

TOWN OF DOLORES, COLORADO

ORDINANCE NO. 554 SERIES 2021

AN ORDINANCE AMENDING TITLES 5 AND 13 OF THE DOLORES MUNICIPAL CODE ALLOWING FOR AND REGULATING MOBILE FOOD TRUCKS AND PUSHCARTS

WHEREAS, Colorado Revised Statutes, § 31-15-401 grants general police powers to the Board of Trustees to promulgate ordinances for the health, safety, and welfare of the public; and,

WHEREAS, the use of mobile food trucks and pushcarts have become increasingly popular with residents, businesses and visitors to the Town of Dolores;

WHEREAS, the current Municipal Code is inadequate to permit and regulate mobile food trucks and pushcarts and is unduly burdensome on such businesses;

WHEREAS, the Board of Trustees has further determined that it is in the best interests of the health, safety and welfare of the inhabitants of the Town to exercise its express statutory authority to allow mobile food trucks and pushcarts, consider the needs existing businesses, and adopt and establish reasonable regulations concerning their use and to amend the Dolores Land Use Code and the Dolores Municipal Code as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF DOLORES:

SECTION 1. A new Section 13.04.160 (G) is under Title 13 is added to the Dolores Municipal Code as follows:

G. The provisions of Section 5.04.060 do not apply to Mobile Food Trucks or Pushcarts as defined and licensed under Section 5.04.065 of Title 5 of the Dolores Municipal Code.

SECTION 2. A new Section 5.04.065 under Title 5 is added to the Dolores Municipal Code as follows:

5.04.065 Mobile Food Trucks and Pushcarts

(a) Definitions and application. For the purposes of this Article, the following terms shall have the meanings as indicated, unless the context otherwise requires:

(1) Mobile food truck means a retail food establishment that is not intended to be permanent and is a motorized wheeled vehicle, or a trailer that is licensed for use on public roadways, designed and equipped to serve food and beverages, operating in either a static or transitory location and serving the public at times pursuant to the provisions of this Section.

(2) Pushcart means a retail food establishment that is not a motorized vehicle, limited to serving commissary prepared or prepacked food or that is commercially designed and approved to handle food preparation and service.

(3) The provisions of Section 5.04.060 of the Dolores Municipal Code shall not apply to mobile food trucks and pushcarts.

- (4) A mobile food truck or pushcart is exempt from the requirement to obtain a Temporary Use Permit under the Dolores Land Use Code when such mobile food truck or pushcart is not intended to be permanently in use at a specific location.
- (5) Nothing herein shall be construed to apply to a minor child operating a temporary beverage or food stand adjacent to their place of residence or other location.
- (b) License required. It shall be unlawful for any person to operate a mobile food truck or pushcart within the Town limits without first having obtained business license pursuant to this Chapter.
- (c) Location and requirements. In order to obtain a business license to operate a mobile food truck or pushcart in the Town of Dolores, the required fee established by resolution must be paid and the following requirements must be met:
- (1) A mobile food truck or pushcart may operate in the Town's Commercial Highway (CH), Commercial Business 1 and Commercial Business 2 (CB1 and CB2) and Park (P) Zones as defined in the Dolores Land Use Code. Mobile food trucks and pushcarts are expressly prohibited from operating in all other zones.
- (2) Unless a mobile food truck or pushcart operator receives prior written consent from a restaurant owner or establishment serving alcohol, a mobile food truck or pushcart shall operate at least 100 feet from a restaurant or any establishment serving alcohol, while the restaurant or establishment is open for business, as measured from the nearest entrance of the restaurant or establishment to the closest point of the mobile food truck or pushcart.
- (3) A mobile food truck or pushcart operator shall obtain written consent from any owner of private property on which the mobile food truck or pushcart intends to operate.
- (4) A mobile food truck or pushcart may operate in on-street parking spaces while open for business.
- (5) A mobile food truck or pushcart may not be stored in on-street parking spaces when not open for business, except that a mobile food truck or pushcart may be legally parked on a public street for a period not to exceed 72 hours.
- (6) A mobile food truck or pushcart operator shall obey all parking and traffic laws.
- (7) A mobile food truck or pushcart shall not park in any ADA accessible parking spaces.
- (8) A mobile food truck or pushcart is required to meet the applicable requirements of the Fire and Building Codes adopted under Title 15 of the Dolores Municipal Code and are required to meet an annual Fire and Life Safety Inspection by the Town Building Official.
- (9) If equipped with a hood suppression system, the mobile food truck or pushcart is required to be inspected bi-annually and tagged. The installation of a hood suppression system is recommended for all operations that create grease laden vapors when cooking.
- (10) Grease traps are required of all mobile food trucks or pushcarts unless an exemption is granted by the Building Official.

