of each headlight.”

3. Chapter 26, Article VI, of the Code of Ordinances is hereby created which shall read as follows (additions shown as **bold and underlined**, deletions shown as ~~strikethrough~~):

**“Article VI – Mobile Food Trucks and Vendors**

**Sec. 26-240 Definitions.**

- (a) **“Mobile Food Truck” shall mean a self-contained food service operation, located in a readily movable, licensed, motorized wheeled vehicle or towed trailer, used to store, prepare, display, and/or serve food and/or drink items intended for individual portion service.**

- (b) "Mobile Food Vendor" shall mean any person who travels within the Village, by Mobile Food Truck, or with a non-motorized cart or container or other like object, offering for sale any food and/or drink items, and rendering immediate delivery of such food and/or drink items.**
- (c) "Designated Vending Area" shall mean an area determined by the Village as an available location for operation as a Mobile Food Vendor in accordance with this Article. Municipal streets shall not be a designated vending area. Provided, nothing herein shall authorize operation of a Mobile Food Vendor on private property without the express permission of the owner of said property.**

**Sec. 26-241 License Required, Application.**

**No person or business shall operate as a Mobile Food Vendor in the Village of Cherry Valley without having first obtained a license therefore as provided herein. All Mobile Food Vendors shall apply for a vendor license for a twelve (12) month period, commencing on January 1<sup>st</sup> of each year to operate within the Village. Application for such shall be made to the Village Clerk upon the prescribed form provided by the same. The application shall include, or be accompanied by, at a minimum the following:**

- (a) The name of the applicant. If Applicant is a separate corporate entity, limited liability company, limited liability partnership, or any other business entity, then the names and address of all parties holding any interest in the entity shall also be provided; and**
- (b) The name, telephone number, and address of the party responsible for the day-to-day management of the business; and**
- (c) Names, current addresses, and telephone numbers of any person who will be working in the Mobile Food Truck or in conjunction with a Mobile Food Vendor; and**
- (d) A copy of any and all health department permit(s) under which applicant will be operating; and**
- (e) Certificates of Insurance showing insurance as required by Section 26-243 below; and**
- (f) Recent photographs of the proposed Mobile Food Truck, cart, container or any like object for the Mobile Food Vendor, showing at a minimum, the cart, object or Mobile Food Truck's front, rear, and both sides, with service window closed and open; and**
- (g) Proof of lighting so that flashing will be visible at a distance of five hundred (500) feet whenever the Mobile Food Truck is stopped on a public way or public property for the purpose of vending. In this proof, a sign on the side of the Mobile Food Truck shall be visible and consist of letter no less than three (3) inches in height, and shall state the name, telephone number of the owners of the vehicle, and an identification numeral distinguishing the vehicle; and**
- (h) Copy of current, valid, registration of the vehicle, trailer, pushcart, or any like object intended to further a delivery of food.**
- (i) Copies of valid driver's licenses for any person who will be driving the Mobile Food Truck**

- (j) A business narrative explaining the operations of the business, including, but not limited to, hours of operations, days of operation, anticipated location of operations, number of employees, any sound amplification which may be used, and any other information which may be requested by the Village in order to make a full and comprehensive evaluation of the application.**
- (k) If the Mobile Food Vendor is to be located on private property, a detailed site plan.**

**All applications shall be subject to a completed background check, acceptable to the Chief of Police, for any and all persons who will be offering food for sale as a part of any Mobile Food Vendor. All applicants shall provide to the Village such information as is requested by the Village for the background check to be completed.**

**Sec. 26-242 Fee.**

**The annual fee shall be Fifty dollars (\$50.00) per Mobile Food Truck, cart, container or any other like object for the sale and delivery of food by the Mobile Food Vendor. No license or renewal shall be given to individuals who is indebted to the Village for any Village water service or other Village services or utilities, fees, fines, judgments, levies or any other debts due and owing to the Village from such person, entity, or otherwise interested party to such requested license, certificate and/or permit, until the indebtedness is paid in full.**

**The daily fee, if a one-time license is requested, shall be Twenty-Five dollars (\$25.00) per Mobile Food Truck, cart, container or any other like object for the sale and delivery of food by the Mobile Food Vendor. No license or renewal shall be given to individuals who is indebted to the Village for any Village water service or other Village services or utilities, fees, fines, judgments, levies or any other debts due and owing to the Village from such person, entity, or otherwise interested party to such requested license, certificate and/or permit, until the indebtedness is paid in full.**

**Sec. 26-243 Vendor Requirements.**

**All Mobile Food Vendors must hold the following certifications at all times of operation within the Village and documentation of such shall be provided to the Village Clerk upon application for a Mobil Food Vendor license, and at any other time upon request by the Village:**

- (a) All necessary Valid Winnebago County Health Department Food Establishment License**
- (b) Certificates of insurance showing Auto liability insurance (if applicable) in the minimum amount of \$1,000,000.00 per occurrence combined single limit and commercial general liability insurance in the minimum amounts of \$1,000,000 per occurrence/\$2,000,000.00 aggregate. The Village of Cherry Valley shall be named as an additional insured.**
- (c) Must have a valid state license plate for either a truck or trailer.**
- (d) Valid driver's license for any person driving the Mobile Food Truck.**

**Sec. 26-244 Provisions for Operations as a Mobile Food Vendor.**

**No person shall operate as a Mobile Food Vendor, except in accordance with the following provisions at all times. Failure to do so may result in fines, citations, suspension and/or the revocation of an issued Mobile Food Vendor license.**

