**Local Law #** 1 **of** 2024**.**

**Be it enacted by the Town Board of the Town of Franklinville, in the County of Cattaraugus, as follows:**

**SECTION 1: PURPOSE AND INTENT**

The purpose of this Mobile Food Vending section is to regulate mobile food vehicles within the Town of Franklinville in a manner that protects the public health, safety and welfare while providing residents and visitors additional options for dining and the purchase of edible commodities.

**SECTION 2: DEFINITIONS**

**“Mobile Food Vehicle”** shall mean a licensed, motorized vehicle or mobile food unit that’s used for selling food items to the general public, commonly referred to as a Food Truck, in which ready-to-eat food is prepared, cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution.

**“Mobile Food Vendor”** shall mean the owner of a mobile food vehicle or the owner's agent.

**“Special Event”** shall mean a cultural event, farmers market, fair, carnival, festival, parade, sporting event, music event, or other types of special events that generally run for one to three days and are intended to or likely to attract substantial crowds.

**“Food and Beverage Related Business”** shall Include the following: Restaurant, Drive-In or Fast-Food Establishment, Food Processing Establishment (which includes, but is not limited to, breweries, distilleries, wineries, and cideries). An Inn, Motel, Hotel, Bar, or Tavern is also considered a food- and beverage-related business if it serves food or beverage on the premises. A Home-Based Business, a grocery store, or a convenience store shall not be considered a food- and beverage-related business.

**SECTION 3: GENERAL PROVISIONS**

a. Permit required. Except as permitted herein, it shall be unlawful for any person to operate a mobile food vehicle within the Town of Franklinville without having obtained a permit for such purpose in accordance with the provisions of this section. A permit application must be submitted at least 72 hours in advance of the time the Mobile Food Vendor wishes to begin operation. A permit for the operation of a mobile food vehicle in the Town of Franklinville, or changes thereto, shall be subject to the approval of, and issued by, the Town of Franklinville Code Enforcement Officer or designee.

(1) Approved locations. Mobile food vehicles shall be allowed to operate at certain approved locations, provided that the mobile food vendor has a valid mobile food vending permit from the town and obtained the location owner’s permission to operate. Applications to operate a mobile food vehicle(s) will be considered on a case-by-case basis.

(2) Existing food- and beverage-related business locations. One mobile food vehicle shall be allowed to operate on properties of existing food- and beverage-related businesses in the General Business and Neighborhood Business zoning districts provided that the mobile food vendor has a valid mobile food vending permit from the town and, as applicable, has obtained the location owner’s permission to operate in accordance with the provisions of this section.

(3) The mobile food vehicle at an existing food- and beverage-related business location must be located so as to not interfere with any driveway, utility box, accessibility ramp, building entrance, exit or emergency access/ exit, or any other emergency facility.

(4) In no case shall a mobile food vending permit be issued by the town for a mobile food vehicle to operate in the public right of way of a sidewalk, street, road, or highway[[1]](#footnote-1), or in locations that could increase risks to the safe function of pedestrian and vehicular traffic. Approved locations may not conflict with any parking and vehicle and traffic laws, ordinances, rules and regulations of the Town of Franklinville, the County of Cattaraugus, and the State of New York.

**SECTION 4: EXCEPTIONS**

(a.) Private event, private residence. Residents may request that mobile food vehicles cater special events on private property at their place of residence within any zoning district. Such request for a private use mobile food vehicle permit application must be submitted at least 72 hours in advance of the time the Mobile Food Vendor wishes to begin operation, to the Town of Franklinville or the Code Enforcement Officer. Operation of a Mobile Food Vehicle, at a private event, shall not exceed 3 days and sales should be limited to the event host for service to event attendees only (not to the general public).

**SECTION 5: VENDORS**

(a) To complete the permit application, the vendor must obtain and provide evidence of permission granted by the owner of the location property where the vendor intends to operate, in written form, specifying the days, times and specific location(s) for which permission has been granted.

(b) Mobile food vehicles may only be parked for operation in areas indicated on the permit application submitted to the Town and approved by the Code Enforcement Officer.

(c) Mobile food vehicles with a valid mobile food vending permit may be operated by the vendor during hours as approved by the property owner.

(1) However, vendors may not operate mobile food vehicles: 1. Before 6:00 a.m.; or 2. After 9:00 p.m., Sunday through Thursday, or 3. After 10:00 p.m. on Friday and Saturday.

