

## **TOWN OF GEORGETOWN**

— Ordinance No. G-23-08 —

### **An Ordinance Permitting and Regulating Mobile Food Vendors**

**WHEREAS**, the Town Council for the Town of Georgetown, Indiana is the legislative body of the Town of Georgetown;

**WHEREAS**, pursuant to Ind. Code 36-5-2-9, the legislative body may adopt ordinances or resolutions for the performance of functions of the town;

**WHEREAS**, there is a growing interest in food trucks, food concession carts, and other forms of mobile food sales;

**WHEREAS**, it is the intent of the Town Council to encourage Mobile Food Vendors who attract residents and tourists, and who add to the vibrancy of the Town of Georgetown, Indiana, and while providing a framework under which such businesses operate;

**WHEREAS**, the current municipal code of the Town of Georgetown, Indiana ("Town") does not address the regulation of mobile food vending;

**WHEREAS**, it is appropriate to establish reasonable regulations to govern mobile food vending in the Town, in an effort to provide reasonable opportunities for Mobile Food Vendors to operate within the Town;

**WHEREAS**, the Town Council finds that such regulations are needed in order to protect the public health, safety, and welfare of the Town of Georgetown, Indiana, and the citizens and inhabitants thereof.

**Now, therefore, be it ordained** by the Town Council of the Town of Georgetown, Indiana it is hereby ordered as follows:

#### Section 1.

Town Council of the Town of Georgetown, Indiana, that a new Chapter 116 shall be added to the Code of Ordinances of the Town of Georgetown, Indiana and shall read as follows:

### **Title XI: Business Regulations**

#### **Chapter 116: Mobile Food Vendors**

##### Section 2. Purpose of Chapter.

The purpose of this Chapter is to regulate the activities of individuals, firms, or corporations engaging in the practice of mobile food sales to sustain a safe and consistent standard of operation and to promote public health, safety, and welfare of the Town of Georgetown, Indiana and the citizens and inhabitants thereof.

### **Section 3. Definitions.**

For the purpose of this Chapter, the following terms, phrases, words and abbreviations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include future tense, words in the plural number include the singular number and words in the singular number include the plural number:

- (1) "Council" shall refer to the Town Council of the Town of Georgetown, Indiana.
- (2) "Town" shall refer to the Town of Georgetown, Indiana.
- (3) "Food" shall mean any raw, cooked, or processed edible substance, ice, beverage, drink or ingredient used or intended for the use or for sale in whole or in part for human consumption.
- (4) "Food Caterer" shall refer to a person or company hired and paid to provide and serve food, usually for a large group and at a location separate from where the food is prepared. A food caterer does not include someone preparing and selling food to individuals.
- (5) "Food Vending Pushcart" shall mean any box or container with wheels that is not propelled or moved by an engine and was designed and manufactured specifically for the purpose of selling food.
- (6) "Mobile Food Vehicle" shall mean a self-contained food establishment that is on wheels, self-propelled or moved by an engine, weighs no more than sixteen thousand (16,000) pounds, and for which the primary purpose of the vehicle is the sale and/or production of food.
- (7) "Mobile Food Vendor" ("Vendor") includes any individual person, firm, or corporation who operates mobile food vending pushcarts and/or mobile food vehicles.
- (8) "Mobile Food Vendor Permit" ("Permit") shall mean a permit which has been issued pursuant to the requirements of this ordinance.
- (9) "Special Event" shall mean any event so designated by the Town Council of the Town of Georgetown, Indiana.

### **Section 4. Permit Required.**

- (1) It shall be unlawful for a Mobile Food Vendor to engage in their respective businesses within the corporate limits of the Town of Georgetown, Indiana, without obtaining a Mobile Food Vendor Permit in compliance with the provisions of this chapter. The obtaining of a permit by an employer or principal shall in no way relieve any employee or agent of that employer or principal of their legal obligation to obtain a permit, if their activity falls within the jurisdiction of this ordinance.
- (2) A Mobile Food Vendor does not need to obtain a Solicitors License.
- (3) A Mobile Food Vendor shall obtain a separate permit for each Mobile Food Vehicle and/or Food Vending Pushcart they wish to operate. All permits issued under the authority of this Chapter shall not be transferable.



