

# VILLAGE OF EPHRAIM

FOUNDED 1853



**VILLAGE OF EPHRAIM BOARD MEETING AGENDA**  
**FRIDAY, MAY 26, 2023, 8:00 AM**  
**9996 Water Street**

**NOTE: THIS MEETING OF WILL BE SIMULTANEOUSLY HELD VIA TELECONFERENCING. STAFF, COMMITTEE MEMBERS AND THE PUBLIC ARE WELCOME TO PARTICIPATE IN THIS MANNER. TELECONFERENCING WILL BE AVAILABLE BY COMPUTER, PHONE, TABLET, OR DIAL IN. CONNECTION INFORMATION BELOW:**

- 1. Call to Order**
- 2. Quorum**
- 3. Changes in Agenda**
- 4. Visitor's Comments**
- 5. Administration**
  - a. Discussion and consideration regarding Ordinance 04-2023 - An ordinance amending existing Chapter 12 (Licenses and Permits) by adding section 12.09 (Mobile Food Establishments)
- 6. Adjournment**

**Please join my meeting from your computer, tablet or smartphone.**

<https://meet.goto.com/350246613>

**You can also dial in using your phone.**

Access Code: 350-246-613

United States: [+1 \(408\) 650-3123](tel:+14086503123)

*\*\*Deviation from listed order may occur\*\*\**

Please note, that upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information please contact Andrea Collak, Clerk Village of Ephraim, PO Box 138, Ephraim, WI 54211

	<b>Date: <u>5/24/2023</u></b>
<hr/> <b>Andrea Collak, Clerk</b>	<b><u>X</u> Village Administrative Office</b>
	<b><u>X</u> Visitors' Center</b>
	<b><u>X</u> Post Office</b>
<hr/> <b>Kim Roberts, Deputy Clerk</b>	<b><u>X</u> Website <a href="http://www.ephraim.wi.gov">www.ephraim.wi.gov</a></b>
	<b><u>X</u> Emailed to WDOR Radio</b>
	<b><u>X</u> Emailed to Peninsula Pulse</b>

## ORDINANCE NO. 04-2023

### AN ORDINANCE AMENDING EXISTING CHAPTER 12 (Licenses and Permits)

**SECTION I:** CHAPTER 12 of the Ephraim Code of Ordinance is hereby amended as follows:

New section 12.08 (mobile food establishments) added to chapter 12

WHEREAS: the Village Board believes the issuance of temporary permits allowing the sale of food to the general public from mobile stations is likely in the public interest; and

WHEREAS: the Village Board has concerns that allowing this practice could adversely impact the general health safety and welfare of the Village; and

WHEREAS: the Village Board wishes to issue permits allowing the sale of food to the general public from mobile establishments on a trial basis to determine the impact of such practice on the Village

Now therefore the Village Board, exercising its police powers, does ordain as follows:

#### **12.08 MOBILE FOOD ESTABLISHMENTS**

##### **(1) DEFINITIONS**

- a) **“Mobile Food Vendor”** means the owner, owner’s agent, or employee of a Mobile Food Establishment within the Village of Ephraim. A Mobile Food Vendor or Vendor shall expressly not include Transient Merchants as defined in Section §12.05 of Chapter 12 of the Ephraim Code of Ordinances.
- b) **“Mobile Food Establishment”** means a restaurant or retail food establishment as the term defined in Wis. Stats. §97.30(1)(c) where food is cooked, wrapped, packaged, processed, served, or sold as ready-to-eat from a vehicle, car, truck, trailer, cart, or similar portable device which shall be capable of periodically changing locations. The ordinance does not intend to regulate the home delivery of food and beverage items.
- c) **“Food”** means all articles used for food, non-alcoholic drink, or condiment including ice or water for human consumption whether simple, mixed, or compound articles used or intended for use as ingredients in the composition or preparation thereof.
- d) **“Sell”** means the act of exchanging a good for monetary consideration.
- e) **“Vehicle”** means any motor vehicle as defined by Wis. Stats. §340.01(35) or trailer as defined by Wis. Stats. §340.01(71). A vehicle shall not include any bicycle or other self-propelled device.
- f) **“Vend”** means to sell or to transfer the ownership of an article to another for monetary consideration.
- g) **“Service base”** means an establishment operated under the permit or permit of an appropriate regulatory authority where food is manufactured, stored, prepared, portioned, or packaged, or

