

**ORDINANCE NO. \_\_\_\_\_**

**Date Passed: March 9, 2015**

**AN ORDINANCE TO ALLOW FOR THE  
FRANCHISING OF MOBILE FOOD VENDORS**

**WHEREAS**, the City of Rochelle is a body politic and corporate, organized and existing pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1, et. seq.; and

**WHEREAS**, the Rochelle Municipal Code currently does not provide for the use of the public rights-of-way for the sale of food from mobile food vending trucks; and

**WHEREAS**, in accordance with all legal requirements, the Rochelle Planning and Zoning Commission, following a duly noticed and called public hearing on March 2, 2015 has recommended, by a vote of 6-0, that the ordinance be adopted, and the City Council concurs; and

**WHEREAS**, the City Council finds it in the best interests of the City of Rochelle to provide for the franchising of mobile food vendors to allow the use of certain public rights-of-way by mobile food vending trucks;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCHELLE, OGLE COUNTY, ILLINOIS**, as follows:

1. Article IV (Mobile Food Vendors), as set forth in Exhibit A attached hereto, is hereby added in its entirety to Chapter 70 (Peddlers, Solicitors, Canvassers, and Itinerant Merchants) of the Rochelle Municipal Code.

This ordinance shall become effective after its passage, approval and publication as provided by law.

PASSED AND APPROVED this 9<sup>th</sup> day of March, 2015.

Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_ Abstain: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attested: \_\_\_\_\_  
City Clerk

## EXHIBIT A

### ARTICLE IV – MOBILE FOOD VENDORS

#### **Sec. 70 – 150. Definitions**

*Mobile Food Truck* means a double-axle vehicle that is completely mobile with no permanent, fixed location, the operator of which prepares all or most of the victuals on board the vehicle to serve or distribute to customers in a form suitable for immediate ingestion or consumption. This definition excludes trucks operated for the purpose of selling only fresh, uncooked, or unprepared produce. This definition also excludes trucks operated by any unit of local government, including school districts and park districts.

*Mobile Food Vending Site* means a location on City right-of-way, on City property, or on privately owned property, where applicable, that is available for use by mobile food vendors.

*Mobile Food Vendor* means a person, or legal entity, that has obtained a valid franchise to operate a mobile food truck to serve or distribute victuals on the public right-of-way.

*Public Right-of-Way* means any city street, alley, road, sidewalk, or other passageway whereby pedestrians or vehicles traverse.

*Serve* means soliciting the sale of or offering for sale victuals.

*Victuals* means food of any kind that is prepared, packaged, or in a form that is suitable for immediate ingestion or consumption by human beings, or raw meats. This definition excludes fresh produce, sold in bulk or by weight that has not been prepared, packaged, or served with other prepared foods as part of a menu item.

#### **Sec. 70 – 151. Exclusions.**

The sale by an individual of produce or value-added products (oils, jams, jellies, etc.) produced by the same individual, shall be regulated and governed by the ordinances, rules, and regulations of Ogle County, Illinois and the Ogle County Health Department.

#### **Sec. 70-152. Franchise Required.**

No person shall operate a mobile food truck, or otherwise operate as a mobile food vendor, including operating a mobile food truck on privately owned property, without first obtaining a mobile food vending franchise from the City of Rochelle.

**Sec. 70-153. Application for Mobile Food Vending Franchise.**

(a) An applicant for a mobile food vending franchise shall submit an application to the Community Development Department of the City of Rochelle on forms provided by the City and in the format and number required by the form instructions.

(b) An applicant must provide a background check from the Rochelle Police Department. In the event an applicant is a corporation, or other business entity, then all shareholders, officers, and principals in the entity must provide a background check from the Rochelle Police Department. An application shall not be deemed complete until all of the required background checks are submitted.

(c) No mobile food vending franchise shall be issued until all requisite approvals by the Illinois Department of Public Health and the Rochelle Fire Department are finalized and received by the Community Development Department. All mobile food vendors shall comply with all applicable laws and regulations of the State of Illinois and the City of Rochelle.

(d) Each application for a mobile food vending franchise shall provide a photo and the dimensions of the mobile food truck to be used at the location.

(e) The Community Development Director, in conjunction with other City staff, shall evaluate the mobile food vending franchise application.

(f) Franchise applications will be reviewed and processed on a first come, first serve basis, from the date and time the application becomes a complete application with all supplemental documents included.

(g) The Public Works Department shall mark the street with lines to indicate the approved mobile food vending locations, and parking shall be prohibited in this location during the hours of operation for mobile food vendors. The mobile food vending franchise shall be conspicuously displayed and affixed to the front windshield, lower corner, passenger side and be clearly visible from outside the mobile food truck at all times of operation.

(h) The Community Development Director, or his/her designee, may prescribe such other policies and procedures as to the processing of franchise applications as may be required to carry out the full intent and purpose of this Article.

(i) Any franchise that is issued shall in each instance state the date upon which it will expire and shall be in addition to any other required tax or license. Franchises shall be issued on an annual basis and shall expire on December 31. Renewal applications shall be made by December 31. Nothing contained herein precludes the prorating of franchise fees.

(j) Except as otherwise provided in this Article, franchises issued under this Article may only be issued for use in designated food vending locations.

(k) No franchise issued pursuant to this Article shall be transferable, either voluntarily or involuntarily.

(l) An applicant must be a registered business under Section 26-44 of the Rochelle Municipal Code.

**Sec. 70 - 154. Franchise Fees.**

(a) An initial, non-refundable application fee of \$250.00 shall be paid to the City at the time application is made for a franchise.

(b) Upon annual renewal of a franchise, a renewal fee of \$250.00 shall be paid to the City.

