

CITY OF BELVIDERE, ILLINOIS

ORDINANCE #623H

**AN ORDINANCE AMENDING ARTICLE VIII OF CHAPTER 26 OF THE CITY OF BELVIDERE MUNICIPAL CODE
RELATING TO MOBILE FOOD VEHICLES**

PASSED AND ADOPTED

BY THE CITY COUNCIL

OF THE CITY OF

BELVIDERE, ILLINOIS

ON THE 3RD DAY OF APRIL 2023.

APPROVED BY THE

MAYOR OF THE CITY OF

BELVIDERE, ILLINOIS

ON THE 6TH DAY OF APRIL 2023.

Published in Pamphlet Form this 6th day of April 2023.

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CHAPTER 26 OF THE CITY OF BELVIDERE MUNICIPAL CODE
RELATING TO MOBILE FOOD VEHICLES

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Belvidere as follows:

SECTION 1: Article VIII, Retail Street Sales, of Chapter 26 of the City of Belvidere Municipal Code is amended read as set forth in the Attached Exhibit A which is incorporated herein.

SECTION 2: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

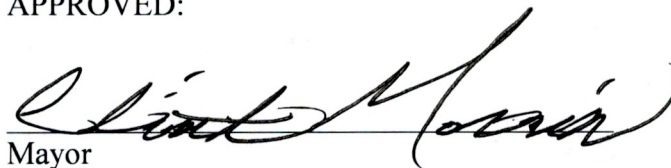
SECTION 3: This Ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as required by law.

Voting Aye: Fleury, Freeman, McGee, Mulhall, Porter, Prather, Snow, Stevens, and Brereton.

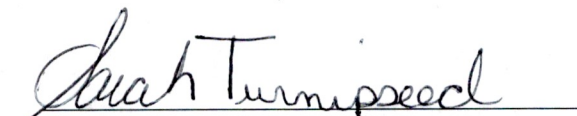
Voting Nay: Frank.

Absent: None.

APPROVED:


Mayor

ATTEST:


City Clerk Sarah Turnipseed

(SEAL)

Passed: April 3, 2023
Approved: April 6, 2023
Published: April 6, 2023

ARTICLE VIII. MOBILE FOOD VEHICLES

26-300. Definitions.

Merchant means the owner of a sales vehicle, operator and/or person physically making sales from a sales vehicle.

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

Mobile food vehicle means a motorized vehicle or towed vehicle used to prepare or directly serve food. Vehicles utilized by caterers who simply transport food prepared at a certified kitchen for service at an event where sales are not made to individuals shall not be deemed a mobile food vehicle.

Mobile food preparer means any person who prepares or serves food or beverages from a mobile food vehicle.

26-301. License Required.

- (a) It shall be unlawful to operate a Mobile Food Vehicle in the City of Belvidere (City) without having first obtained a license from the City for each Mobile Food Vehicle. The annual fee for the license shall be \$500.00 for each sales vehicle and shall be valid from May 1 through the immediately following April 30. The license fee shall not be prorated in the event a license is awarded after May 1 or in the event a license is surrendered or revoked prior to April 30. Application for the license shall be made on forms provided by the City Clerk.
- (b) The issuance of Mobile Food Vehicle license to be held by the owner of each Mobile Food Vehicle is a personal privilege and is not transferable in any manner.
- (c) Prior to, and as a condition of, issuance of a Mobile Food Vehicle License each applicant shall provide:
 - (1) Proof of vehicle insurance as required by the Illinois Vehicle Code;
 - (2) Proof of commercial general liability insurance in an amount of not less than \$1,000,000 per occurrence naming the City of Belvidere as an additional insured;
 - (3) proof of registration for each Mobile Food Vehicle issued by the State of Illinois or another state of the United states as well as the year make and model of each Mobile Food Vehicle and vehicle identification number (if available);
 - (4) evidence that a Mobile Food Vehicle has been properly inspected and approved by the Belvidere Fire Department; and
 - (5) evidence of all other required permits and inspections of any other regulatory body, including but not limited to, the Boone County Health Department.