any combination of these, where such food is intended for consumption at another establishment or place, and where such units are serviced, cleaned, supplied, maintained, and where the equipment, utensils, and facilities are serviced, cleaned, and sanitized.

**(2) PERMIT REQUIRED**

- a) It shall be unlawful for a person to operate as a Mobile Food Establishment, serve, sell, or distribute food from a Mobile Food Establishment in the Village of Ephraim without first having obtained a valid Mobile Food Establishment permit from the Village of Ephraim Board of Trustees as provided for by this chapter.

**(3) EXEMPTIONS FROM PERMIT REQUIREMENT.**

Mobile Food Establishments participating in any of the festivals, organizations, activities, or events listed below are exempt from obtaining a Mobile Food Establishment permit and location and general operation restrictions required by this chapter:

- a) Any Mobile Food Establishment on-premises and controlled, regulated, or permitted through Chapter 12, §12.05 Transient Merchants of the Ephraim Code of Ordinances.
- b) Any Mobile Food Vendor or Mobile Food Establishment working under a permitted event as a caterer, who does not receive direct payment from persons receiving food items, goods, or services from the Mobile Food Establishment.
- c) Any Mobile Food Vendor or Mobile Food Establishment working under festival/organization/activity/event that has been permitted by the Village of Ephraim.
- d) Any Mobile Food Establishment commissioned or paid directly by a private land owner and who does not receive direct payment from persons receiving food items, goods, or services from the Mobile Food Establishment.

**(4) APPLICATION**

Any person desiring to operate as a Mobile Food Establishment shall make a written application for a Mobile Food Establishment permit to the Village Clerk. The application shall be on the form provided by the Village Clerk's office and shall include the following:

- a) A completed mobile food vendor application with signature and payment of fees.
- b) The full legal name, signature, address, and phone number of each applicant, each member or officer of a corporate applicant, and the onsite point of contact name and cell phone number.
- c) A description of the Mobile Food Establishment, including the make, model, VIN, weight of the vehicle, vehicle length and width, permit plate, and lighting layout with fixture and wattage information. Mobile Food Establishments must have valid license plates and registration as provided by Chapter 341, Wisconsin Statutes.
- d) A valid copy of all necessary permits for the operation of the Mobile Food Establishment, including, but not limited to, permits or certificates required by the state of Wisconsin, or any subsidiary enforcement agencies or departments thereof.
- e) Proof of inspection by the Village of Ephraim Fire Department.
- f) Valid Wisconsin Department of Revenue Seller's Permit and PRAT tax registration.
- g) The applicant shall provide a Mobile Food Vendor business plan narrative addressing:
  - i) The proposed location of the Mobile Food Establishment;
  - ii) Whether the operations are open air, enclosed limited service, or enclosed full service;

