

AN ORDINANCE TO REGULATE MOBILE FOOD CONCESSIONS AND FOOD TRUCKS INCLUDING FEES FOR PERMITS AND PENALTIES AND FINES FOR VIOLATIONS BY ADDING A NEW SUBCHAPTER 54C AND SECTION 52.005 TO THE ELSBERRY MUNICIPAL CODE AND AMENDING SECTIONS 52.010 OF THE ELSBERRY MUNICIPAL CODE.

WHEREAS, the City of Elsberry (“the City”) is empowered by State Law to adopt regulations regulating the health, welfare, and safety of the City’s citizens and businesses operating within the City; and

WHEREAS, it is desirable for the City to adopt regulations for mobile food concessions and Food Trucks within the City to protect the health, welfare and safety of the City’s citizens,

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ELSBERRY, MISSOURI, AS FOLLOWS:

SECTION 1. A new Section 52.010 is hereby added to the Elsberry Municipal Code as follows:

“§52.005. DEFINITIONS

As used in this Chapter, the following words having the following meanings:

Canvasser: A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of:

1. Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or
2. Distributing a handbill or flyer advertising a non-commercial event or service.

Peddler: A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of:

1. Attempting to sell a good or service.
2. Obtaining orders for merchandise, services, subscriptions or products for purchase at a location away from the residence or at a time different from the time of visit.

3. Distributing a handbill or flyer advertising a commercial event or service.

Solicitor: A person who attempts to make contact with a resident at his/her residence in person or by distributing handbills or flyers without prior specific invitation or appointment from the resident for the primary purpose of attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purposes there is the sale of some good or service.”

SECTION 2. Section 52.010 of the Elsberry Municipal Code is hereby amended by replacing the current Section 52.010 with the following:

“§52.010. PERMIT REQUIRED.

It shall be unlawful for any person, corporation or organization to solicit funds for charitable or non-charitable purposes, or any person to sell merchandise or services door-to-door, or any person to sell merchandise or services as an itinerant peddler with no established permanent place of business within the city limits, unless such person, corporation or organization shall obtain a solicitation and sales permit from the City Collector.”

SECTION 3. A new Subchapter C to Chapter 54 is hereby added to the Elsberry Municipal Code as follows:

“SUBCHAPTER C – MOBILE FOOD CONCESSIONS AND FOOD TRUCKS

§54.400 DEFINITIONS.

For the purposes of this Subchapter, all words shall have their common meaning and the following terms shall have the additional definition as follows:

Applicant: Any person who applies for a Food Truck Permit or a business license for a Food Truck business as required by this Chapter.

Application: An application for either a Food Truck permit or a business license for a Food Truck business on a form provided by the City Clerk.

Food Truck: An automobile, motor vehicle, trailer, pushcart, portable structure, or similar conveyance designed and used for the storage, cooking, preparation, assembling, display, and/or serving of a full or limited menu of single service or other prepared ready-to-eat food or beverage items from the automobile, motor vehicle, trailer, or similar conveyance for use or consumption by consumers. Food Trucks shall not include any:

1. Ice cream trucks or frozen treat vehicles that travel through neighborhoods

and sell prepackaged frozen treats, novelty ice cream, popsicles, or similar items, provided they do not remain stationary at one location for more than ten minutes while selling their products to consumers.

2. Automobile, motor vehicle, trailer, or similar conveyance that delivers food items to a resident's dwelling and does not prepare that food in the automobile, motor vehicle, trailer, or similar conveyance.
3. Farms, farmers, farm families, or agricultural producers selling products they grow, raise, harvest, bake, preserve, or produce, including eggs, honey, jams, jellies, baked goods, meat, plants, flowers, pumpkins, seasonal goods, produce, or similar agricultural products.
4. Produce stands, farm stands, farmers market vendors, or seasonal agricultural vendors, provided they are not selling ready-to-eat meals from a mobile cooking unit.
5. Food delivery services, such as DoorDash, Uber Eats, Grubhub, Instacart, pizza delivery, restaurant delivery, grocery delivery, or similar courier services, including vehicles that deliver frozen food items to residences; provided no sale, solicitation, preparation, or service occurs from the delivery vehicle inside the City limits.
5. Private catering, where food is prepared for a private event and not sold to the general public from a mobile unit.
6. Churches, schools, civic organizations, nonprofit groups, and City-approved events, when operating as a nonprofit fund-raising structure.
7. Individuals selling homemade or locally produced baked goods, breads, pastries, cookies, cakes, pies, jams, jellies, honey, dried herbs, or similar cottage-food or agricultural products, provided they are not preparing or selling ready-to-eat meals from a mobile cooking unit.
8. Businesses or persons making deliveries of food items being made to other businesses for resale by the purchasing business or for the purchasing business' business use

Food Truck Business: A business engaged in the cooking, preparing, assembling, displaying, serving, selling, offering for sale, or distribution of a full or limited menu of single service or other prepared ready-to-eat food or beverage items from the automobile, motor vehicle, trailer, or similar conveyance for use or consumption by consumers to the general public from a Food Truck within the City.