26-302. Retail Street Sales

- (a) All Mobile Food Vehicles shall be operated on a public or private highway or street in such a manner so as not to interfere with the flow of traffic. Prior to engaging in sales, the sales vehicle shall be pulled as far to the right as possible, and all sales shall only be made from the right side of such vehicle.
- (b) No sales from a Mobile Food Vehicle shall occur on U.S. Route 20 (Grant Highway), U.S. Bus. Route 20, Belvidere Road, Appleton Road, Logan Avenue, or Beloit Road.
- (c) The retail street sales license does not authorize the sale of goods from any private or other public property.
- (d) No Mobile Food Vehicle shall park stand or operate sales:

- (1) within 20 feet of a crosswalk;
- (2) within 30 feet of a stop light, stop sign, or yield sign; or
- (3) adjacent to a protected bike lane.

(e) Mobile Food Vehicles operating upon a public highway or street shall not be operated at a fixed location and shall move from place to place. They shall only remain stopped upon a public highway or street at one location for a sufficient duration to service customers currently purchasing food or beverages or physically in line to purchase food or beverages, but in no event longer than ten (10) minutes.

26-303. Mobile Food Vehicles Generally.

- (a) All Mobile Food Vehicles shall be road worthy vehicles properly titled and registered under the laws of the State of Illinois or those of another state of the United States.
- (b) Mobile Food Vehicles shall only operate between the lessor of the hours of 9:00 a.m. and 12:00 a.m. or as further limited by the underlying zoning district or special use ordinance when operated on private property. In a residential district, or on highways adjacent to a residential district, Mobile Food Vehicles shall only operate between the hours of 9:00 a.m. and 10:00 p.m.
- (c) No Mobile Food Vehicle shall be equipped with any electronic sound-amplifying device. Permitted advertising devices shall be limited to bells, whistles, horns or other musical or noise-making devices which do not employ any electronic sound-amplifying device. Mobile food vehicles employing musical or noise-making devices shall only sound said devices when traversing the public way and shall be prohibited from sounding said devices while standing or parked.
- (d) Except as otherwise provided in this Article, it shall be unlawful for any person to utilize any sound amplification equipment, external sign (not mounted upon a Mobile Food Vehicle), or external lights (not mounted upon a Mobile Food Vehicle) as a part of its operations or advertisement. Lights permanently attached to a Mobile Food Vehicle necessary for the preparation and serving of food or beverages are permitted but in no case shall such lights illuminate any area more than ten (10) feet from the Mobile Food Vehicle.
- (e) Mobile Food Vehicles shall provide their own source of power and/or fuel. All such power sources shall comply with the noise and sound restrictions for the zoning district they are operating in. The use of an internal combustion generator is prohibited in the residential and commercial zoning districts. If a private property owner consents to utilization of power from private property, all connections shall be established in a safe manner, in compliance with all applicable codes and laws, so as not to create any shock, fire or tripping hazard.
- (f) No food or beverages shall be passed directly from any Mobile Food Truck to another vehicle nor shall any sales occur between a Mobile Food Truck and another vehicle.
- (g) All Mobile Food Vehicles shall comply with the current standards of the International Fire Code (IFC) adopted by the City of Belvidere and the version of the NFPA adopted by that IFC. No Mobile Food Vehicle shall be operated within the City that does not comply with the IFC and NFPA. Prior to issuance of a Mobile Food Vehicle License, or any renewal thereof, each Mobile Food Vehicle shall be inspected by the Belvidere Fire Department for compliance with this section. The City Clerk shall not issue a Mobile Food Vehicle License without evidence that a Mobile Food Vehicle has been properly inspected and approved by the Belvidere Fire Department. Further, upon demand of any member of the Belvidere Fire Department, any Mobile Food Vehicle may be inspected to ensure continued compliance with the IFC and NFPA.
- (h) No Mobile Food Vehicle shall be operated, nor receive a Mobile Food Vehicle License, without first obtaining and maintaining all required permits and inspections of any other regulatory body, including but not limited to, the Boone County Health Department.
- (i) No Mobile Food Vehicle shall be operated within 1,000 feet of any fair, carnival, circus, or other special event sponsored by, licensed by or permitted by the City except with written permission from the special event operator or sponsor.