- iii) Hours and days of operation;
  - iv) Employee information: number of employees and where they will park;
  - v) Proposed signage;
  - vi) Proposed seating area;
  - vii) Restroom plan for both customers and personnel;
  - viii) Wastewater disposal plan;
  - ix) Pedestrian and traffic safety;
  - x) and any other information which may be requested by the Village in order to make a full and comprehensive evaluation of the application.
- h) A detailed site plan. The proposed location including a detailed site plan of the Mobile Food Establishment located on private property within a Commercial Zone. The site plan shall depict the location of the Mobile Food Establishment, dimensions, statement of surface material that the vehicle will sit on, and associated seating (if any) in relation to all on-site improvements including buildings, drive aisles, parking places, pedestrian facilities, etc. The site plan shall depict all property boundaries and related dimensions as applicable. The basis for the site plan can be a scaled aerial photo downloaded from the internet.
- i) All applicants shall include in their application current photographs of the proposed Mobile Food Establishment showing at a minimum the front, rear, and side views along with the service window closed and open which shall be used for identity verification.
- j) Written permission from the private property owner within a Commercial Zone.
- k) The operator of a Mobile Food Establishment shall arrange for use by personnel and customers of the Mobile Food Establishment private, onsite toilet facilities during all hours the Mobile Food Establishment is in operation. Portable toilets are prohibited. The applicant must obtain permission in writing from the private property owner as a part of the application for the use of private toilet facilities.
- l) A signed statement that the vendor shall hold harmless the Village and its officers and employees, and shall indemnify the Village, its officers, and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. The vendor shall furnish and maintain such public liability insurance coverage not less the \$2,000,000.00 and name the Village of Ephraim as an additional insured. A declaration of coverage shall be provided to the Village of Ephraim.
- m) The Village reserves the right to conduct a background check of the applicant or agents.
- n) Any information deemed necessary by the Village Board to determine the issuance of a Mobile Food Establishment Permit to a particular applicant that would be in the best interest of the public.

**(5) REVIEW.**

All applications shall be subject to review by the Historic Preservation Committee, if in the Historic District, and the Ephraim Plan Committee which will make a recommendation to the Village Board based on the following guidelines and/or standards as determined by the Village Board of Trustees.

- a) The proposed Mobile Food Establishment will not create any significant adverse traffic impacts, pedestrian or traffic safety hazards, pedestrian/vehicle conflicts, or impede building ingress/egress.
- b) The proposed Mobile Food Establishment will not create a significant adverse impact with regard to public health, safety, or general welfare within the Village as a result of:

- i. The accumulation of garbage, trash, or other waste.
  - ii. Noise created by the operation of the equipment.
  - iii. Light or glare.
  - iv. Odors and noxious fumes.
  - v. Smoke emitted from Mobile Food Establishment operations
- c) The scale of the Mobile Food Establishment and the suitability for the site and neighborhood.
- d) Appropriateness of seating in relation to location and general operations.
- e) Parking considerations.
  - i. Possible impact of off-street parking.
  - ii. Preservation of parking spots for the primary business on a parcel.
  - iii. Impervious surface requirements.

**(6) GENERAL REQUIREMENTS**

- a) Mobile Food Establishments shall comply with NFPA-1 Fire Code and Wisconsin Administrative Code SPS 314.50.
- b) All state and Village permits shall be conspicuously displayed on the Mobile Food Establishment while in operation.
- c) Except as provided herein, permitted Mobile Food Establishments shall not operate upon or in public properties or ways.
- d) Mobile food establishments may operate on private property in Commercial Zones where permitted by the property owner by written permission and which does not otherwise create a traffic hazard provided the zoning regulations applicable to the property do not limit the property to residential and related incidental or accessory uses. No Mobile Food Establishment shall operate on a public street or any Village property unless operating as part of a Special Event permitted under Chapter §22 of the Ephraim Code of Ordinances and if on a public street, only if the area of the public street is closed for the special event.
- e) No more than one (1) Mobile Food Establishment shall be permitted per parking lot or per property.
- f) No Mobile Food Establishment shall use or maintain any outside sound-amplifying equipment or noisemakers of any kind.
- g) No Mobile Food Establishment shall use or maintain moving or flashing lights.
- h) Mobile Food Establishments shall take every precaution to ensure that their operation does not materially affect the peace and welfare of the general public nor cause any unreasonably loud, disturbing, and/or unnecessary noise or any other noise of any character, intensity, or duration as to be detrimental or disturbing to the public peace or welfare as determined by the Ephraim Village Board of Trustees.

