

## **CHAPTER 145 MOBILE FOOD VENDORS**

### **§145-1 Purpose.**

The purpose of this chapter is to promote and protect the health, safety and general welfare of the Village of Depew and its residents.

### **§ 145-2 Definitions**

#### **MOBILE FOOD VEHICLE**

The use of any legally registered/licensed vehicle or trailer to travel over the streets and to serve food or drink, whether cooked, baked or prepared on site or prepared elsewhere and served on site.

#### **MOBILE FOOD VENDOR**

The operator and/or employees, contractors, or other agents of a mobile food vehicle.

#### **MOBILE FOOD VENDING**

The act of vending prepared food through the utilization of a mobile food vehicle.

#### **PRIVATE CATERED EVENT**

Mobile food vending limited to serving the owners, occupants and guests of just a single dwelling, as "dwelling" is defined at § **260-13** of this Code; an elementary or secondary school; a real estate or insurance office; an art, dance, music or photographic studio; an optician or optometrist office; a fire station with or without club facilities; a meeting room for a lodge or fraternal organization; a medical building; or a nursing home.

#### **RESTAURANT**

A building where meals are served to customers.

#### **WORK SITE CONCESSION VEHICLE**

A motor vehicle with a maximum gross weight as reflected upon its registration of not more than 8,600 pounds in which food is not cooked, baked, grilled, broiled or fried in the vehicle.

### **SPECIAL EVENT**

The occurrence of an event sanctioned by the Village Board of Trustees, by resolution, wherein mobile food vehicles may be exempt from the regulations defined in § 261-8 as defined in the resolution.

### **FOOD TRUCK**

A mobile food vendor that is self-propelled.

### **FOOD TRAILER**

A mobile food vendor that is towed by a motor vehicle.

### **FOOD CART/PUSH CART**

A mobile food vendor that manually mobile.

### **§ 145-3 License required.**

No mobile food vehicle shall be used for mobile food vending unless a license issued pursuant to the provisions of this chapter shall first have been obtained, which license shall at all times be displayed in a conspicuous location that is visible from the outside of the vehicle.

### **§ 145-4 License application.**

The owner of a mobile food vehicle who wishes to engage in mobile food vending within the Village of Depew shall make a written application to the Village Administrator for one or more mobile food vehicle licenses on a form provided by the Village Administrator. The application for such license(s) shall be signed and dated by the owner or by a corporate officer of the owner, shall identify the signor and shall include the following:

**(A)** Name, address and telephone number of each owner of the mobile food vehicle and in the case of a corporate owner the name, address and telephone number of each corporate officer.

**(B)** As to each mobile food vehicle for which a license is requested, a valid and current Erie County Department of Health certification of a successful health inspection as to both the vehicle to be used and the facility whereat food is prepared.

(C) As to each self-powered mobile food vehicle for which a license is requested, a valid insurance certificate for liability insurance as well as any additional insurance policy held by the vehicle, and a New York State Department of Motor Vehicles registration, and certificate of inspection.

(D) As to each mobile food vehicle for which a license is requested, a valid and current certification of a successful fire inspection conducted within the prior 12 months by the County of Erie, by a municipality or fire department within Erie County or by the Village of Depew Fire Inspector.

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

#### **§ 145-5 Fees.**

As to each license application, the fee and renewal fee for a mobile food vending license shall be set by resolution for the first mobile food vehicle and set by resolution for each additional mobile food vehicle. The Village Board of Trustees may waive fees by resolution in accordance with Chapter 76-20.

#### **§ 145-6 License term and restrictions.**

(A) The Village Board of Trustees of the Village of Depew retains the right, for good cause, to revoke a license.

(B) Each mobile food vending license shall expire on December 31<sup>st</sup> of every year.

(C) The license shall not be transferable from person to person without the written approval of the Village Board of Trustees.

#### **§ 145-7 License revocation**

Any license issued pursuant to the provisions of this chapter may be revoked by the Village Administrator, Code Enforcement Officer or by the Village

Board of Trustees for any of the following causes. Upon taking such action, the Village Administrator or the Village Code Enforcement Officer shall, as soon as possible, notify the other and the Village Board of Trustees.

(A) There has been a development, or information has been discovered, which affects the correctness of information provided at the time the license application was submitted.

(B) The Erie County Commissioner of Health has advised that such mobile food vendor has violated any of the provisions of law or the Sanitary Code of Erie County and or shut down the mobile food vendor for any reason while the mobile food vendor was within the jurisdiction of the Village of Depew.

(C) Any lapse of liability, auto, or other insurance coverage.

