

**TOWN OF LOCHBUIE
COUNTIES OF WELD AND ADAMS, COLORADO**

ORDINANCE NO. 2021- 667

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
LOCHBUIE AMENDING SECTION 6-1-150 AND AMENDING AND
ADDING SEVERAL SECTIONS OF CHAPTER 19 OF THE TOWN CODE
CONCERNING ZONING TO ALLOW FOR FOOD TRUCKS AS
TEMPORARY USES SUBJECT TO ISSUANCE OF A PERMIT
THEREFOR AND SETTING THE STANDARDS FOR SUCH PERMITS**

WHEREAS, the Town of Lochbuie (the “Town”) is a statutory municipality, governed by its elected Mayor and Board of Trustees; and

WHEREAS, the Town is authorized pursuant to Section 31-23-301, et seq. C.R.S., to regulate the use of land for the purpose of promoting the health, safety and welfare of the Town; and

WHEREAS, the Board of Trustees adopted comprehensive zoning and development regulations codified in Chapter 19 of the Lochbuie Municipal Code which regulations are known as the Town’s Land Development Code (“LDC”); and

WHEREAS, the LDC currently provides that food trucks are a conditional use within limited zone districts of the Town and such uses must be processed in accordance with the process for issuing conditional use permits; and

WHEREAS, the Town Board of Trustees desires to simplify the process for allowing food truck use subject to the requirements for and obtaining of a food truck permit; and

WHEREAS, the Board of Trustees finds the use and permit regulations for “food trucks” as set forth in this ordinance to be in the interest of and tailored towards the promotion of town-wide public health, safety, and welfare of all the residents of the Town; and

WHEREAS, as there exists a typographical error in the LDC Table 1.1, which outlines the review procedures for various land use applications, in that the approval level for temporary use permits is not checked, the Board desires to amend such table to fix such error and indicate that review for temporary uses is administrative.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF
THE TOWN OF LOCHBUIE, WELD AND ADAMS COUNTIES, COLORADO, AS
FOLLOWS:**

Section 1. Amendment of Section 6-1-150. - Exemptions. Section 6-1-150 of the Lochbuie Municipal Code is hereby amended by adding the following language as shown below in all caps:

Except as otherwise noted, the licenses herein required shall not apply to newsboys and newsgirls, employees, home occupations, FOOD TRUCK PERMITTEES AS PROVIDED IN SECTION 19-7-280, suppliers of products for resale by a licensed person; nor when a business, trade, occupation or profession does not provide the livelihood of the person so engaged and annual gross receipts do not exceed six hundred dollars (\$600.00); nor in any case where a business or activity is otherwise assessed by the Town a franchise fee or application, license or permit fee or is under contract with the Town.

Section 2. Amendment of Table 1.1 under Section 19-1-215, Land Use Review Procedures. The row that shows as “Temporary use permit” under the column headed “Approval Requested” in Table 1.1 of Section 19-1-215 is hereby amended to place an “x” in such row under the column titled “Approval” and subtitled “AD” to indicate that approval of temporary use permits requires administrative approval.

Section 3. Amendment of Section 19-2-230, “Schedule of Principal Uses”. The Schedule of Principal Uses table set forth in Section 19-2-230 of the Lochbuie Municipal Code is hereby amended to delete the row titled “Food Trucks” under “Restaurant Food Service” group of uses, and all contents within such row.

Section 4. Amendment of Section 19-2-225, “Temporary Uses”. The Temporary Uses table 2.10 set forth in Section 19-2-225(a) of the Lochbuie Municipal Code is hereby amended to add a new row titled “Food Trucks” to read as follows:

Use	Zone Districts	Period
Food trucks	All residential, commercial and industrial zoned areas within the Town	Time to be specified; any permits required by law are obtained; must be within allowable periods and as set forth in food truck permit issued in accordance with Section 19-7-280.

Section 5. Addition of a New Section 19-7-280. Division 2 of Article VII of Chapter 19 of the Lochbuie Municipal Code (LDC), Supplemental Regulations, is hereby amended by the addition of a new Section 19-7-280 to read as follows in its entirety:

Sec. 19-7-280. – Food trucks.

- (a) Permit required. It is unlawful for any person to operate a food truck, as defined in this Article, within the corporate limits of the Town, without first obtaining a food truck permit as provided in this Section, which permit shall be considered a temporary use permit. All food truck operations must at all times comply with the permit application and requirements and any conditions attached to such permit.

