

ORDINANCE 23-01

AN ORDINANCE AMENDING ARTICLE X OF CHAPTER 6 REGARDING MOBILE FOOD TRUCKS AND PUSHCARTS

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF ELIZABETH, COLORADO, THAT:

Section 1. Section 6-10-10 of the Town of Elizabeth Municipal Code is amended to read as follows:

Sec. 6-10-10. Definitions.

For the purposes of this Article, the following terms shall have the meanings as indicated, unless the context otherwise requires:

Mobile food truck means a retail food establishment that is not intended to be permanent and is a motorized wheeled vehicle, or a trailer that is licensed for use on public roadways, designed and equipped to serve food and beverages, operating in either a static or transitory location and serving the public at times pursuant to the provisions of this Article.

Pushcart means a retail food establishment that is not a motorized vehicle, limited to serving commissary prepared or prepacked food or that is commercially designed and approved to handle food preparation and service.

Section 2. Section 6-10-20 of the Town of Elizabeth Municipal Code is amended to read as follows:

Sec. 6-10-20. License required.

(a) It shall be unlawful for any person to operate a mobile food truck or pushcart within the Town limits without first having obtained a Food Truck License pursuant to this Article.

(b) License conditions: When issuing a mobile Food Truck License, the Town Administrator or designee may include any conditions necessary to protect public health, safety, or welfare, or that of adjacent property owners. In addition, all mobile Food Truck Licenses shall be subject to the following conditions:

- (1) Only food, nonalcoholic beverages, and branded merchandise specific to the mobile food vendor may be sold;
- (2) All mobile food vendors will comply with all local ordinances regarding lighting, decorations, noise, and signage including sandwich board signs; and
- (3) Mobile Food vendors will also be responsible for the following:
 - A. Adequate parking for customers, if applicable;
 - B. Removal of grease or other waste in appropriate containers;

C. Reporting and paying all current applicable taxes; and

D. Provision of an insurance policy of which a copy is to be furnished with the vendor's food truck license application.

Section 3. Section 6-10-30 of the Town of Elizabeth Municipal Code is amended to read as follows:

Sec. 6-10-30. Permitted Locations.

Mobile food vendors, once licensed by the Town, are permitted to operate in the following areas within the Town:

(a) Nonresidential areas:

(1) Unless a mobile food truck or pushcart operator receives prior written consent from a restaurant owner, a mobile food truck or pushcart shall operate 100 feet from a restaurant, while the restaurant is open for business, as measured from the property line of the operating restaurant to the closest point of the mobile food truck or pushcart;

(2) A mobile food truck or pushcart operator shall obtain written consent from any owner of private property on which the mobile food truck or pushcart intends to operate;

(3) A mobile food truck or pushcart shall not occupy any public on-street parking spaces while operating the mobile food truck or pushcart unless the street has been closed for a special event or meets the criteria outlined in this code;

(4) A mobile food truck or pushcart shall comply with all building setback requirements in the underlying zone district;

(5) A mobile food truck or pushcart operator shall obey all parking and traffic laws;

(6) A mobile food truck or pushcart shall not park in any ADA accessible parking spaces;

(7) A mobile food truck or pushcart shall be parked and operated on paved or all-weather surfaces. In the case of an active construction site where a paved surface may be unavailable or unbuilt, a vendor shall be parked on an approved material that minimizes the tracking of dirt onto the street; and

(8) A mobile food truck or pushcart that occupies parking spaces must ensure that the parking spaces that remain unobstructed accommodate parking for the principal use of the property pursuant to Section 16-6-10(b).

(b) Public Right-of-Way: Mobile food trucks or pushcart operators may operate within the public right-of-way provided they meet the following requirements:

- (1) The mobile food truck or pushcart operator shall have a valid food truck or pushcart operator license;
- (2) The mobile business shall obtain written permission from the Town of Elizabeth in the form of an approval letter depicting the approved location, time, and date prior to operating within any right-of-way within the Town. An approval letter will not be provided until the location is reviewed by the Town of Elizabeth Public Works Department, Elizabeth Police Department, and the Elizabeth Fire Protection District.
- (3) Operation shall not obstruct the visibility of motorists or pedestrians, interfere with the sight distance triangle, and must be parked outside of any designated fire lane.
- (4) The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that such temporary use will or could reasonably generate.
- (5) That adequate parking to accommodate vehicular traffic to be generated by such use will be available either on site or at alternate locations.

