

Ordinance No. 17-10

**AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, ILLINOIS, COOK AND KANE COUNTIES, ILLINOIS, AMENDING THE CODE OF ORDINANCES OF THE VILLAGE OF EAST DUNDEE TO ADD A CHAPTER FOR THE LICENSING OF MOBILE AND NONMOBILE VENDING UNITS**

**WHEREAS**, the Village of East Dundee (the "*Village*") is a duly organized and validly existing home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

**WHEREAS**, the Village pursuant to its home rule powers has the authority to exercise any power and perform any function pertaining to its government and affairs including the power to regulate for the protection of the public health, safety and welfare; and,

**WHEREAS**, pursuant to its home rule authority, the Village has determined that it is in the best interests of the health, safety and welfare of its residents to amend the Code of Ordinances of the Village of East Dundee by setting forth licensing requirements and regulations for mobile and nonmobile vending units.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of East Dundee, Cook and Kane County, Illinois, as follows:

*Section 1.* That Title XI of the Code of Ordinances of the Village of East Dundee is hereby amended by adding the following Chapter 113:

**CHAPTER 113: VENDING UNITS**

**§ 113.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**COMMISSARY.** Any duly licensed food establishment in which food, containers or supplies are kept, handled, prepared, packaged, or stored and directly from which mobile vending units are serviced, and where mobile vending units are cleaned.

**VENDING UNIT.** A vehicle mounted food establishment from which the retail sale of food or beverage for human consumption is conducted. A vending unit includes what is commonly referred to as a "food truck."

**MOBILE VENDING UNIT.** A vending unit designed and operated to be readily movable (e.g, a mobile truck moving from location to location continuously). The unit shall return daily to a commissary for supplies, cleaning and for all servicing operations. The unit shall not have permanent potable water, wastewater, or electric connections.

**NONMOBILE VENDING UNIT.** A vending unit that maintains one fixed location. The vending unit shall be provided with permanent potable water, wastewater and electric connections at the fixed location to ensure no interruption in operations.

**OWNER.** The titleholder of the vending unit.

**PERSON.** Any individual, partnership, firm, corporation, trust, association or other entity.

**PUSHCART.** A self-propelled vehicle, either by foot or bicycle, serving food.

**VENDING.** The act of selling, or offering to sell, any food or beverage for human consumption from a vending unit or pushcart on private property.

**VENDING UNIT OPERATOR.** Any person who physically operates a vending unit or pushcart.

**VENDING UNIT LICENSE.** The license issued under this Chapter 113.

#### § 113.02 LICENSE REQUIRED.

- (A) No person shall engage in, conduct, maintain, operate or carry on any vending unit business, occupation, activity or establishment without first obtaining a vending unit license.
- (B) In the event that the applicant will be operating more than one such vending unit, the applicant must file separate applications and obtain separate vending unit licenses for each such vending unit.

#### § 113.03 GENERAL REQUIREMENTS AND RESTRICTIONS.

- (A) Vending unit licenses shall be annual from January 1<sup>st</sup> to December 31<sup>st</sup>.
- (B) Licensed vending units may be operated from eight o'clock (8:00) a.m. to eight o'clock (8:00) p.m. Sunday through Saturday, including holidays.

- (C) An applicant for a vending unit license for a mobile vending unit shall supply the name and address of the commissary where the vending unit will be cleaned and serviced, and if such vending unit is not stored at the commissary, the name and address of the place where such vending unit will be stored when not in use. The department of health must approve of such locations.
- (D) Prior to the issuance of a vending unit license, the applicant shall comply with any and all requirements or regulations maintained by the Kane County Health Department relating to food handling and the operation of a vending unit, which may include a consultation to review the proposed business practices, the vending unit and other equipment to be used, and food safety operations.
- (E) Mobile vending units shall operate from a commissary and shall report at least daily to such location for all supplies and for all cleaning and servicing operations.
- (F) Pushcarts shall be prohibited.
- (G) Before a vending unit license is issued, a vending unit owner must provide a certificate of insurance evidencing the vending unit owner has obtained a commercial general liability insurance policy for liability arising in any way from the issuance of the vending unit license or activities conducted pursuant to the vending unit license with limits of not less than \$1,000,000 per occurrence, combined single limit, for bodily injury and property damage. The certificate shall name the Village of East Dundee as an additional insured. If a vending unit license is issued, the licensee shall maintain the insurance described herein in full force and effect for the duration of the license period. Certificates shall contain an agreement signed by the insurance company that prior to modification, cancellation or termination of the subject policy, written notice shall be sent to the Village Clerk by said insurance company.
- (H) No person shall be employed as a vending unit operator without a valid driver's license.
- (I) No vending unit license shall be issued to any person, or to any entity employing any person as a vending unit operator, who has been convicted of the commission of a felony under the laws of the state of Illinois or any other state or federal law of the United States, within the previous five (5) years or convicted at any time of a crime requiring registration on any sex offender list or database or a felony involving drugs, the use of a firearm in the commission of an offense, or any violent felony; nor to any person who has been convicted of a violation of any of the provisions of this chapter, nor to any person whose vending unit license issued hereunder has previously been revoked as herein provided.
- (J) The Village President, Police Chief of the East Dundee Police Department, or Village Administrator may from time to time reasonably restrict the locations within the municipal limits of the Village of East Dundee in which vending units