Food Truck Licensee: The person or entity responsible for obtaining the business

license and Food Truck Permit for operation of a Food Truck and/or Food Truck Business in the City of Elsberry, Missouri.

Food Truck Operator: The person or entity responsible for the operation of the Food Truck and /or Food Truck business (such term shall be interchangeable with Food Truck licensee).

Food Truck Permit: A permit issued by the City to the Food Truck Operator or Food Truck Owners to operate a Food Truck or Food Truck Business in the City.

Licensed Premises: Real estate for which a business license for a Food Truck business and/or Food Truck has been issued.

Operation: The period of time in which a mobile Food Truck is open and selling individually portioned food and including, the period of time used for setup and closing.

Owner: When used in connection with a motor vehicle, trailer, or similar conveyance , any person who holds legal title to the motor vehicle trailer, or similar conveyance , or has the legal right to possession thereof. When applied to a structure, building, or real estate, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or part of such structure, building or land.

Permitee: A person or entity holding a valid and current Food Truck permit.

Temporary Display Stand: A stand, booth, stall, table, tent, wagon, handcart, pack, basket or other similar portable structure, container, display or devise, but not a Food Truck, used by a Food Truck business to serve, sell, distribute or offer for sale at retail of food, beverages or any other type of merchandise.

§54.405 LICENSE REQUIRED.

- A. No business, entity, or person shall operate a Food Truck and/or Food Truck Business within the City limits of Elsberry without first applying for, paying for, and obtaining a valid City of Elsberry business license and Food Truck permit from the City of Elsberry, Missouri in compliance with this Chapter.
- B. A Food Truck Permitee shall have, and provide documentary proof to the City that the applicant has, the following items at all times while operating within the City of Elsberry:
 - 1. A valid and current Elsberry business license and Food Truck Permit for the Food Truck and/or Food Truck Business.
 - 2. Have all necessary approvals, licenses, and permits from the Lincoln County, Missouri Health Department;
 - 3. Be appropriately licensed, with a valid license, by the Missouri Department of

Revenue;

4. Have valid and current insurance on the Food Truck which is operating in the City of Elsberry with minimum liability coverage of One Hundred Thousand Dollars; and shall provide written proof of such insurance to the City;
5. Provide proof that the property on which the Food Truck will operate has an approved Zoning for that use; and
6. Provide written proof that the owner or lessee of the property upon which the Food Truck shall conduct its business has given permission for the Food Truck to be present on that property during the Food Truck's hours of operation.
7. All items required to be in the Permittee's application.

§54.410 APPLICATION FOR A FOOD TRUCK PERMIT

A fully complete application for a Food Truck Permit shall be submitted to the City no later than fourteen (14) days in advance of the first date on which the applicant proposes to operate its Food Truck and/or Food Truck Business within the Elsberry City limits under the requested Food Truck Permit. An application for a Food Truck Permit shall include all of the following information. and:

1. The full legal names, telephone numbers, e-mail addresses, home addresses, and business addresses of the person applying for the Food Truck permit and the individual responsible for communicating with the City concerning the Applicant's Food Truck and/or Food Truck Business and emergencies. Emergency contact persons and information must be able to be reached 24 hours a day.
2. If the applicant is an entity, the application shall state the full name of the entity, its principal address, daytime telephone number, its registered agent and registered address.
3. The name(s), address(es), and daytime telephone number(s) of the legal owner(s) of the licensed premises on which the applicant will operate the Food Truck and/or the Food Truck Business, and proof of written permission or consent from the owner(s) for applicant to operate its Food Truck and/or Food Truck Business at that location.
4. A description of the type of food or beverages proposed to be stored, cooked, prepared, assembled displayed, offered for sale, sold, distributed, and/or served by the Food Truck and/or Food Truck Business.
5. A description of the Food Truck or temporary display stand.

