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Cookeville, TN Code of Ordinances

## CHAPTER 12 MOBILE FOOD VENDORS

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### SECTION

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#### **9-1201. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section. The word "shall" is always mandatory and not merely advisory.

(1) "Mobile food unit ("MFU")" is an enclosed unit, truck, trailer, pushcart, smoker or similar vehicle-mounted unit that:

- (a) Is mobile or capable of being moved by a licensed motor vehicle;
- (b) Is used for the preparation, sale, or donation of on-site prepared food; and
- (c) Is not a pedestrian vendor.

(2) "Mobile food vendor ("vendor")" is any individual engaged in the operation of a MFU; if more than one (1) individual is operating a single MFU, then vendor shall include all individuals operating such single MFU.

(3) "On-site prepared food" means any food or beverage that is served, packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed, or otherwise prepared on-site within the MFU by a mobile food vendor or other persons and that may be purchased at the MFU for immediate or later consumption.

(4) "Pedestrian vendor" means any person who demonstrates, gives away, sells or offers for sale goods, merchandise, souvenirs, novelties, food or beverages not prepared on-site, flowers or balloons outdoors, and who may carry or display such goods or transport such goods door to door in a cart or mobile-type device. Pedestrian vendor must comply with Title 9 Section 201 of the City of Cookeville Municipal Code.

(5) "Public property" means any property owned or maintained by the City of Cookeville.

(6) "Special event" shall mean any event or gathering which occurs on City property including streets, sidewalks, rights-of-way, parks, parking lots or public facility or place under the

authority of the City. These events include such things as parades, runs, sporting events, street festivals, shows or exhibitions.

(as added by Ord. #O16-10-23, March 2017, as replaced by Ord. #O18-10-30, November, 2018)

#### **9-1202. Permit required.**

It shall be unlawful for any mobile food unit to operate within the corporate limits without first obtaining a permit in compliance with the provisions of this chapter and any other city ordinance.

(as added by Ord. #O16-10-23, March 2017, as replaced by Ord. #O18-10-30, November, 2018)

#### **9-1203. Application for permit.**

Applicants applying for a permit under this chapter shall file a sworn, written application with the city clerk's office containing the following information and such other pertinent information as may be required:

- (1) Name, date of birth, and social security number.
- (2) Driver's license or other personal identification.
- (3) Home address.
- (4) Local address, if different from home address.
- (5) Name, address and phone number of corporation, company, or organization the applicant is representing.
- (6) A copy of a "Tennessee Certificate of Registration" for the collection of state and local sales or use taxes for sale of tangible personal property or taxable services for customers.
- (7) A copy of a valid business license issued in Tennessee.
- (8) A description of the nature of the business and the goods to be sold.
- (9) A description of the vehicle being used while in operation, including make and model, license plate number, copy of valid vehicle liability insurance certificate, and county of registration.
- (10) The starting date and ending date of operation of the business for a thirty (30) day permit.
- (11) A copy of the current health inspection, if required by the Tennessee Department of Health for operation of Food Service Establishments.
- (12) Applicants must submit a spill response plan for approval by the Public Works Department.
- (13) All mobile food units shall be inspected and approved by the Cookeville Codes Department.

(as added by Ord. #O16-10-23, March 2017, as replaced by Ord. #O18-10-30, November, 2018)

#### **9-1204. Issuance or refusal of permit.**

Applicants may apply for an annual permit or a thirty (30) day permit. Each application shall be reviewed by the city clerk's office and Codes Department. Upon satisfaction of inspection and application requirements, The city clerk's office will issue or deny the permit within five (5) business days.

- (1) **Fees.** An application for an annual mobile food vendor permit under this chapter shall be accompanied by a fee in the amount of two hundred fifty dollars (\$250.00). An annual mobile food vendor permit shall be valid for one (1) year from date of issuance.
- (2) An application for a thirty (30) day mobile food vendor permit shall be accompanied by a fee of seventy-five dollars (\$75.00).
- (3) The city clerk's office shall collect the permit fee. There shall be no proration of fees. All permit fees are non-refundable. No permit shall be transferrable.

(as added by Ord. #O16-10-23, March 2017, as replaced by Ord. #O18-10-30, November, 2018)

#### **9-1205. Exhibition of permit.**

Vendors obtaining a permit are required to exhibit their permit at a visible site for the inspection of any police officer, codes enforcement officer and customer/person solicited.

(as added by Ord. #O16-10-23, March 2017, as replaced by Ord. #O18-10-30, November, 2018)

#### **9-1206. Enforcement and penalties.**

(1) It shall be the duty of all police or codes officers to see that the provisions of this chapter and/or any other city ordinance that pertains are enforced.

(2) Any person violating the provisions of this chapter and/or any other city ordinance shall be punished by a fine of no more than fifty dollars (\$50.00) per day plus applicable court costs.

(as added by Ord. #O16-10-23, March 2017, as replaced by Ord. #O18-10-30, November, 2018)

#### **9-1207. Revocation or suspension of Permit.**

(1) Permits issued under the provisions of this chapter may be revoked by the City Court Judge after notice and hearing for any of the following cases:

(a) Fraud, misrepresentation, or incorrect statements contained in the application for permit, or made in the course of carrying on the business of mobile food vending.

(b) Any violation of this chapter or any other city ordinance, rule or regulation.