- (j) Each owner or operator of a Mobile Food Vehicle shall maintain an accurate list of each person working or operating each Mobile Food Vehicle, as well as their current home address, for each day it operates within the City. The owner or operator shall provide that list to any law enforcement officer upon demand.
- (k) A Mobile Food Vehicle shall not block pedestrian or vehicular travel (including bicycles) on any highway, street, sidewalk or private property and shall not block site lines for any turning movements of other vehicles or pedestrians.
- (l) Mobile Food Vehicles are prohibited from selling or dispensing alcohol of any kind, tobacco or alternative nicotine products or any controlled substance under the Controlled Substances Act.
- (m) A Mobile Food Vehicle licensee shall quarterly file with the City Clerk a copy of their St-1 sales tax return and proof of payment of all required sales taxes.

26-304. Mobile Food Vehicle: Off-Street Operations / Storage.

- (a) Mobile Food Vehicles shall not be operated, conduct sales, stored or allowed to remain standing on any commercially zoned property except during operational hours when the Mobile Food Vehicle is actively selling food or beverages or when food is actively being prepared within the Mobile Food Vehicle and the operator of the Mobile Food Vehicle is present. A Mobile Food Vehicle may be stored upon commercially zoned property only within a fully enclosed building. A Mobile Food Vehicle may be parked outside upon commercially zoned property only in compliance with Section 150.706 of the City of Belvidere Zoning Code and only if the Mobile Food Vehicle is owned by, and part of the same commercial enterprise associated, with the property for which a Mobile Food Vehicle Location Permit is issued.
- (b) Mobile Food Vehicles are prohibited from operating, parking, standing or being stored upon any residentially zoned property within the City of Belvidere. A Mobile Food Vehicle shall be permitted to cater a private event upon residentially zoned property. However, no person shall allow a Mobile Food Vehicle to cater a private event more than two times per calendar year for the same property.
- (c) No person shall operate or conduct any sales from any Mobile Food Vehicle upon any property in the City, other than public highways, as permitted in this Article, without complying with all zoning restrictions, including, but not limited to any special use requirements, and other provisions of the City of Belvidere Municipal Code and without obtaining the written consent of the property owner. Any written consent shall be filed with the City Clerk, be maintained within the Mobile Food Vehicle, and shown to any City police officer, firefighter or code enforcement officer upon demand.
- (d) No person shall operate or conduct sales from any Mobile Food Vehicle upon any commercially zoned property in the City, nor shall any property owner or tenant of commercially zoned property permit the operation of or sales from a Mobile Food Vehicle, until such time as the owner of the commercially zoned property first obtains a Mobile Food Vehicle Location Permit as set forth in section 26-305 of this Code. A Mobile Food Vehicle Location Permit shall not be required for the operation of Mobile Food Vehicle upon industrial zoned or residentially zoned (for private events (26-303(b)) property within the meaning of the City of Belvidere Municipal Code.
- (e) Each Mobile Food Vehicle operating or conducting sales upon private property shall provide wind resistant (secured so as not to blow in the wind) refuse containers for its patrons' use. All refuse and refuse containers shall be immediately removed when the Mobile Food Vehicle is non-operational and/or moves from the location.
- (f) With the property owner's consent, a Mobile Food Vehicle operating or conducting sales on private property may provide wind resistant outdoor seating and tables for its patrons. All such seating and tables shall be immediately removed when the Mobile Food Vehicle is non-operational and/or moves from the location. All tables and seating shall be arranged to comply with the requirements of any special use granted relating to the private property.
- (g) Each Mobile Food Vehicle operating or conducting sales upon private property shall only be located upon a hard, impermeable surface (e.g. asphalt or concrete, not grass, soil or gravel).
- (h) Each Mobile Food Vehicle operating or conducting sales (including ancillary trash containers, tables or seating) upon commercial property shall only be located within the area shown on the approved site plan accompanying approval of the Mobile Food Vehicle Location Permit.