## **§ 145-8 Regulations.**

(A) It shall be unlawful for a mobile food vendor to conduct business in a location within 100 feet of the primary entrance of a restaurant that is open to the public. This requirement shall be waived if written permission for the mobile food vending operation is first obtained from the owner of the restaurant or during a special event sanctioned by the Village Board of Trustees.

(B) Within nonresidential zoning districts, it shall be unlawful for a mobile food vendor to conduct business at a single location within a public right-of-way for a duration exceeding three hours.

(C) Other than at a time when and place at which a special event sanctioned by the Village Board of Trustees or a "private catered event" is being held, it will be unlawful for a mobile food vendor to conduct business at a single location upon a public right-of-way within a residential zoning district for a duration exceeding 40 minutes. In the case of a special event sanctioned by the Village Board of Trustees by resolution, it shall be unlawful for a mobile food vendor to conduct business at a single location upon a public right-of-way within a residential zoning district for a duration exceeding the duration of the special event. In the case of a "private catered event,"

it shall be unlawful for a mobile food vendor to conduct business at a single location upon a public right-of-way within a residential zoning district for a duration of more than two hours or as licensed by § 145-8(M) of this chapter, whichever is less.

(D) At all times, mobile food vendors must abide by all applicable federal, state and local statutes and ordinances.

(E) All signage associated with a mobile food vendor must be permanently affixed to the mobile food vehicle. One additional sign is licensed within five feet of the mobile food vendor's vehicle as long as the additional sign in no way obstructs vehicular or pedestrian traffic.

(F) All mobile food vendors must provide trash receptacles of sufficient capacity to contain all trash and waste generated in association with the business of the mobile food vendor. All waste and trash shall be placed in the trash receptacles. All trash, waste, litter and debris shall be removed from the site of the vending operation at the end of each daily operation.

(G) It shall be unlawful to discharge liquid waste, fats, oils or grease on the land. Such discharges shall be held in appropriate containers and then disposed of in a legally permissible manner.

(H) Mobile food vendors shall not conduct operation from a site that contains a gasoline service.

(I) When parked on a public right-of-way, products shall not be dispensed from the street side of the mobile food vehicle.

(J) A self-powered mobile food vehicle shall not be operated in reverse in order to attempt or make a sale.

(K) Mobile food vending shall not be conducted within 60 feet of an intersection.

(L) It shall be unlawful for any mobile food vehicle vendor to operate within 500 feet of the boundary line of any fair, carnival, circus,

festival, special event or civic event that is licensed or sanctioned by the Village, except when the vendor has obtained a license to so operate from the appropriate authority of the Village of Depew. Permission may be conditioned upon the payment of fees charged other vendors with respect to such event.

**(M)** Other than as licensed by § **145-8(C)** with respect to a special event sanctioned by the Village Board of Trustees, mobile food vending shall not be conducted before 7:00 a.m. or after 10:00 p.m., except that mobile food vending shall not be conducted before 9:00 a.m. or after 8:00 p.m. in Zoning District R-1, or R-2.

### **§ 145-9 Enforcement.**

**(A)** A mobile food vehicle, while within the Village of Depew, may be inspected at any time for violations of this chapter by any police department or health inspector with jurisdiction within the Village of Depew and by the Code Enforcement Officer of the Village of Depew or by the Village Administrator.

**(B)** Primary enforcement of the mobile food vending regulations contained in this chapter shall be the responsibility of the Village of Depew Code Enforcement Officer. If the Village of Depew Code Enforcement Officer determines an issue to be a police matter, the Code Enforcement Officer shall refer that issue to the Village of Depew Police Department. The Code Enforcement Officer shall administer this chapter and be authorized to issue appearance tickets for any violations of this chapter.

### **§ 145-10 Penalties for offenses.**

**(A)** The penalty for engaging in mobile food vending without properly obtaining and/or displaying a license shall be \$250 for the initial offense within a twelve-month period and \$1,000 for every subsequent offense within said twelve-month period. A license shall be revoked after the second offense. A mobile food vendor who is found guilty more than once within a twelve-month period of engaging in mobile food vending without properly obtaining a license

shall, in addition to applicable fines, be barred from obtaining a license for 24 months.

**(B)** Except for violations of the New York State Vehicle and Traffic Law, which shall be prosecuted as such, penalties for all other violations of this chapter not referenced in the preceding subsection shall be punishable as provided in Chapter 1, General Provisions, §1-10, General Penalties for Offenses, of the Code of the Village of Depew.

## EXHIBIT A

EAF and Negative Declaration



## EXHIBIT B

Local Law