**(7) PARKING RESTRICTIONS**

- a) The host parking lot must remain in compliance with the Village Zoning Ordinance including off-street parking requirements for the host lot, and Mobile Food Establishments shall not block required drive aisles.
- b) A Mobile Food Establishment shall be located on an impervious surface at all times as defined in Chapter 17 of the Ephraim Code of Ordinances.
- c) The number of parking spaces available must support the existing developed use of the

property. Parking calculations may be reviewed as part of the site plan by the Plan Committee and the Village Board.

## **(8) OPERATION STANDARDS**

Mobile Food Establishments operating within the Village of Ephraim shall comply with the following:

- a) Size. No Mobile Food Establishment shall exceed a length of twenty feet (20') not including the tongue, or a width of ten (10') feet, and shall not occupy required parking but can be used in excess parking areas of a business.
  - i. In the Historic District, No Mobile Food Establishment shall not exceed a length of twenty feet (20') not including the tongue, or a width of ten (10') feet, and will be subject to design review standards.
- b) All Mobile Food Establishments must have signage posted, in lettering not less than three inches (3") in height, in plain view to all patrons that provides the name of the operator and a valid telephone number.
- c) Permitted Mobile Food Establishments may operate between 7:00 AM and no later than 10:00 PM.
- d) Permitted Mobile Food Establishments shall not operate outside of May 1 through October 31 and must be moved from the location of operation outside the designated operating months.
- e) Mobile Food Establishment shall not obstruct any public street, sidewalk, trail access or visibility of crosswalks, street corners, driveways or intersections and operators shall take affirmative steps to direct unit customers waiting for service to refrain from causing any such obstructions.
- f) Any power required for the Mobile Food Establishment shall not use utilities drawn from the public right-of-way. No power cable or equipment shall be extended over any Village street, alley, or sidewalk. Generators must comply with noise regulations in §10.06 of the Ephraim Code of Ordinances.
- g) Mobile Food Establishments shall provide leakproof containers adequate for the deposit of waste. Mobile Food Establishment vendors are required to remove or otherwise properly dispose of all waste, liter, or garbage generated by their operations and patrons during and after daily operations including that which may be reasonably seen from the location of operation on the ground or otherwise not in a proper disposal container. The use of Village refuse containers is prohibited. Dumpsters are prohibited.
- h) Mobile food establishments are to ensure responsible disposal of oil and grease, wastewater, and cooking water in accordance with applicable ordinances and statutes.
- i) No Mobile Food Establishments shall have food service prepared, sold, or displayed outside of the Mobile Food Establishment.
- j) Seating and tables, if approved by the Village Board, shall not block ingress, egress or fire exits from or to the Mobile Food Establishment or any other structure on the property.
- k) Signage may only be permitted when placed on the Mobile Food Establishment. No separate free-standing signs are permitted. Signage is subject to review as outlined in Chapter 17 of the Ephraim Code of Ordinances by the Historic Preservation Committee, if in the Historic District, and the Plan Committee.
- l) Any lighting associated with the Mobile Food Establishment shall use a hood and lens so light is cast downward and onto the property so as not to disturb the night sky or adjacent properties per §17.25(c)(6).

**(9) PERMIT FEE, DURATION, AND CONDITIONS**

- a) The fee for a Mobile Food Establishment Permit shall be as set forth by the Village Board.
- b) Permits shall commence on May 1 and end on October 31 of each calendar year; Permit fees shall not be pro-rated. Permits shall be submitted at least two (2) months before the commencement of business. Meeting dates for the Board and the committees that participate in the review process shall be considered by the applicant concerning the timing of the application submission. The Village Board meets on the second Tuesday of each month and the Historic Preservation Committee and Plan Committee meet on the fourth Tuesday of each month.
- c) New applications will be accepted on an annual basis, beginning the first business day of January.
- d) The permit is not transferrable from person to person or mobile vending vehicle or cart to mobile vending vehicle or cart.
- e) Each Mobile Food Establishment shall be separately permitted. The permit is non-transferable.
- f) The total number of permits issued by the Village shall be limited to five (5). The Village Board reserves the right to change this limitation.