- (1) No preapplication conference is required for a food truck temporary use permit. Completeness review and application referral for such permit applications shall be performed by the Town Clerk or Town Clerk designee.
 - (2) All food trucks are required to obtain a location specific permit as provided in this Article. Any person who arranges for, or allows, one (1) or more food trucks to operate at a special event must obtain a food truck permit under this Article. Upon issuance of such food truck permit, the food truck operator(s) vending at said special event shall be relieved of the obligation to obtain individual permits under this Article in order to operate as part of said event. Each permittee shall prominently display a copy of the food truck permit issued hereunder in a location readily visible to the public on each food truck at the special event.
 - (3) Documentation of regulatory approval as a retail food establishment by the Weld County Department of Health and Environment (or Tri-County Health for areas within Adams County) is required. The Town Clerk may request and require such additional information or documentation as he/she deems necessary in order to consider the application and make the required determinations as set forth in this Article. The timeframe for review of any application shall be extended during the pendency of any such request for additional information.
 - (4) A separate business license as may otherwise be required under Article 1 of this Chapter 6 shall not be required of any person engaged in operating a food truck who has first obtained a food truck permit as provided in this Article.
- (b) Application for food truck permit; permit modifications.
- (1) The form of the application for a food truck permit shall be as furnished by the Town Clerk or Town Clerk designee and may be amended from time to time.
 - (2) The applicant/permittee shall be obligated to provide the Town with an electronic mail address for receipt of notices which shall be functioning at all times when a permit is pending or during the applicable permitted times for food truck operations.
 - (3) An application for a food truck permit under this Article shall be submitted to the Town Clerk's Office no less than eight (8) business days prior to the first day of the proposed operation.

- (4) All applicants for a food truck permit under this Article must provide their Colorado-issued sales tax license number as part of the application and acknowledge the obligation to collect and remit the Town sales tax whenever operating within the town limits.
 - (5) A food truck permit issued under this Article is valid for a time period not to exceed sixty (60) days. Any requests for extensions to this maximum time period shall be reviewed by the Town Clerk or designee based on the specific circumstances of the proposed food truck permit application. One extension per food truck permit may be granted up to sixty (60) additional days.
 - (6) All applications and issued permits will define the location and allowed operating date(s) and time(s) for food truck vending as well as information on the proposed orientation and size of any food truck, equipment (including without limitation any litter disposal cans, canopies and/or tables) and will describe how customers will queue and be served.
 - (7) Applications for a food truck permit will not be accepted or thereafter processed unless complete and all required supporting documents and submissions have been received by the Town Clerk. The Town Clerk or designee, in the Town Clerk's or designee's sole discretion, may waive the submission of any document upon the prior request of the applicant.
 - (8) The fees to be paid to the Town for the issuance, modification, renewal or extension of any food truck permit pursuant to this Article shall be set by the resolution of the Town Board of Trustees and shall remain in effect until such resolution is amended by action of the Town Board of Trustees.
 - (9) A request for a modification of a food truck permit shall be submitted to the Town Clerk or Town Clerk designee and shall meet all of the requirements and be reviewed in the same manner as an application for a new permit.
- (c) Food truck permit processing procedures.
- (1) Applications for a food truck permit shall be considered individually and in chronological order as established by the date of receipt of a properly completed application. The Town Clerk or designee may limit the number of permits issued for any given location or date or time in order to avoid congestion or obstruction of access or circulation.

(2) An application for a food truck permit will be processed as follows:

(A) *Application review.* Upon receipt of an application, the Town Clerk or designee will conduct an internal review and may forward copies of the application to any pertinent internal and external agencies for review and comment.

(B) *Complete application.* Within two (2) business days of the filing of an application, a determination shall be made whether the application is complete according to the application requirements. The applicant shall be notified of any deficiencies in completeness of the application and shall be granted a reasonable time in which to cure said deficiencies.

(C) *Review by applicable departments and agencies.* Upon determination of a complete application, the application shall be distributed for review to the applicable departments and agencies that serve the Town. Any comments from the Town or departments or agencies that serve the Town shall be returned to the applicant within ten (10) business days of a complete application determination.

(D) *Decision.* If no revisions to the application are required by the reviewing departments or agencies, the Town Clerk or designee shall grant approval or denial of the application within six (6) business days after a complete application determination. A delay in decision, for any reason, shall not be deemed grounds for approval of the application.

(d) Revocations.

(1) A food truck permit may be revoked under the authority of the Town Administrator in the event that the Administrator finds that:

(A) the permittee fails to operate in conformity with an issued permit or has violated any of the terms of the provisions pertaining to his or her permit; or

(B) the food truck operations are operated in an unsanitary manner, obstruct traffic or pedestrians, cause undue congestion or crowds, or an accumulation of litter; or

(C) the Town receives substantiated complaints regarding nuisance effects of the food truck operations, to include, without limitation, excessive crowds, noise, fumes, smells or

light incompatible with the surrounding area from which the food truck is operated; or

(D) a fact or condition exists which, if it has existed or had been known to exist at the time of the application for such permit, would have warranted the refusal of the issuance of such permit.

(2) The Town Administrator may revoke any food truck permit issued by the Town immediately upon providing notice to the permittee by e-mail at the e-mail address required to be kept current with the Town or upon personal service of a notice of revocation to the place of operations of the permittee (during operations) stating the revocation and in general the grounds therefor.

(3) A permittee may appeal a decision of the Town Administrator to the Board of Trustees at the next available regular meeting of such Board. The permittee shall have the burden of proving at such appeal that the Town Administrator abused his/her discretion in revoking the permit. The decision of the Board of Trustees shall be final.

(e) Restrictions for operation within the public right-of-way. All food truck operators operating within the public right-of-way within the Town shall adhere to the following restrictions:

(1) All posted parking requirements or restrictions shall be adhered to.