- (4) If any permit holder desires to continue in business after the expiration of a permit, a new permit must be obtained as required under this Chapter.
- (5) Permits issued under the provisions of this chapter shall contain the information prescribed by the Town Manager.
- (6) The Town Manager reserves the right to determine if an application for a permit is satisfactory and complete.
- (7) Each Mobile Food Vendor must obtain all necessary and required licenses prior to applying for the Town permit and must comply with all regulations established by the Floyd County Health Department and/or other regulatory bodies.
- (8) Nothing contained in this Chapter shall relieve a Mobile Food Vendor from obtaining other required licenses and/or permits from other regulatory bodies.

**Section 5. Application.**

Applicants for any Mobile Food Vendor Permit under this Chapter must file a written sworn application signed by the applicant with the Town Manager or Building Department showing at minimum the following information:

- (a) The name, full address, telephone number and email (if applicable) of the mobile food vending business, business owner, and business operator;
- (b) The intended locations of operation of the Mobile Food Vendor;
- (c) The duration of the permit being sought;
- (d) The intended hours of operation of the Mobile Food Vendor;
- (e) The name, the telephone number, the email address of the private property owner (if applicable) and the full address of the private property on which the Mobile Food Vendor intends to operate, if applicable;
- (f) A completed menu of food being sold;
- (g) Proof of Floyd County Health Permit;
- (h) Proof of insurance, if operating on property owned and maintained by the Town, in compliance with the Town minimum insurance requirements;
- (i) Letter of approval, if operating on property owned by the Town of Georgetown and maintained by the Town Manager and Building Department;
- (j) Letter of approval from private property owner, if operating on private property; and
- (k) Dated Mobile Food Vendors signature verifying that they shall abide by the provisions of this Chapter.

(2) Mobile Food Vendors who are operating a Food Vending Pushcart are exempt from providing proof of automotive liability insurance. Mobile Food Vendors who are self-employed and have no additional employees are exempt from providing proof of workers compensation insurance.

#### **Section 9. Location Restrictions.**

(1) Mobile Food Vendors shall be permitted to operate at the following locations:

- (a) Old Town Hall Parking Lot
- (b) Georgetown Park
- (c) Ashley Mariah Memorial Park

(2) Mobile Food Vendors may make special requests to the Town Manager to operate on other locations owned and maintained by the Town of Georgetown, Indiana.

(3) The Town shall have the authority to designate other locations of permitted operation for Special Events.

(4) With written consent of the property owners, Vendors may operate on private property that is in a business or industrial zone.

(5) Where a Vendor seeks to operate in a right of way, the Vendor shall not impede the use of a Town street, alleyway, and/or sidewalk.

(6) No Mobile Food Vendor shall operate within 100 feet of a Special Event, unless granted approval by the coordinator of the Special Event or the Council.

(7) No Mobile Food Vendor shall locate themselves in an area that significantly impedes or prevents the use of any Town of Georgetown, Indiana, property, or which would endanger the safety and/or property of the public.

(8) No Mobile Food Vendor shall locate themselves in Residentially Zoned areas.

#### **SECTION 10. Prohibited Hours.**

(1) Mobile Food Vendors are prohibited from operating or parking on any property owned and maintained by the Town of Georgetown, Indiana, between the hours of 11:00 p.m. and 5:00 a.m.

(2) Mobile Food Vendors may make special requests to the Town Manager to operate during prohibited hours.

#### **SECTION 11. Standard of Conduct.**

(1) Mobile Food Vendors shall conduct themselves at all times in an orderly and lawful manner.