(2) However, the Code Enforcement Officer may modify the permit to allow a variance from these limitations during specific events such as fireworks displays, fishing tournaments, and festivals that operate outside these hours.

(3) All signage must be permanently affixed to the mobile food vehicle except each vehicle may use one sandwich board sign.

(4) All mobile food vehicles must be equipped with trash receptacles of a sufficient capacity and shall be changed as necessary to prevent overflow or the creation of litter or debris. The mobile food vendor or their operator must remove the trash from the property or secure trash in an existing receptacle (e.g. dumpster) on the property following the close of business each day.

(5) All mobile vendors, their employees, and patrons of the mobile food vehicle must have access to a restroom or portable toilet onsite during the hours of operation of the mobile food vehicle. Alternatively, a restroom may be provided at a nearby location in agreement with a third party. Such agreement between the mobile food vendor and the third party shall be in writing and provided as part of the application for the town permit.

**SECTION 6: PERMIT APPLICATION**

(a) Any person desiring to operate a mobile food vehicle shall make a written application for such permit to the Code Enforcement Officer, on forms provided by the Town, which shall include the following:

(1) Name, signature, electronic mail address, address, and telephone number of each owner and, if incorporated, each corporate officer of the mobile food vehicle vending corporation. Include each owner if the business is not a corporation.

(2) A valid copy of all necessary licenses, permits or certificates required by Cattaraugus County, the State of New York or any subsidiary enforcement agencies or departments thereof, including, but not limited to:

(i) a valid New York State Department of Motor Vehicles registration and certificate of inspection and valid driver's licenses of all vehicle operators.

(ii) a county health department permit in accordance with NYS Regulations (Mobile Food Service Establishments).

(iii) an operating permit (as applicable) issued by the Code Enforcement Officer in compliance with the NYS Uniform Fire Prevention and the Town of Franklinville’s Local Zoning Laws.

(iv) a liquor license (as applicable) issued by New York State.

(3) A signed statement that the vendor shall hold harmless the Town and its officers and employees and shall indemnify and hold harmless the Town and its officers and employees for any claims for damage to property or injury to persons which may occasioned by any activity carried on under the terms of the license.

(4) Insurance

The vendor shall furnish and maintain such public liability, food products liability, and property insurance, as will protect the vendor and the Town from all claims for damage to property or bodily injury, including death, which may arise from the operations under the license or in connection therewith. Such insurance shall provide coverage of not less than $1,000,000 per occurrence. The policy shall further provide that it may not be canceled except upon 30 days' written notice served upon the Town of Franklinville Office. A license issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the Town of Franklinville.

**SECTION 7: FORM AND CONDITION OF PERMIT**

(a) Food Vehicle permits may be issued provided that in no event shall a permit be issued to expire later than the Health Department permit.

(b) Every mobile food vehicle vending permit shall be subject to the following conditions:

(1) The permit shall not be transferable from person to person.

(2) The permit is valid only for the vehicle for which it was issued.

(3) The town-issued permit must be on display during the hours of operation

**SECTION 8: PERMIT FEE**

(a) All fees shall be in amounts set from time to time by the Town Board and will be made available on each year’s current permit applications.

**SECTION 9: COMPLIANCE WITH OTHER REGULATIONS**

(a) The owner/operator of any mobile food vehicle permitted by the Town of Franklinville - shall comply with all provisions of federal, state, and local laws and regulations.

(b) The owner/operator of any mobile food vehicle permitted by the Town of Franklinville shall comply with all notices, orders, decisions and rules and regulations made by the Franklinville Code Enforcement Office, the Cattaraugus County Sheriff’s Office, the Health Department, and any other Town of Franklinville department and/or agency.

(c) All mobile food vehicles and operating sites are subject to inspection by the Code Enforcement Officer.

**SECTION 10: VIOLATIONS**

(a) Any person who violates any provision of this section shall be guilty of a violation, punishable in accordance with the local zoning law.

(b) Closure for operation without permit. Any mobile food vehicle operating without the required Town of Franklinville permit shall be immediately closed by order of the Town of Franklinville.

 **SECTION 11**

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason found by a Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby stated to be the legislative intent that the remainder of this local law would have been adopted had any such provisions not been included.

**SECTION 12: EFFECTIVE DATE**

This local law shall take effect immediately upon filing in the office of the Secretary of State.

1. [↑](#footnote-ref-1)