**(10) ENFORCEMENT**

The enforcement of this article shall be under the jurisdiction of the Building Inspector, Fire Department, Village staff, and/or other agents as deemed necessary by the Village Board, who shall have the power to inspect to determine compliance with this article.

**(11) RENEWAL**

- a) No renewal shall be automatic.
- b) Any current permit holder shall, on an annual basis, file a renewal form required by the Village Board, renewal fee as established by the Village Board, and any new permitting documentation upon the permit renewal before the expiration of the permit, and such renewal shall be processed in the same manner as the initial application.

**(12) SUSPENSION, REVOCATION, OR NON-RENEWAL OF PERMIT**

- a) A Mobile Food Establishment permit may be suspended, revoked, or not renewed by the Village Board if the applicant or permittee:
  - i) Made any material omission or materially inaccurate statement in the permit application; or
  - ii) Made any fraudulent, false, deceptive, or misleading statement or representation in the course of engaging in mobile food vending; or
  - iii) Violated any provision of this Chapter; or
  - iv) Was convicted of any offense which is directly related to the permittee's fitness to engage in mobile vending.
  - v) Mobile Food Establishment materially affects the peace and welfare of the general public and causes any unreasonably loud, disturbing, and/or unnecessary noise or any other noise of any character, intensity, or duration as to be detrimental or disturbing to the public peace or welfare.
  - vi) The Village Board determines that issuing permits for Mobile Food Establishments has proven to be contrary to the health safety and welfare of the general public, in which case all permits issued under this provision shall be revoked without further process except that the Council shall hold a public hearing, notifying all permit holders of the consideration of revocation or sunset of Mobile Food Establishment Permits before

acting on the matter.

- b) If the Building Inspector, Fire Department, or an authorized representative of the Village recommends that the Village Board suspend, revoke, or not renew a mobile food establishment permit, or, if the Village Board indicates an intention to suspend, revoke, or not renew the Mobile Food Establishment permit, the Village Clerk shall, in writing inform the applicant of the intended non-renewal, the reasons, and of the opportunity to request a hearing before the Village Board. Such notice shall be sent by certified and regular mail or personally served upon, the permittee at least ten (10) days prior to the hearing.
- c) A permit is a privilege, the issuance of which is a right granted solely to the Village Board. The Village Board shall consider the circumstances, severity, and facts of an offense, and offense or patterns of behavior when making the determination to grant, deny, suspend, revoke, or not renew.

**(13) SUNSET PROVISION**

In order to prompt a timely re-examination of the effects and community impact of allowing food trucks in the Village of Ephraim, the Village Board of Trustees finds it appropriate to enact a “sunset” provision after which the amendments enacted by this ordinance will automatically expire on October 31, 2025, unless the Village Board of Trustee takes further action to extend it.

**SECTION II:** If any section, subsection, paragraph, or sentence of this ordinance is for any reason deemed unconstitutional or otherwise unenforceable by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this ordinance.

**SECTION III:** This ordinance shall take effect upon its passage and publication according to law.

**SECTION IV:** Sunset Provision. The provisions of this ordinance shall be null, void and no further force and effect, and the code amendments adopted by this ordinance shall be repealed on October 31, 2025, unless further extended by action of the Village Board.

Passed and approved by the Village Board of Trustees at its meeting on the \_\_\_\_\_ of MAY, 2023.

VILLAGE OF EPHRAIM

By: \_\_\_\_\_ Mike McCutcheon, President

Attest: \_\_\_\_\_ Andrea Collak, Clerk

Published this \_\_\_\_\_ day of \_\_\_\_\_ 2023.