(c) Payments of all fees shall be made by certified check, cashier's check, or money order payable to the City of Rochelle.

**Sec. 70 - 155. Rules and Regulations for All Mobile Food Vendors.**

In addition to all other applicable laws and regulations pertaining to mobile food vendors, and franchises, and subject to any unique safety concerns of the location for which the franchise is issued, all mobile food vendors operating pursuant to this Article shall also be subject to the following provisions:

(a) All mobile food trucks shall be registered in the State of Illinois. Any driver of a mobile food truck shall possess a valid Illinois Driver's License.

(b) All mobile food vendors shall comply with all applicable parking, traffic, and vehicle safety laws, regulations, and restrictions.

(c) No mobile food truck shall be more than 26 feet in length or 8 feet in width.

(d) No mobile food vendor shall sell alcoholic beverages. No mobile food vendor shall sell controlled substances, or any other item the possession or use of which is deemed illegal under a federal, state, or local law.

(e) No mobile food vendor shall sell goods, wares, or other items of merchandise other than victuals.

(f) No mobile food vendor shall place any chairs, stools, tables, or other fixtures, furniture, or other obstructions on any portion of the public street, sidewalk, or right-of-way, except as provided in subparagraph (g) of this section.

(g) All mobile food vendors shall provide a trash receptacle within three feet of the front or back of the mobile food truck on the public street, which shall be large enough to contain all refuse generated by its operation. The location shall be kept clean and free of trash and debris. All mobile food vendors shall be responsible for cleaning all debris and refuse generated by such operation within a 50 foot radius of the mobile food truck upon ceasing operation. It shall be unlawful for any mobile food vendor to leave any location without first picking up, removing, and properly disposing of all trash or refuse remaining at the location. Any trash, garbage, refuse, or other debris generated by the mobile food vendor or relating to the operation of the mobile food vendor shall be disposed of at approved locations. Nothing contained herein shall permit the placement of a trash receptacle on any sidewalk.

(h) It shall be unlawful for any mobile food vendor to operate a mobile food truck in any manner that impedes the flow of vehicular or pedestrian traffic on any public right-of-way.

(i) No mobile food vendor shall operate a mobile food truck in any manner that impedes the ingress or egress of a building or structure during its operating hours.

(j) It shall be unlawful for any mobile food vendor to operate a mobile food truck that is in a defective, unsafe, or unsanitary condition in violation of any applicable law or regulation.

(k) No mobile food vendor shall operate any horn, sound amplification system, or other sound-producing device or music system which can be heard outside the mobile food truck when such mobile food truck is moving, stopped, standing, or parked, or is being operated as allowed under this Article.

(l) No advertising shall be permitted on any mobile food truck, except to post prices and to identify the name of the product or the name of the lawful mobile food vendor.

(m) All mobile food vendors must comply with all other applicable conditions and requirements imposed upon mobile food vendors under the law, and must comply with all applicable city and state health laws and regulations, and shall make such sales tax returns and other reports as required by State law.

(n) All mobile food vendors shall immediately notify the City if the Illinois Department of Public Health revokes a vendor's ability to operate.

### **Sec. 70 - 156. Mobile Food Vending Sites.**

(a) Mobile Food Vending Sites shall include the following:

(i) Within I-1, I-2, and PUD-I zoning districts, any portion of the City's right-of-way designated as a mobile food vending site under paragraph (b) of this Section, and any privately owned property with written permission of the property owner.

(ii) Within B-1, B-2, and PUD-C zoning districts, any portion of the City's right-of-way or other City owned property designated as a mobile food vending site under paragraph (b) of this Section, and any privately owned property with written permission of the property owner.

(iii) Within R-O, R-1, R-2, R-3, R-4, R-5, R-D, and PUD-R zoning districts, on any portion of property owned by the City, Flagg-Rochelle Community Park District, Rochelle Elementary School District, or Rochelle Township High School District, with written permission of the property owner.

(b) The Community Development Director is hereby given authority to designate mobile food vending sites along the City's right-of-way or on the City's property, after consultation with the City Engineer and Superintendent of Streets. In no event shall any mobile food vending site completely impede traffic along the right-of-way.

(c) Except where a mobile food vendor has provided the written consent of the owner of private property on which it intends to conduct business, a mobile food vendor may use any designated mobile food vending site on a first come, first serve basis.

(d) A mobile food vendor may use each mobile food vending site for a four-hour period once per day. In all residential zoning districts, all commercial zoning districts, and I-1 zoning districts, including on privately owned property, the operation of a mobile food truck is prohibited from 10:00 p.m. until 6:00 a.m.

**Sec. 70 - 157. Insurance Requirements.**

(a) At the time of application, and prior to issuance of any franchise, an applicant shall provide written proof of commercial general liability insurance coverage. At the time of application, and during the entire period the franchise is valid, the policy or policies must be in full force and effect, and must be underwritten by a carrier licensed to do business in this State. Such insurance coverage shall provide liability coverage of not less than \$500,000.00 for any and all claims against the applicant and/or the City arising out of or in any way connected to or associated with the mobile food vendor, or any of its operations, including but not limited to bodily injuries, personal injuries, and injuries to property. The City shall be named as an additional insured on all such policies, and the policies shall provide for notice of cancellation to the City.

(b) At the time of application, and prior to issuance of any franchise, an applicant shall provide written proof of commercial vehicle insurance coverage in compliance with state law.

**Sec. 70 - 158. Fines and Forfeitures - Procedures.**

(a) A violation of any provision of this Article may be grounds for revocation of a franchise issued under this Article.

(b) A violation of any provision of this Article, or the failure to obtain a franchise prior to operating as a mobile food vendor, shall constitute a petty offense subject to the provisions, fines, and penalties contained in Sec. 1-15 of this Code.