26-305 Mobile Food Vehicle Location Permit - Off Street.

- (a) The fee simple owner of any commercially owned property wishing to operate a Mobile Food Vehicle on the property, or allow another person or entity to operate a Mobile Food Vehicle on the property shall first apply for and obtain a Mobile Food Vehicle Location Permit from the City Clerk.
- (b) The application shall be made upon forms provided by the City Clerk. Each application shall include:
- (i) The address of the commercially zoned property
 - (ii) A site plan showing:
 - The location of the commercial property and its boundaries
 - All existing structures, including, but not limited to, buildings storage areas, light poles, etc. on the commercial property
 - All existing parking facilities/spaces on the commercial property and the total number including identification of any handicap parking spaces
 - the proposed location of any Mobile Food Vehicle and any ancillary trash containers, seating, or tables. The location shall include distances from existing structures, lot lines and parking facilities
 - (iii) The name, address, email address and telephone number of the fee simple owner of the commercially zoned property as well as the same information for all tenants of any portion of the commercially zoned property and any person responsible for the day to day operation of the business.
 - (iv) Evidence of a commercial general liability insurance in an amount of not less than \$1,000,000.00 covering the commercial property
 - (v) The name of an entity, if known, who the Owner of the commercial property intends to allow operation of a Mobile Food Vehicle on the property
 - (vi) An acknowledgement that the owner of the commercial property will only operate, or allow to be operated, a Mobile Food Vehicle upon the commercial property in compliance with this Article.
- (c) The fee simple owner of any commercial property who operates or allows another to operate a Mobile Food Vehicle upon the property shall be jointly and severally liable for any violations of this Article and may be held accountable for the actions, failure to act or misconduct of any person operating, conducting sales from or storing a Mobile Food Vehicle upon the property.
- (d) Upon receipt of a complete application for a Mobile Food Vehicle Location Permit, the City Clerk shall forward a copy of the application to the City Planner (or in their absence the Director of Buildings) for review.
- (e) A Mobile Food Vehicle Location Permit shall not be granted if:
- (i) The City Planner (or in their absence the Director of Buildings) determines that the site plan is not acceptable for any of the following reasons:
 - Potential negative impact upon parking or traffic circulation patterns; or
 - The size of the commercial property being insufficient for safe and convenient operation of a Mobile Food Vehicle; or
 - Potential negative impact upon adjacent street or sidewalk traffic including, but not limited to site lines, pedestrian traffic and vehicular traffic; or
 - Potential negative impact upon adjoining properties with particular attention to property that are residential or institutional in nature ; or
 - (ii) The application is not complete for any reason; or

- (iii) The applicant is delinquent in any sum owed the City of Belvidere or Boone County including, but not limited to, any tax (whether property or otherwise) or fine owed; or
- (iv) If the applicant has previously violated any portion of this Article.
- (f) The Mobile Food Location Permit is specific to the site plan approved pursuant to an application. If the fee simple owner of commercial property wishes to alter the site plan and location of a Mobile Food Vehicle, a new application must first be submitted and approved.
- (g) The Mayor may revoke any Mobile Food Vehicle Location Permit upon a finding that the fee simple owner or any person operating a Mobile Food Vehicle upon the commercial property has violated this Article. Revocation shall be in accordance with Article II of Chapter 26 of this Code.