- (a) Mobile Food Vendors shall be allowed to operate daily between 7:00 a.m. to 9:00 p.m. (Central Standard time), except as otherwise provided in this Section and/or as provided in any zoning permit or zoning special use permit granted with regards to a Mobile Food Vendor.**
- (b) A Mobile Food Vendor may operate at one location for a maximum of eight (8) consecutive hours and may not return to that same location for a minimum of forty-eight (48) hours upon leaving. Exceptions shall be made for Mobile Food Vendors who operate pursuant to a zoning permit or zoning special use permit issued by the Village with regards to a Mobile Food Vendor. Exceptions regarding operation of a food vendor may also be granted by the Village for special events.**
- (c) The Mobile Food Vendors are allowed to operate at Designated Vending Areas on a "first come, first served" basis. Only one food vendor may occupy a Designated Vending Area at a time, unless otherwise authorized by the Village.**
- (d) Parking of any other vehicles, other than the vehicle used to tow a Mobile Food Truck trailer, within the Designated Vending Areas during the operation of a Mobile Food Truck is prohibited.**
- (e) No tents, tables, chairs, or displays shall be placed in the Designated Vending Areas. Notwithstanding the foregoing, one portable sign board, no greater than 6 square feet in total area, may be placed near the Mobile Food Truck or Mobile Food Vendor.**
- (f) Noise from Mobile Food Trucks and Mobile Food Vendors, including, but not limited to, generators, public announce systems and music, shall not exceed 75 decibels as measured 10 feet from any part of the Mobile Food Truck or Mobile Food Vendor.**
- (g) The Mobile Food Vendors shall collect all trash and debris resulting from the operation of the food vending, within 100 feet of the Designated Vending Area.**
- (h) The Mobile Food Vendors operating on private property, shall provide certification or other acceptable proof, upon request by the Village, that the property owner has granted permission for such operation.**
- (i) Mobile Food Vendors operating in any Designated Vending Area which is in a public parking lot or other public place shall observe the following provisions:**
  - 1. Double-parking is not allowed;**
  - 2. A Mobile Food Truck shall be parked within twelve (12) inches of the curb if possible, but in no event more than twenty-four (24) inches from any section of curb. Notwithstanding the foregoing, Mobile Food Vendors vending from carts, containers or other like objects shall not be on any street or roadway and must be on private property or sidewalks;**

3. No portion of the Mobile Food Vendor operations shall block, obstruct or interfere with vehicular, bicycle, or pedestrian traffic;
  4. No portion of the Mobile Food Truck shall be within fifty (50) feet of an intersection;
  5. The Mobile Food Vendor shall be responsible to ensure that no congregation of persons around the Mobile Food Truck, cart, container or other like object, creates an obstruction or safety hazard to passersby, whether vehicular, bicycle, or pedestrian.
- (j) A Mobile Food Truck, cart, container or a like object, shall be attended at all times during all posted or advertised operating hours. Temporary closure for the purpose of restocking supplies or otherwise carrying out tasks necessary for continued operation shall be permitted.
  - (k) Mobile Food Vendors shall be responsible for the proper disposal of all grease, litter, and waste generated by their operation.
  - (l) Mobile Food Vendors conducting retail sales shall not utilize extension cords in such a manner as to cross a public right-of-way or sidewalk. Exceptions to this provision may be granted for special events.
  - (m) Mobile Food Vendors shall not conduct any major repairs or disassembly of vehicle, trailer, or cart directly at the site of operation.
  - (n) Mobile Food Vendors shall not operate any closer than 200 feet from any restaurant without first receiving permission from that restaurant.
  - (o) All Mobile Food Vendors and Mobile Food Trucks shall abide by any and all applicable federal, state, and local laws, ordinances, and regulations, applicable to them.
  - (p) No permanent structures shall be allowed to be erected on any property in association with a Mobile Food Vendor.
  - (q) Mobile Food Vendors shall be located on a paved surface, conform with applicable setbacks and be located outside of any site triangles.

#### Sec. 26-245 Renewals.

No renewal shall be automatic. Any current licensee seeking a renewal of their license shall file with the Village Clerk, no less than thirty (30) days prior to the expiration of their current license. An application for renewal which shall meet all of the requirements of this Article and shall be accompanied by the requisite renewal fee of Fifty dollars (\$50.00). Failure to timely submit an application for renewal shall result in termination of the license at the end of the current licensing period.

#### Sec. 18-427 Violations.

Violations of any provisions of this Article shall be punishable by fine and/or suspension or revocation of the license granted hereunder.”

4. Except as amended in this Ordinance, all other provisions and terms of Village Code of Ordinances shall remain in full force and effect as previously enacted except that those ordinances, or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict.
5. This ordinance shall be in full force and effect after its approval, passage, and publication in pamphlet form as required by law.

PASSED UPON MOTION BY: NANCY BELT

SECONDED BY: MIKE NEVILLE

BY ROLL CALL VOTE THIS 7<sup>TH</sup> DAY OF MAY, 2024

AS FOLLOWS:


VOTING "AYE": NANCY BELT, SALLY HOLLEMBEAK,  
MIKE NEVILLE, BRANDI PEARSE

VOTING "NAY": JEFF FUSTIN

ABSENT, ABSTAIN, OTHER: CARL WEDIG

APPROVED: MAY 7, 2024

  
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DAVID SCHROEDER, VILLAGE PRESIDENT

ATTEST:  
  
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KATHY TRIMBLE VILLAGE CLERK