(2) Mobile Food Vendors are prohibited from using a device or machine to produce unreasonable amounts of sound or light (such as but not limited to bull horns, strobe lights, and neon signs).

(3) Mobile Food Vendors are required to obey the commands of law enforcement and the Town Manager.



- (4) No Mobile Food Vendor shall provide tables, seating, or any other dining arrangements.
- (5) No Mobile Food Vendor shall sell or otherwise provide alcoholic beverages.
- (6) Mobile Food Vendors must provide waste receptacles that are sufficient in size for both customer and employee waste.
- (7) Mobile Food Vendors are responsible for the disposal of waste that is generated by the use of their waste receptacles and shall not dispose of their waste in waste receptacles owned and maintained by the Town.
- (8) Mobile Food Vendors are prohibited from disposing of any food, liquid, or other waste materials in sanitary and/or storm water sewers.
- (9) Mobile Food Vendors are permitted one sandwich board. In addition, the sandwich board must be within ten (10) feet of the Food Vending Pushcart or Mobile Food Vehicle and cannot impede pedestrian or vehicular traffic. The sandwich board must be taken with the Mobile Food Vendor each day and cannot be left behind.
- (10) Mobile Food Vendors shall not utilize any Town or private electrical outlets while in operation. All electrical needs must be self-generated.
- (11) Mobile Food Vendors operating electrical equipment are required to use heavy duty extension cords.
- (12) Mobile Food Vendors may operate a generator. Said generator must be in compliance with the Town's Noise Ordinance.
- (13) Mobile Food Vendors must be parked a minimum of ten (10) feet away from nearby buildings or other Food Vending Pushcarts and/or Mobile Food Vehicles.
- (14) Mobile Food Vehicles operating deep frying appliances must be parked a minimum of twenty (20) feet away from nearby buildings or other Food Vending Pushcarts and/or Mobile Food Vehicles.
- (15) Mobile Food Vendors must be parked a minimum of one hundred (100) feet from the entrance of a restaurant or from an outdoor dining area.
- (16) Mobile Food Vendors must be parked a minimum of fifteen (15) feet from a fire hydrant.
- (17) Mobile Food Vendors are prohibited from smoking within eight (8) feet of their Mobile Food Vehicle or Food Vending Pushcart.
- (18) No Food Vending Pushcart or Mobile Food Vehicle shall operate with a drive thru.
- (19) Mobile Food Vendors must display their permit at all times while in operation.
- (20) Food Vending Pushcarts and Mobile Food Vehicles can be inspected by the Town Manager, Floyd County Health Department, and or an employee designated by the Town when deemed necessary.

## **SECTION 12. Safety Requirements.**

- (1) All Mobile Food Vehicles must have a fire extinguisher.
- (2) Each fire extinguisher provided by a Mobile Food Vendor shall have a label or tag securely attached that indicates the last time it was serviced. The label or tag must state the month the service took place and the individual, firm, or corporation responsible for servicing it. All fire extinguishers must have been serviced and validated within the last twelve (12) months.

## **SECTION 13. Suspension; Revocation; Penalties.**

- (1) Permits issued under the provision of this Chapter may be revoked by the Town Manager, Town Attorney, and/or Georgetown Police Department after notice and hearing for any of the following causes:
    - (a) Fraud, misrepresentation, or false statements contained in the application for the permit.
    - (b) Fraud, misrepresentation, or false statements made in the course of the business for which the permit is issued.
    - (c) Any violation of any of the provisions of this Chapter.
    - (d) Conducting the business for which the permit is issued in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
  - (2) Notice of hearing for revocation of a permit shall be given, in writing, setting forth specifically, the grounds of the complaint and the time and place of the hearing. The notice shall be mailed, postage prepaid, to the permit holder at their last known address, at least five (5) days prior to the date set for the hearing.
  - (3) Penalties, Enforcement, and Administrative Liability.
    - (a) Penalties. Any individual, firm, or corporation convicted of a violation of any provision of this chapter shall be fined in a sum not less than the applicable amount set forth below:
      - First Offense: \$ 25.00
      - Second Offense: \$100.00
      - Third Offense: \$250.00
      - Fourth Offense: \$500.00
- Each day any violation of this chapter continues shall be considered a separate offense. The Town of Georgetown, Indiana, shall also have the right to recover the costs of administering this offense, including but not limited to, filing fees and attorney fees.