26-306 Selling or Dispensing Food or Beverages Unlawful

- (a) It is unlawful to offer sale, sell or dispense any food or beverage from a Mobile Food Vehicle, or any vehicle or structure that is capable of being moved or transported (not a fixed structure), without first obtaining a Mobile Food Vehicle license.
- (b) It is unlawful to operate a Mobile Food Vehicle in a manner that violates any provision of this Article.
- (c) It is unlawful for any owner or lawful occupant (e.g. a licensee or lessee) of any property within the City to allow a Mobile Food Vehicle to operate upon the property in violation of this Article. Such an owner or occupant who knows, or should have known, that the Mobile Food Vehicle was operating upon the property in violation of this Article, without taking affirmative action to prevent or cease such violation (including but not limited to contacting law enforcement), shall be deemed to have allowed it.
- (c) A violation of this Article shall be a separate and distinct violation from any other provision of the Belvidere Municipal Code, including but not limited to, Chapter 150, the Zoning Code.

26-307. Exceptions.

- (a) A Mobile Food Vehicle operating on property owned by a unit of local government, with approval from that unit of local government is exempt from the provisions of this Article. Notwithstanding the foregoing, such a Mobile Food Vehicle shall comply with all other permitting and licensing requirements, including but not limited to those of the Boone County Health Department as well as complying with section 26-303(h). Unless permitted by the City, the Mobile Food Vehicle shall not sell or dispense any food or beverages from any public highway or street.
- (b) The provision of any food or beverages, not for sale or compensation, in response to any disaster or emergency shall not be deemed a violation of this Article.
- (c) A Mobile Food Vehicle operating during a special event sponsored or approved by the City of Belvidere, and with the approval of the event sponsor or the City is exempt from the provisions of this Article. A Mobile Food Vehicle operator, who has not obtained the annual permit required by section 26-301, may obtain a single event permit for a reduced fee of \$100.00 for a City approved block party or parade. Notwithstanding the foregoing, such a Mobile Food Vehicle shall comply with all other permitting and licensing requirements, including but not limited to those of the Boone County Health Department as well as complying with section 26-303(h).

26-308. Penalty.

- (a) Any person or entity violating section 26-301(a), 26-304, 26-306(a), or 26-306(c), shall be fined not less than \$1,000.00 plus court costs and not more than \$5,000.00 plus court costs.
- (b) Any person or entity who violates any other provision of this Article shall be fined in accordance with Section 1-9 of the City of Belvidere Municipal Code.
- (c) If a Mobile Food Vehicle is used in violation of this Article the Mobile Food Vehicle License may be revoked in accordance with Article II of this Chapter.
- (d) Any Mobile Food Vehicle operating in violation of 26-306(a) is subject to impoundment by the City of Belvidere Police Department. The impoundment shall be in accordance with the procedures set forth in Article IX of Chapter 110 of the City of Belvidere Municipal Code.

(e) The owner of a Mobile Food Vehicle as well as the operator(s) of a Mobile Food Vehicle shall each be jointly and severally liable for any violation of this Article.

(f) A separate offense shall be deemed committed on each day that a violation of this Article occurs or continues.

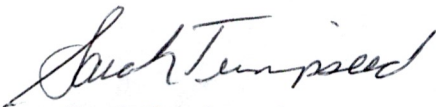
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AFFIDVAIT

STATE OF ILLINOIS)
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COUNTY OF BOONE)

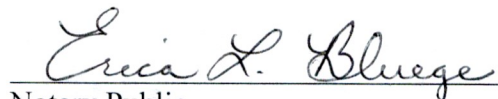
Sarah Turnipseed, first being duly sworn on oath deposes and says as follows:

By authority of the City Council of the City of Belvidere, Illinois, I published Ordinance #623H of the City of Belvidere, Illinois, in pamphlet form on April 6, 2023, and as a convenience for the public; I posted the pamphlet form of Ordinance #623H on the bulletin board in the lobby of Belvidere City Hall at 401 Whitney Blvd., Belvidere, Illinois; said location being readily accessible to the public during business hours of the City Clerk's office.



Sarah Turnipseed
City Clerk

SUBSCRIBED AND SWORN TO BEFORE ME
this 6th day of April, 2023.



Notary Public