may be operated in order to promote the public safety. Any vending unit operator failing to comply with the direction of a duly authorized village official regarding the vending unit's location of operation may be subject to suspension and revocation as provided herein.

#### § 113.04 MOBILE VENDING UNIT REQUIREMENTS AND RESTRICTIONS.

In addition to the general restrictions and requirements found at § 113.03 hereof, the following requirements and restrictions shall apply to mobile vending units:

- (A) Door to door sales shall be prohibited.
- (B) Vending is allowed only when the mobile vending unit is lawfully stopped.
- (C) Vending is allowed only from the side of the mobile vending unit away from moving traffic and as near as possible to the curb or side of the street. Vending to a person standing in the roadway is prohibited.
- (D) The mobile vending unit shall contain a stop signal arm that can be extended horizontally from the left side of the vending unit duplicating the design and size of a standard octagonal stop sign as set forth in the State of Illinois Manual of Uniform Traffic Control Devices.
- (E) The mobile vending unit shall contain a convex mirror mounted on the front so the driver, in his/her normal seating position, can see the area in front of the vending unit.
- (F) Mobile vending units shall be prohibited from vending in any Business District within the Village, as described in Title XV Chapter 157 of the Code of Ordinances of the Village of East Dundee.

#### § 113.05 NONMOBILE VENDING UNIT REQUIREMENTS AND RESTRICTIONS.

In addition to the general restrictions and requirements found at § 113.03 hereof, the following requirements and restrictions shall apply to nonmobile vending units:

- (A) Annual vending unit licenses for nonmobile vending units shall be issued for one fixed location on private property. The fixed location for an annual vending unit license for a nonmobile vending unit must be located within a Manufacturing District within the Village, as described in Title XV Chapter 157 of the Code of Ordinances of the Village of East Dundee. Nonmobile vending units are strictly prohibited from vending in any other zoning district.
- (B) Temporary vending unit licenses for nonmobile vending units to operate on a fixed location on public property may be issued for Village recognized community events.

- (C) Prior to the issuance of a vending unit license, a nonmobile vending unit must obtain a lease agreement for the location to be licensed if the location is not owned by the vending unit license applicant.

§ 113.06 APPLICATION.

- (A) Application for a vending unit license shall be made upon a form provided by the office of the Village Clerk and filed with such. Said license shall be carried by the applicant while operating the vending unit and shall be displayed at all times in a place readily visible to all customers. The applicant shall truthfully state in full the information requested on the application:

- (1) If the applicant is an individual or sole proprietorship, the application shall contain his or her name, date of birth, business name, if any, business and residence addresses and business and residence telephone numbers. If the applicant is a partnership or other non-corporate business entity, the application shall contain the business names, if any, address and telephone number of the partnership or other entity, and the names, dates of birth and residence addresses and residence telephone numbers of each partner or member thereof. If the applicant is a corporation, the application shall contain the name of the corporation and its address and telephone number and the names, residence addresses and residence telephone numbers of each officer and director thereof, and if a majority in interest of the stock of such corporation is owned by one person or his or her nominee or nominees, the application shall also contain the name, date of birth, residence address and residence telephone number of such person.
- (2) Copy of current applicant's photo identification or driver's license;
- (3) Description of the proposed vending unit operation;
- (4) Proposed route for mobile vending unit (including location of commissary) or site plan of location for nonmobile vending units;
- (5) The applicant's certificate of registration under the Illinois retailers' occupation tax act.
- (6) Any vending unit operator shall be required to obtain a Food Handling Permit and Mobile Vending Unit Permit (if applicable) from the Kane County Health Department;
- (7) A lease agreement for nonmobile vending units located on private property under the ownership of others; or proof of ownership of the private property.
- (8) Certificate of insurance;
- (9) Whether a vending unit license issued under this chapter has ever been revoked;

