

**TOWN OF EATON, COLORADO**  
**ORDINANCE NO. 615**

**AN ORDINANCE REPEALING AND READOPTING SECTION III OF  
CHAPTER VIII OF THE EATON MUNICIPAL CODE CONCERNING  
STREET VENDORS**

**WHEREAS**, the Town of Eaton, Colorado (“Town”) is a municipal corporation duly organized and existing under the Constitution and laws of the State of Colorado; and

**WHEREAS**, the Town Board of Trustees (“Town Board”) is vested with authority to administer the affairs of the Town; and

**WHEREAS**, Section III of Chapter VIII of the Eaton Municipal Code (“Code”) regulates street vendors; and

**WHEREAS**, the Town Administrator recommends that Section III of Chapter VIII of the Code be revised to reflect updated policies and procedures regarding street vendors; and

**WHEREAS**, the Town Board hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public peace, health, safety, and welfare and that this Ordinance is in the best interests of the citizens of the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF TRUSTEES OF THE TOWN OF EATON, COLORADO, THAT:**

**Section 1.** Section III of Chapter VIII of the Eaton Municipal Code is hereby be repealed in its entirety and readopted to read as follows in its entirety:

**SECTION III - Street Vendors**

**Sec. 8-3-1. - Definitions.**

For the purpose of this Section, the following definitions shall apply:

*Town Board* means the Board of Trustees of the Town of Eaton, State of Colorado.

*Motor vehicle* means any vehicle used for the displaying, storing or transporting of food, beverages or merchandise offered for sale by a vendor, which is required to be licensed and registered by the Department of Motor Vehicles.

*Stand* means any table, container, showcase, bench rack, pushcart, wagon or other wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licensed and registered by the Department of Motor Vehicles, used for the displaying, storing or transporting of food, beverages or merchandise offered for sale by a vendor.

*Vendor* means any person engaged in the selling or offering for sale of food, beverages or merchandise from a stand or motor vehicle or from his or her person.

Sec. 8-3-2. - License required.

It shall be unlawful to sell or offer for sale any food, beverage or merchandise within the limits of the Town without first obtaining a license therefor. Exemptions from the licensing requirements shall be granted to persons who:

- (1) Vend by or on behalf of the Town or at an outdoor event sponsored by the Town;
- (2) Vend at a garage or yard sale at a residence held outside or within a garage or residential accessory building;
- (3) Vend food or catering services for a private event that is not open to the public;
- (4) Vend by or on behalf of a public school;
- (5) Deliver preordered packaged food;
- (6) Vend pursuant to a Town-issued special events permit; or
- (7) Are minors selling or offering for sale articles typically associated with children, such as lemonade, Girl Scout cookies, Boy Scout popcorn, home-made bracelets or similar items.

Sec. 8-3-3. – Application; fee.

- (a) Application. The application for a vendor's license shall include the following information:
  - (1) The name, address, telephone number and electronic mail ("e-mail") address of the applicant. The name, address, telephone number and e-mail address of the owner, if other than the applicant, of the vending business stand or motor vehicle to be used in the operation of the vending business.
  - (2) A description of the type of food, beverage or merchandise to be sold.
  - (3) A description of the specific location of the vending business. If the location is on private property, the name, address, telephone number and e-mail address of the owner, or person with the right to possession, of the private property and the written consent of such person. If the applicant desires to modify the location of the vending business during the term of the license, the applicant shall provide written notice to the Town of the new location, containing the information required herein, on a form provided by the Town. Notwithstanding the foregoing, ice cream vendors are permitted to operate in rights-of-way throughout the Town subject to compliance with the remaining provisions of this Section.
  - (4) A description and photograph of any stand or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.
  - (5) A copy of a certificate of inspection as required by the Weld County Health Department.