(b) Enforcement. The Town Manager, Town Attorney, and Georgetown Police Department shall enforce this Ordinance. Upon determination by the Town Manager, Town Attorney, and Georgetown Police Department that there exists an emergency and that for the protection of the public welfare any permit should be immediately suspended, the Town Manager, Town Attorney, and Georgetown Police Department may forthwith suspend the permit pending hearing as provided for in this Ordinance.

(c) Administrative Liability. No officer, agent, or employee of the Town of Georgetown, Indiana, shall render themselves personally liable for any damage that may occur to persons or property, as a result of any act required or permitted in the discharge of their duties under this chapter. Any suit brought against any officer, agent, or employee of the Town of Georgetown, Indiana, as a result of any act required or permitted in the discharge of their duties under this chapter, shall be defended by the Town Attorney until the final determination of the proceedings therein.

#### **SECTION 14. Right to Appeal.**

(1) Any individual, firm, or corporation aggrieved by a decision in regard to the denial or revocation of a permit as provided for herein shall have the right to appeal to the Council. Appeal shall be taken by filing with the Council, within fourteen (14) days after notice of the decision has been mailed to the last known address of the individual, firm, or corporation, a written statement, setting forth the grounds for the appeal. The Council shall set the time and place for a hearing on the appeal and notice of the hearing shall be given to the individual, firm, or corporation. The order of the Council on the appeal shall be final.

#### **Section 15. Exemptions.**

(1) Caterers, food delivery drivers, and other food service vehicles that do not park or locate in any one place for longer than ten (10) minutes are exempt from the jurisdiction of this Chapter.

(2) Lemonade stands, bake sales, and other stands operated by children for the purpose of selling homemade foods are exempt from the jurisdiction of this Chapter.

(3) Mobile food vehicles hired by private individuals located on private property wherein the food has been paid for in advance and the mobile food vehicles will not be selling food to individual customers.

(4) Destination Georgetown's Farmer's Market Vendors.

(5) A religious, charitable, or non-profit organizations operating a fundraising event on their property.

#### **SECTION 16. Prior Ordinances.**

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

**Section 17. Separability.**

If any section, sub-section, sentence, clause, phrase or portion of this Ordinance shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereunder.

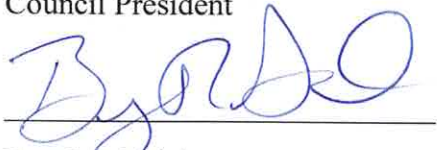
**Section 18. Effective Date.**

This Ordinance shall be in full force and effect from and after its passage by the Town Council.

**DULY PASSED AND ADOPTED** this 21<sup>st</sup> day of August, 2023, by the Town Council of the Town of Georgetown, Indiana.



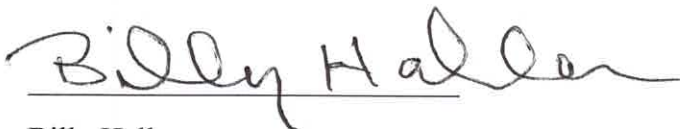
Chris Loop  
Council President



Ben Stocksdales  
Council Vice President

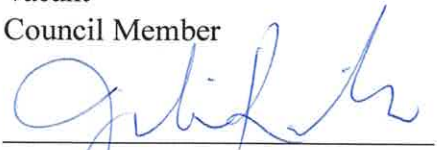


Brandon Hopf  
Council Member



Billy Haller  
Council Member

Vacant  
Council Member



Attested by: Julia Klieber  
Georgetown Clerk-Treasurer