(2) No permittee shall operate for more than five (5) hours in one (1) location within a twenty-four (24) hour time period, unless otherwise granted approval by issuance of a permit specifically allowing such operation.

(3) Each permittee shall provide for waste collection and shall pick up and dispose of any paper, cardboard, wood or plastic containers, wrappers, or any litter that is deposited within twenty-five (25) feet of the food truck, permitted location, or within twenty-five (25) feet of the point of any sale or transaction, including litter that is not a direct result of the food truck operations. The permittee shall carry a suitable container for the placement of such litter by customers or other persons.

(4) Other than a suitable container for placement of litter, no permittee shall set up any structures, canopies, tables, chairs, or other equipment that is not attached to the food truck.

- (5) Each permittee shall maintain in safe condition any food truck, vehicle, structure, device, or any other similar item described in the food truck permit, so as not to create an unreasonable risk of harm to the person or property of others.
 - (6) No permittee shall leave unattended any food truck while in the public right-of-way.
 - (7) A food truck shall not obstruct the movement of pedestrians or other vehicles and shall not be:
 - (A) Stopped on any road or street such as to obstruct any traffic for any period of time;
 - (B) Parked or placed within fifty (50) feet of any intersection;
 - (B) Parked or placed within twenty (20) feet of any marked crosswalk.
 - (8) Each permittee may only operate in areas where parallel parking is allowed and must serve the public from the sidewalk and not from the street or adjacent parking spaces.
 - (9) No permittee shall operate within two hundred (200) feet of a Town park without first obtaining written approval from the Town Public Works Operations Manager. Said written approval must be available for inspection at any time during vending operations.
- (f) Restrictions for operations outside the public right-of-way. All food truck operators operating on land that is not considered public right-of-way, including, but not limited to, private property, public parks, and school district property, shall adhere to the following restrictions:
- (1) All permittees must have written permission from the property owner for the parcel on which the vending will take place. Said written permission must be submitted with the application and be available for inspection at any time while vending operations are taking place.
 - (2) All permittees applying to operate within a residential zone which is governed by a homeowners' association must provide proof of approval of such homeowners' association with the permit application.
 - (3) Each permittee shall provide for waste collection and shall pick up and dispose of any paper, cardboard, wood or plastic containers,

wrappers, or any litter that is deposited within twenty-five (25) feet of the food truck, permitted location, or within twenty-five (25) feet of the point of any sale or transaction, including litter that is not a direct result of the operations of the food truck. The permittee shall carry a suitable container for the placement of such litter by customers or other persons.

- (4) Other than a suitable container for placement of litter, no permittee shall set up any structures, canopies, tables, chairs, or other equipment that is not attached to the food truck unless the permittee has specifically identified such in the food truck permit application, the property owner has agreed to placement of such equipment, and the permit allows such placement.
- (5) All food truck vendors operating in public parks must receive written permission from the Town Public Works Operations Manager, to be submitted with the corresponding permit application and be available for inspection at any time while vending operations are taking place.

Section 6. Amendment of Section 19-7-520, “Words and terms”. Section 19-7-520 of the Lochbuie Municipal Code is hereby amended by the addition of the following defined terms to be placed within the list of defined terms in appropriate alphabetical order:

Food shall mean any product sold for human consumption, the sale of which is not prohibited by law.

Permittee shall mean a person who has been issued a food truck permit under the provisions of this Article.

Public right-of-way shall mean all streets, roadways, bikeways, sidewalks, and all other areas reserved for present or future use by the public, as matter of right, for the purpose of vehicular or pedestrian travel.

Town block shall mean the smallest area that is completely surrounded by public rights-of-way, or access easements that act as public rights-of-way, not to include alleys.

Food truck shall mean any motorized or non-motorized vehicle, trailer, kiosk, pushcart, or other nonpermanent structure or device from which outdoor vending of food for immediate consumption occurs; however, “food truck” shall not include mobile food vending of pre-packaged food for immediate consumption that does not operate for more than 15 minutes at any one location within two blocks of a prior location within Town within any 24 hour period, such as a pre-packaged ice cream truck.

Section 7. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall

not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Board of Trustees hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 8. Safety Clause. The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Lochbuie, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relationship to the proper legislative object sought to be obtained.

Section 9. Repealer. All ordinances or resolutions, or parts thereof, in conflict with this Ordinance are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such ordinance nor revive any ordinance thereby.

Section 10. Effective Date. This Ordinance shall take effect thirty (30) days after publication, as provided by C.R.S. § 31-16-105 and Sections 1-3-60 and 2-2-110 of the Lochbuie Municipal Code.

ADOPTED by a vote of 5 in favor, 0 against and 0 abstaining, AND ORDERED PUBLISHED by title only following public hearing, this 1 day of June, 2021.

TOWN OF LOCHBUIE, COLORADO



Michael Mahoney, Mayor

I hereby certify that the above Ordinance was adopted by the Board of Trustees of the Town of Lochbuie at its meeting of June 1, 2021 and ordered published by title only one time by *The Brighton Blade* newspaper on April 28, 2021.



Cristal Sanchez, Acting Town Clerk