- (6) Proof of an insurance policy issued by an insurance company authorized to do business in the State of Colorado, protecting and indemnifying the licensee and the Town from all claims for damages to property and bodily injury, including death, which may arise from operation under or in connection with the license. Liability insurance shall be in an amount equal to or greater than the limitation of judgment amounts set forth in the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S., as amended. Such insurance shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days' advanced written notice to the Town, and, except for vending operations that occur exclusively on private property, shall name the Town as additional insured party.
- (b) Fee. The applicant shall pay a fee for the issuance and renewal of the license in the amount set forth by resolution of the Town Board. The fee shall be due and payable with the submission of an application and shall be returned if the license is not issued.

Sec. 8-3-4. - Issuance.

Not later than twenty (20) days after the submission of a completed application for vendor's license, the applicant shall be notified by the licensing officer of the decision on the issuance or denial of the license. The Town Clerk, with the advice of the Town Administrator, is hereby designated as the licensing officer who shall consider the standards set forth in Section 8-3-3 in determining whether to grant a license. If the issuance of the license is approved, the licensing officer shall issue the license. If the license is denied, the applicant shall be provided with a statement of the reasons therefor. The license issued pursuant to this Section shall be valid for a period of not more than twelve (12) months from the date of issuance.

Sec. 8-3-5. - Vending prohibitions.

- (a) No vendor shall:
  - (1) Vend on any sidewalk;
  - (2) Vend on any street where vending is prohibited;
  - (3) Impede the safe movement of vehicular and pedestrian traffic or access to any public alley or sidewalk;
  - (4) Leave any stand unattended;
  - (5) Store, park or leave any stand overnight on any street or sidewalk or park any motor vehicle other than in a lawful parking place in conformance with Town parking regulations;
  - (6) Operate before 7:00 a.m. or after 9:00 p.m.;
  - (7) For ice cream vendors, vend in the same location for longer than a fifteen-minute period;
  - (8) Sell food or beverages for immediate consumption without providing a litter receptacle available for use by patrons;

- (9) Leave any location or close business for the day without first picking up, removing and disposing of all trash refuse;
  - (10) Cause any liquid waste to be discharged from the stand or motor vehicle, except clean ice melt;
  - (11) Leave any items relating to the operation of the vending business anywhere other than in, on or under the stand or motor vehicle;
  - (12) Illuminate signs or permit signs to project from the stand or motor vehicle;
  - (13) Permit or cause signs to impede pedestrian or vehicular traffic;
  - (14) Set up, maintain or permit the use of any table, crate, cart rack or any other device to increase the selling or display capacity of the stand or motor vehicle or other items that have not been described in the application;
  - (15) Sell anything other than that which he or she is licensed to vend;
  - (16) Sound or permit the sounding of any device that produces a loud and ruckus noise or use or operate any loudspeaker, public address system, radio sound amplifier or similar device to attract the attention of the public unless specifically authorized by the licensing officer;
  - (17) Operate on undeveloped property with unoccupied structures or unpaved surfaces;
  - (18) Vend without the required insurance coverage;
  - (19) Vend on private property without authorization of the property owner or person with right to possession of the property; or
  - (20) Fail to comply with all provisions and standards established by the Weld County Health Department, Colorado Department of Public Health and Environment and other state or local agencies.
- (b) No vendor selling from a stand adjacent to a sidewalk shall:
- (1) Vend within twenty-four (24) feet of the crosswalk at any intersection;
  - (2) Vend within twenty-four (24) feet of any bus stop sign; or
  - (3) Lean against or hang from any building or other structure placed on public property any items related to the operation of the vending business without the owner's permission.
- (c) No vendor selling from a motor vehicle shall:
- (1) Conduct business in such a way as would restrict or interfere with the ingress or egress of any private property or create or become a public nuisance, increase traffic congestion or delay or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police or sanitation vehicles;
  - (2) Stop, stand or park the motor vehicle upon any location that is not an authorized or permissible parking place;

- (3) Stop, stand or park the motor vehicle upon any street or parking space during the hours when parking or stopping has been prohibited by signs or curb markings or is prohibited by statute or ordinance; or
- (4) Stop, stand or park the motor vehicle within twenty-four (24) feet of any intersection.

Sec. 8-3-6. - Display of license.

Licenses issued pursuant to this Section and those issued by the Weld County Health Department and any other regulatory agency shall be openly displayed at all items during the operation of the vending business.