(c) Town Owned Property (excluding right-of-way):

- (1) The mobile food truck or pushcart operator shall have a valid food truck or pushcart operator license.
- (2) A property license agreement must be signed by the Town Administrator and the food truck or pushcart vendor. Separate fees for use of Town property may apply as set by resolution.
- (3) Mobile food trucks or pushcart vendors may operate without separate licensing or agreement with the Town on Town-owned property, such as the "Gessin Lot" and Running Creek Park, during special events only.
- (4) All other requirements as set forth in this section shall apply.

Section 4. Section 6-10-40 of the Town of Elizabeth Municipal Code is amended to read as follows:

Sec. 6-10-40. Additional operational standards.

- (a) A mobile food truck or pushcart operator must keep the sidewalks, roadways, and other spaces adjacent to their business location clean and free of refuse of any kind generated from the operation of their business. Any trash container maintained by a mobile food truck or pushcart operator shall be removed by the operator at the close of business

and in accordance with any and all State regulations and any applicable provisions of the Code;

- (b) When not in use, a maximum of one mobile food truck and pushcart may be stored on property used for single-family, duplex or multi-family dwellings;
- (c) Additional structures, canopies, tables, or chairs associated with operation of a mobile food truck or pushcart are prohibited unless otherwise expressly permitted by the Town;
- (d) Signage shall be permanently affixed to the vehicle. During hours of operation, a mobile food truck or pushcart operator may affix one (1) menu or sandwich board;
- (e) Prior to operation of a mobile food truck or pushcart within a multi-tenant shopping center, the property owner shall provide written notice to the tenants of such shopping center;
- (f) When vending in the public right-of-way, vending must occur from the curb side;
- (g) Mobile food trucks or pushcart operators must not obstruct pedestrian or bicycle access/passage and must not obstruct parking lot circulation or impede traffic flow; and
- (h) Mobile food trucks or pushcart operators must be removed from any site at the end of each business day (unless otherwise approved).

Section 5. Section 6-10-50 of the Town of Elizabeth Municipal Code is amended to read as follows:

Sec. 6-10-50. Application required.

Every person seeking a Food Truck License shall first make an application therefor in writing in which he or she shall provide the following information:

- (a) The name and residence of the applicant;
- (b) Driver's license number of applicant;
- (c) Identify whether the applicant transacts business as a principal or agent;
- (d) If as an agent, the name and address of the principal;
- (e) The kind and classes of food and beverage items proposed for sale;
- (f) State sales tax number or certificate of sales tax exemption;
- (g) Type of suppression and hood vent system;
- (h) Current Elbert County Health certification; and

- (i) Certificate of Insurance.

Section 6. Section 6-10-60 of the Town of Elizabeth Municipal Code is amended to read as follows:

Sec. 6-10-60. Issuance and term; fees.

(a) No application will be processed until the Town determines that it is complete. Upon receipt of a complete application, the Town will refer the same to the Elizabeth Fire District for review and approval. Such review and approval must be obtained within fifteen (15) days.

(b) Upon receipt of an application for a Food Truck License and of the license fee therefor, the Town Administrator or designee shall issue to the applicant a Food Truck License, authorizing the applicant to engage in business as a mobile food truck or pushcart operator, which license will be signed by the Town Clerk and sealed with the Town Seal. No such license shall be transferable and shall be good for a period of up to one (1) year until December 31st of each calendar year.

(c) The annual Food Truck License fees under this Article shall be set by separate resolution of the Board of Trustees.

Section 7. Severability. If any section, paragraph clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 8. The Board of Trustees hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 9. This Ordinance shall become effective thirty (30) days after publication.

Read and approved at a meeting of the Board of Trustees of the Town of Elizabeth, Colorado, this _____ day of _____, 2023.

Passed by a vote of _____ for and _____ against and ordered published.

Nick Snively, Mayor

ATTEST

Michelle M. Oeser, Town Clerk