6. If the Food Truck business will operate out of a Food Truck, then the application shall include:
 - (a) The year, make, model, color, vehicle identification number (VIN number), State license plate number and State of licensing, if applicable, and dimensions, which shall not exceed thirty-six (36) feet in length or nine (9) feet in width, of such Food Truck.
 - (b) Proof of current vehicle insurance for the Food Truck, if applicable, issued by an insurance company licensed to do business in the State of Missouri in amounts required by the State of licensure or the State of Missouri whichever is greater.
 - (c) Proof of current vehicle registration for the Food Truck, if applicable.
 - (d) If operating on City-owned property proof of a current insurance policy, with limits for bodily injury liability of at least fifty thousand dollars (\$50,000.00) for each person, and of at least one hundred thousand dollars (\$100,000.00) for each accident, and limits for property damage liability of at least ten thousand dollars (\$10,000.00) for each accident, issued by an insurance company licensed to do business in the State of Missouri, covering all claims for damages to property and bodily injury, including death, which may arise from operation under or in connection with the Food Truck permit. Such insurance shall name the City as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days' advance written notice to the City.
7. A copy of applicant's State of Missouri retail sales tax license authorizing the sale of goods within the State of Missouri, and a statement from the Missouri Department of Revenue that the applicant owes no tax due under Sections 144.010 to 144.510, RSMo., as amended, or Sections 143.191 to 143.261, RSMo., as amended, dated no more than ninety (90) days before the date of submission of the application.
8. A waste water, solid waste, grease management, and toilet facility access plan that is satisfactory to the City.
9. If the applicant is requesting special event approval from the Board of Alderman, a statement explaining the special approval requested and the reasons why the special approval should be granted.
10. Such other information as the City Clerk may require.

11. Payment of the non refundable application fee to the City of Elsberry in the amount of twenty-five dollars (\$25.00).

§54.415 FOOD TRUCK APPLICATION REVIEW AND DETERMINATION.

The City Clerk shall review each completed application in accordance with the following procedures:

1. The City Clerk shall review each completed application upon receipt of such application and its corresponding application fee and shall approve, approve with conditions, or deny such application within ten (10) days of a complete application being received by the City Clerk.
2. An application is deemed to be complete upon the City Clerk determining that:
 - (a) The application includes all necessary information required under §54.410 of the Elsberry Municipal Code.
 - (b) The applicant has submitted all other requisite permits and licenses from the City, County, or State that are valid and current; and
 - (c) The applicant has paid the application fee.
3. In granting a Food Truck Permit, the City Clerk may add reasonable conditions beyond the specific restrictions and requirements of this Chapter which are deemed by the City Clerk to be necessary to protect the peace, health, safety, comfort, morals, and general welfare of the City and its inhabitants.
4. All approved Food Truck permits, a business license for a Food Truck and/or Food Truck Business shall be signed by the City Clerk.
5. The City Clerk may refuse to grant a Food Truck Permit, a business license for a Food Truck business , or Food Truck business eating and drinking garden license for any of the following reasons.
 - (a) Applicant has failed to provide all the necessary information required by the application, this Subchapter, or the City Clerk;
 - (b) Purported fraud or misrepresentation contained in the application or supporting information or documentation.
 - (c) Applicant's failure to comply with the provisions of this Chapter or any other applicable City ordinance or law of the United States, Lincoln County, or the State of Missouri; or

- (d) For any of the reasons provided for denying a business license.
- 6. Nothing in this Subchapter shall be construed to create or constitute a liability to or a cause of action against the City related to the issuance of any Food Truck Permit.
- 7. Any applicant aggrieved by the decision of the City Clerk to deny, suspend or revoke any Food Truck Permit pursuant to the provisions of this Chapter shall have the right to appeal such action to the Board of Aldermen by submitting a written request stating the reasons why the City Clerk's decision was erroneous. Such written appeal shall be submitted no later than seven (97) days after the applicant receives the notice of the denial, suspension, or revocation. The appeal shall be voted upon by the Board of Aldermen at a meeting to be determined by the Board.

§54.420 SEPARATE LICENSE REQUIRED FOR EACH FOOD TRUCK.

A separate Food Truck Permit shall be required for each Food Truck operated in the City of Elsberry, Missouri.

§54.425 FOOD TRUCK PERMIT FEES.

No Food Truck Permit shall be issued until the Applicant has paid the City of Elsberry the applicable Permit fees listed below in addition to the application fee:

- Annual City Permit: \$125.00
- One-day Permit: \$0.00
- Weekend Permit (Saturday and Sunday): \$50.00

The applicant shall also pay to the City a late fee of \$50.00 if a fully complete application for the Food Truck Permit is submitted less than the required 14 day advance period.