(11) *A mobile food truck or pushcart must be in compliance with all county health department regulations and requirements to operate and must provide a copy of its most current health inspection to the Town to obtain a business license or upon request by the Building Official.*

(12) *The operator of a mobile food truck or pushcart must agree in writing to properly dispose of all waste on a form provided by the Town of Dolores. Improper disposal of waste will result in revocation of the mobile food truck or pushcart's license to operate.*

(13) *Unless waived by the Town of Dolores for a special event, the operator of a mobile food truck or pushcart shall be required to pay a \$50.00 per day fee to the Town to operate in a public park.*

(14) *Business license and park use fees required under this section may be modified by the Town Trustees by resolution from time to time.*

(15) *Report and pay state and local sales taxes due on sales pursuant to applicable law.*

(d) Additional operational standards.

(1) *A mobile food truck or pushcart operator must keep the sidewalks, roadways and other spaces adjacent to their business location clean and free of refuse of any kind generated from the operation of their business.*

(2) *Any trash container maintained by a mobile food truck or pushcart operator shall be removed by the operator at the close of business and in accordance with any and all State regulations and any applicable provisions of the Code.*

(3) *Mobile food trucks or pushcarts shall be prohibited from impeding the flow of traffic or pedestrians on public streets and sidewalks.*

(4) *Additional structures, canopies, tables, or chairs associated with operation of a mobile food truck or pushcart are prohibited on public streets, parking spaces or sidewalks unless otherwise expressly permitted by the Town.*

(5) *Signage shall be permanently affixed to the vehicle. During hours of operation, a mobile food truck or pushcart operator may affix one (1) menu or sandwich board.*

(e) *Application required. Every person seeking a business license to operate a mobile food truck or pushcart shall first make an application therefor in writing in which he or she shall provide the following information:*

(1) *The name and residence of the applicant;*

(2) *Driver's license or state issued identification number of the applicant;*

(3) *Identify whether he or she transacts business as a principal or agent and if as an agent, the name and address of his or her principal;*

(4) *The kind and classes of food and beverage items he or she proposes to sell;*

(5) *State sales tax number or certificate of sales tax exemption;*

(6) Copies of any written permissions from restaurants, liquor establishments or property owners that may be required to operate at the proposed location; and

(7) A plot plan containing the following information: (i) The proposed location of the mobile food truck or pushcart (ii) The distance from the mobile food truck to any property lines and other structures on the site; (iii) Details concerning site access; (iv) Location, dimensions and use of any existing structures and property lines; (v) Proposed parking areas to be used and the total number of available stalls; (vi) The location of any ADA accessible parking spaces within a proposed parking area; and, (vii) Any additional information deemed necessary by staff to review the application.

(7) The operator shall display the business license issued to operate its mobile food truck or pushcart and present the same to any town official upon request.

(e) Violations. Every person who unlawfully engages in the business of a mobile food truck or pushcart operator within the Town in violation of the provisions of this Article, or without first obtaining a license, shall be subject to a punishment by a fine of not more than \$399.00 per occurrence; and, in addition, such person may be denied a license upon application therefor within one (1) year of such offense.

SECTION 3. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 4. This Ordinance shall take effect July 30, 2021 or thirty (30) days after final publication whichever is later.

PUBLIC HEARING. This ordinance shall be considered for second or final reading on the 28th day of June, 2021, in the Town Board Chambers in Town Hall, Dolores, Colorado, at which time and place all persons may appear and be heard concerning the same.

Passed adopted and approved on the first reading this 14th day of June, 2021.

DOLORES BOARD OF TRUSTEES:

By: Chad Wheelus, Town Mayor

Attest:

By: Tammy Neely Town Clerk

Passed adopted and approved on the second and final reading this 28th day of June, 2021

DOLORES BOARD OF TRUSTEES:

By: Duvall Truelsen, Mayor Pro Tem

Attest:

By: Tammy Neely, Town Clerk