Sec. 8-3-7. - Advertising.

No advertising shall be permitted on any stand or motor vehicle, except the identification of the name of the product or the name of the vendor and the posting of prices, and all such advertising shall be approved prior to display by the Town Administrator.

Sec. 8-3-8. - Renewal.

All licenses are valid for the entire licensing period unless revoked or suspended prior to expiration. An application to renew a license shall be made not later than twenty (20) days before the expiration of the current license.

Sec. 8-3-9. - Denial, suspension or revocation.

Any license may be denied, suspended or revoked for any of the following reasons:

- (1) Fraud or misrepresentation contained in the application for the license;
- (2) Fraud or misrepresentation made in the course of carrying on the business of vending;
- (3) Conduct of the licensed business in such a manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals;
- (4) Failure to maintain insurance;
- (5) Failure to comply with health department regulations;
- (6) Except for ice cream vendors, failure to provide notice of the location of the vending operation;
- (7) Failure to obtain authorization from a property owner or person with possession of property to vend on private property; or
- (8) Any other conduct of the licensed business contrary to provisions of this Section.

Sec. 8-3-10. - Procedures for denial, suspension or revocation.

- (a) The Town Board, on its own motion or on complaint, after investigation, notice and public hearing at which the licensee shall be given an opportunity to be heard, may suspend or

revoke any license issued under the provisions of this Section if the licensee violates any of the provisions of this Section or any of the terms, conditions or provisions of the license.

- (b) Notice of suspension or revocation, as well as notice of any suspension or revocation hearing, shall be given by mailing the same, certified, to the licensee at the address contained in the application. The notice of a revocation or suspension hearing shall set forth the probable cause to believe the licensee has violated terms of the provisions of this and more or any of the terms, conditions or provision of the license. The Town Board shall cause to be served upon such licensee a notice of hearing ordering the person charged to appear and show cause why the license should not be suspended or revoked.
- (c) In the event the licensee is found not to have violated any law, rule or regulation, the charges will be dismissed. If the licensee is found to have violated the provisions of this Section, the license may be suspended or revoked.
- (d) The Town Administrator may temporarily suspend a license when the Town Administrator has reasonable grounds to believe that the licensee has been guilty of a deliberate and willful violation of any provisions of this Section or that the public health, safety or welfare requires emergency action. In such case, the Town Administrator shall schedule a hearing before the Town Board, wherein the Town Board shall determine whether to reinstate or permanently revoke the license. A temporary suspension shall be for a period not to exceed thirty (30) days.

Sec. 8-3-11. - Indemnification.

The licensee shall be deemed to have agreed to indemnify and hold harmless the Town, its officers, employees and agents, from and against any and all claims, demands or causes of action arising from any occurrence occasioned by or related to such licensee's vending operations and/or the license issued pursuant to this Section.

Sec. 8-3-12. - Penalty.

A person who violates the requirements of this Section shall be punished as provided in Section 1-3-1 of the Code.

**Section 2.** **Severability.** If any section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this Ordinance. The Town Board hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

**Section 3.** **Effective Date and Publication.** This Ordinance shall be effective thirty (30) days after its publication. The Town Clerk shall certify the date of publication and such certification shall be maintained with the original of this Ordinance. The Town Clerk shall make not less than three copies of the adopted Town Code available for inspection by the public during regular business hours.

**INTRODUCED, AND APPROVED** on first reading by the Board of Trustees of the Town of Eaton, Colorado, this 18th day of February, 2021.

**TOWN OF EATON, COLORADO**

**ATTEST:**

By: Margaret Jane Winter  
Margaret Jane Winter, Town Clerk

By: Scott E. Moser  
Scott E. Moser, Mayor

**PASSED UPON FINAL APPROVAL AS AMENDED AND ADOPTED** on second reading by the Board of Trustees of the Town of Eaton, Colorado, this 18th day of March, 2021.

**TOWN OF EATON, COLORADO**

**ATTEST:**

By: Margaret Jane Winter  
Margaret Jane Winter, Town Clerk

By: Scott E. Moser  
Scott E. Moser, Mayor