§54.430 REGULATIONS FOR OPERATING FOOD TRUCKS AND FOOD TRUCK BUSINESSES.

A Food Truck Operator and Owner shall comply with the requirements of this Section while conducting Food Truck Business within the City limits of Elsberry.

- 1. No Food Truck shall operate within the City limits unless it has received a valid and current Food Truck Permit for the time the Food Truck is conducting Food Truck Business within the Elsberry City limits.
- 2. Follow all applicable City, local, State, and Federal laws and regulations;
- 3. Conduct its Food Truck Business only in zoning districts that allow such use.

4. Not operate on a property where there is another Food Truck, unless the property has a conditional use permit or special event permit from the City allowing multiple Food Trucks to operate on the same property.
5. Pay all applicable City sales and other taxes when due, possess a valid and current State of Missouri sales tax license, and present such licensure documents to any City official immediately upon request.
6. Not operate or sell food on any City or State owned street, road, or right-of-way, sidewalk, or alley; and shall not operate in a City Park unless otherwise allowed under the Ordinances of the City of Elsberry, Missouri, or by special event permit from the Board of Aldermen for the City of Elsberry, Missouri;
7. Not trespass on any property. The Food Truck and Food Truck Business may only operate on property where the Food Truck Operator has been given express written permission to do so;
8. Not operate on property where a business has posted signs requesting "No Solicitors" or "No Peddlers" and no Food Truck Operator or Owner shall contact such business or persons inside such business without a specific invitation prior to the contact being made.
9. Not impede or obstruct vehicle or pedestrian traffic on public roads, sidewalks, alleyways, rights-of-way, public property, and/or public thoroughfares; or obstruct their lines of sight or ADA access. The Food Truck Operator shall maintain at least a four (4) foot minimum clearance distance from sidewalks for pedestrians and accessibility. The Food Truck Operator shall operate in such a manner to provide safe travel to both pedestrians and motor vehicles.
10. Not impede or obstruct any hydrants, or public or private utilities, including storm sewers, telecommunication lines, or power lines.
11. The Food truck Operator shall move the Food Truck if it is impeding or obstructing traffic or causes congestion on public roads, public property, public thoroughfares, or any public or private utilities.
12. Not operate with its order windows facing a public street if it is within twenty (20) feet of the public street.
13. Comply with its City approved parking and waste management plans.
14. Not use outdoor sound amplifying equipment, lights, or any other illuminated or noisemaking devices, except that the Food Truck may have lighting for a menu attached to the side of the Food Truck which is not distracting to drivers on public roads and provides only enough light for customers directly in front of or nearby

the menu to read such menu.

15. Maintain proper licensure on the Food Truck in compliance with the Missouri Department of Revenue and Lincoln County Health Department rules and present such licensure documents to any City official immediately upon request.
16. Maintain valid insurance on the Food Truck as required by Missouri Law and this Subchapter and present such insurance documentation to any City official immediately upon request.
17. Display their City Business License and Food Truck Permit issued by the City in a publicly visible place on the Food Truck while it is operating within the Elsberry City limits.
18. Not allow customers inside of the Food Truck.
19. Only sell food or beverage items which are described on the license issued by the City.
20. Not store food, beverages, or supplies for the Food Truck outside of the Food Truck.
21. Not sell any non-food or non-beverage items from the Food Truck;
22. Not use or keep any additional equipment, including but not limited to chairs, tables, signs, etc., which will be stored or used or kept outside of the Food Truck.
23. Provide adequate waste receptacles in reasonably close proximity to the Food Truck sales window during the Food truck's hours of operation . Waste receptacles shall be maintained in a clean and orderly fashion. Such refuse container being placed so as not to impede pedestrian or vehicular traffic. Keep the waste receptacle clean, orderly, and not overflowing. The Food Truck operator must remove and properly dispose of all such trash and waste daily and when leaving the site.
24. Contain all refuse generated from the Food Truck's operation within the Food Truck. The refuse/grease/trash from the Food Truck business and Food Truck shall be disposed of in such a manner as to be compliant with the City Ordinances and the Lincoln County Health Department regulations. Remove and properly dispose of all such trash, and cooking oil, grease, and waste daily and when leaving the site.
25. Be operated in compliance with all applicable health laws or regulations by the Federal, State and local governments, including but not limited to the Lincoln County, Health Department.