- (10) Whether the applicant has ever been convicted of a violation of any of the provisions of this chapter or the ordinance of any other Illinois municipality regulating the activities of vending unit operators;
  - (11) A sworn statement from the applicant and any person to be employed as a vending unit operator that he/she has not been convicted of the commission of a felony under the laws of the state of Illinois or any other state or federal law of the United States, within the previous five (5) years, and that he/she has not been convicted, at any time, of a crime requiring registration on any sex offender list or database or a felony involving drugs, the use of a firearm in the commission of an offense, or any violent felony; and
- (B) All statements made by the applicant upon the application or in connection therewith shall be under oath.
  - (C) Application fee as set forth in this Chapter.

§ 113.07 ISSUANCE OF LICENSE.

- (A) The office of the Village Clerk, after consideration of the application and all information obtained relative thereto, shall, within ten (10) business days of application, approve or deny the application. If the person does not possess the qualifications for such certificate, as herein required, and the issuance of a certificate of registration to the applicant would not be in accord with the intent and purpose of this chapter, then the office of the Village Clerk shall deny the application. Endorsement shall be made by the office of the Village Clerk upon the application of the denial of the application. If the applicant is found to be fully qualified, the certificate of registration shall be issued within five (5) business days of the application approval so long as the application fees have been fully paid. Any certificate of registration issued pursuant to this chapter shall expire one year after issuance.
- (B) The office of the Village Clerk shall cause to be kept an accurate record of every application received and acted upon together with all other information and data pertaining thereto and all licenses issued under the provisions of this chapter and of the denial of applications.

§ 113.08 FEES.

Each applicant shall pay the application fees required in the fee and fine schedule.

§ 113.09 LICENSE RENEWAL.

In all subsequent years, the applicant must file a renewal application covering such vending unit. License renewals not received by January 1 shall be subject to the penalty contained within the

fee and fine schedule. License renewals not received by February 1 shall require a new application.

§ 113.10 LICENSE NONTRANSFERABLE.

The vending unit license issued hereunder shall not be transferable to any other person as defined herein.

§ 113.11 WAIVER OF LICENSE REQUIREMENT.

- (A) The Village Administrator may waive any and all requirements of this chapter for a temporary vending unit operating upon public property during a Village recognized community event or a temporary vending unit sponsored by or working for a religious, educational, or charitable organization where such organization is entirely a nonprofit organization.
- (B) The requirements of this chapter shall not apply to the Caboose Concession Stand owned by the Village of East Dundee.

§ 113.12 REVOCATION AND SUSPENSION.

Revocation and suspension of vending unit licenses shall be regulated by Section 110.12 of the Village Code.

*Section 2:* That Title III, Chapter 37, Section 37.01 of the Code of Ordinances of the Village of East Dundee is hereby amended by adding the following to subpart R thereof:

*Vending Unit Licenses (Chapter 113).*

- (1) New Application: \$300.00
- (2) New Application Received June 30: \$150.00
- (3) Renewal: \$150.00
- (4) Renewal Application Received After January 1: \$150.00 plus \$10.00 per business day after January 1.

*Section 3:* This Ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form as provided by law.

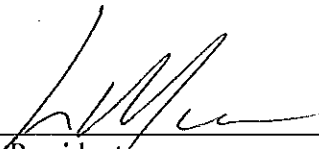
ADOPTED this 13<sup>th</sup> day of Feb, 2017 pursuant to a roll call vote as follows:


AYES: Trustees Gorman, Lynam, Selep, Wood and Hall

NAYS: 0

ABSENT: 0

APPROVED by me this 13<sup>th</sup> day of Feb, 2017.

  
\_\_\_\_\_  
Village President

Attest:   
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Village Clerk

Published in pamphlet form:

February 14, 2017