26. Not draw power or water from any public facilities, right-of-way, or improvements without express permission of the City of Elsberry Board of Aldermen.
27. Ensure that power cables and equipment shall be extended at grade or overhead across any public street, alley, sidewalk, or other improvement so as to minimize any obstructions or trip hazards.
28. Comply with all parking restrictions of the City of Elsberry and the State of Missouri, and shall comply with all reasonable directives of the City's Law Enforcement officers.
29. Demonstrate that the Food Truck is readily movable if requested by the City or property owner.
30. Not conduct or operate the Food Truck Business within one hundred (100) feet from the building of any existing restaurant unless written consent is first obtained from the owner or operator of the restaurant and present such documentation to any City official immediately upon request. The City Board of Aldermen may waive this distance requirement for City, school, church, nonprofit, or festival special events.
31. Not conduct Food Truck Business more than two (2) days in any consecutive seven (7) day period, or more than six (6) days per calendar year at the same site without special approval from the Elsberry Board of Aldermen. The Board of Aldermen may grant such special approval for exemption for city, school, church, nonprofit, or festival special events.
32. Operate only between the hours of 7:00 a.m. and 9:00 p.m., unless approved for a special event by the City Board of Aldermen.
33. Provide for sufficient safe, uncongested, and orderly parking for the vehicles of customers of the Food Truck on property that the Food Truck has permission to use for that purpose, such that there is a safe and orderly flow of traffic for vehicles and pedestrians.
34. Comply with all underlying zoning district regulations for the Food Truck site, including setbacks.
35. Food Trucks shall not exceed fifteen (15) feet in height.
36. Reasonably protect customers and pedestrians from on-site traffic when ordering and waiting for food.

37. Signage advertising the Food Truck and Food Truck Business shall be limited to signage affixed to the Food Truck and one "a-frame" menu board not to exceed nine square feet in size. This menu board shall be located within six feet of the customer order window. No other on-premise, off-premises, or directional signs advertising or directing consumers to the Food Truck shall be used.
38. The Food truck operator shall leave the Food Truck unattended.

§54.435 PERMISSION FROM PROPERTY OWNER TO OPERATE AND LIMITS ON PROPERTY USAGE.

A Food Truck or Food Truck Business must only be operated on property in which the Food Truck Operator has written permission to operate from for the entire time period the Food Truck plans to remain on such private property. The Food Truck Operator shall keep such written permission in the Food Truck at all times the Food Truck is parked or idle on any such private property, and shall provide it immediately upon request of any City Official or Law Enforcement Officer. No Owner or possessor of real estate parcel, lot, or business address may allow or suffer such real estate to be used by more than three (3) Food trucks per year without special approval from the Board of Aldermen.

§54.440 NECESSITY OF RESTROOM FACILITY ACCESS FOR OPERATORS.

If a Food Truck is operating at a location from more than fifteen (15) minutes from its permanent or main storage location, the Food Truck Operator shall have a written agreement from a business within three hundred fifty (350) feet of the Food Truck, allowing employees of the Food Truck to have the use of flushing restrooms and running water washing facilities or other such sanitary facilities as approved by the local, State, or Federal health authority(ies) during its hours of operation.

§54.445 REVOCATION OF PERMIT

A Food Truck Permit may be revoked for failure to comply with any provision of this Subchapter.

§54.450 VIOLATION AND PENALTIES

Any entity, business, individual, or person who violates any provision of this Subchapter shall be subject to a fine not exceeding five hundred dollars (\$500.00) for each day such entity, business, individual, or person is in violation. Each day an entity, business, individual, or person violates this provision is a new violation subject to a separate and additional fine as is provided herein.

SECTION 3. SEVERABILITY.

The provisions of this Ordinance shall be severable. In the event that any provision of this

Ordinance is found by a court of competent jurisdiction to be unconstitutional, the remaining provisions of this Ordinance are valid unless the Court finds the valid provisions of this ordinance are so essentially and inseparably connected with, and so dependent upon, the void provision that it cannot be presumed that the Board of Aldermen would have enacted the valid provisions without the void ones or unless the Court finds that the valid provisions, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

SECTION 4. REPEAL OF CONFLICTING ORDINANCES

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 5: EFFECTIVE UPON PASSAGE

This ordinance shall be in full force and effect from and after the date of its passage.

SECTION 6: INCORPORATION INTO THE MUNICIPAL CODE

The City Clerk shall incorporate the terms of this Ordinance into the official City of Elsberry Municipal Code with all due dispatch.

Read two times and passed this _____ day of May, 2026.

MAYOR

Attest: _____
City Clerk

Approved as to form by City Attorney: _____