(c) Conviction of a felony.

(d) Conducting the business of mobile food vending 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.

(e) Operating or attempting to operate within any single-family zoning district.

(2) Notice of the hearing for revocation of a permit shall be given by the city clerk in writing, setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be mailed to the vendor at his or her last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer or codes enforcement officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary the city manager may suspend a permit pending the revocation hearing.

(4) Terms and length of the suspension or revocation will be determined by the City Court Judge.

(as added by Ord. #O16-10-23, March 2017, as replaced by Ord. #O18-10-30, November, 2018)

#### **9-1208. Business license.**

A mobile food vendor shall be required to obtain a current business license to operate in Tennessee.

(as added by Ord. #O16-10-23, March 2017, as replaced by Ord. #O18-10-30, November, 2018)

#### **9-1209. Special events exemption.**

A mobile food vendor participating in a special event shall comply with all rules, regulations and requirements of the event and is exempt from having to obtain a mobile food vendor permit under this chapter. The special event sponsor, coordinator or operator shall enforce the rules for the special event.

(as added by Ord. #O16-10-23, March 2017, as replaced by Ord. #O18-10-30, November, 2018)

### 9-1210. Operational requirements.

The following requirements apply to all mobile food units and vendors operating at any location within the City of Cookeville. Additional requirements may apply.

- (1) Compliance with laws. Except as provided herein, mobile food unit placement and operation must adhere to federal, state, and local laws, regulations, and policies. Local laws, regulations, and policies include, but are not limited to the Cookeville Municipal Code and Cookeville Department of Leisure Services and Public Facilities Policy Manual on *Mobile Food Units in Parks and on City Properties* and as subsequently amended.
- (2) Items for sale. Only food and beverage items may be sold from MFUs, and the sale or distribution of alcoholic beverages is prohibited. A vendor may sell or distribute merchandise from the MFU only if the merchandise bears the logo of the vendor or MFU; all other merchandise sales are prohibited.
- (3) Letter of permission. Vendors operating on private property shall obtain a letter from the property owner stating that the vendor has permission to vend on the property. The vendor shall keep a copy of the permission letter on the MFU while operating. The vendor shall produce the letter upon the request of any city official acting in an enforcement capacity.
- (4) Methods of support. MFUs shall be free-standing and shall not use stakes, rods, or any method of support that must be drilled, driven, or otherwise fixed, into or onto asphalt, pavement, curbs, sidewalks, or buildings.
- (5) Operating distance. No MFU shall operate within five (5) feet of another MFU or ten (10) feet of any structure. The distance will be measured from the corner of the mobile food unit to the nearest corner of a structure or other mobile food unit.
- (6) Operating hours. Operating a mobile food unit between the hours of 12:00 a.m. to 6:00 a.m. shall be prohibited.
- (7) Signs and flashing lights. A MFU must adhere to all city ordinances in regards to signage.
- (8) Sound amplification. A MFU or vendor shall not use sound amplification equipment for any purpose and shall comply with all city noise ordinances and regulations.
- (9) Special events. During a special event, vendors must obtain written permission to operate within the boundaries of the special event from the special event sponsor, coordinator or operator and comply with all rules, regulations and requirements of the special event. A police officer or codes officer is authorized to inspect permission forms for special events.
- (10) Spills. To prevent discharges into the storm drain system and natural waterways, each MFU shall comply with the storm water regulations of the City of Cookeville. In addition, each MFU shall have a spill response plan and kit onboard to contain and remedy any discharge from the MFU.
- (11) Utilities. No power or water required for the mobile food unit shall be drawn from the public right-of-way or public property unless specifically authorized in writing by the City Manager or his or her designee.
- (12) Electrical service from private property.
  - (a) MFUs operating on private property may use electrical power from the property being occupied or an adjacent property only when written permission has been given by an owner of the property providing electricity to the mobile food unit.
  - (b) The property owner shall provide written acknowledgement to the Codes Department that they accept all responsibility resulting from the use of an electric connection by the MFU.
  - (c) The electrical connection point to be utilized by an MFU shall be inspected and approved by the Codes Department, as provided for in this chapter.
  - (d) No power cord, cable, or equipment shall be extended on or across any public right-of-way, alley, sidewalk, or other public property.
  - (e) Electrical requirements. Any vendor operating under this chapter or property owner providing electrical service to a mobile food unit shall comply with the requirements of the National Electrical Code as adopted by the City of Cookeville for regulating electrical installations.
  - (f) Inspection of electrical service. In order to be used by MFUs, all new and existing electrical service components on private property require inspection and approval by the Codes Department.
    - (i) Permit for new electrical service. If an electrical component is newly installed on the private property, the installation shall be completed by a licensed electrician who possesses a City of Cookeville electrical license and must obtain all necessary permits prior to installation.
    - (ii) Safety inspection of existing electrical service. If a private property has an electrical service component for use by MFUs, the Codes Department shall conduct a safety inspection of the component. The cost of this safety inspection is in accordance with the City of Cookeville electrical fees. Once the initial electrical safety inspection is approved, annual

safety inspections are not required.

(13) Waste storage and disposal. Vendors shall supply, in a prominent location, trash containers sufficient in size to collect all waste generated by customers and staff of the MFU. The vendor shall keep the area around the MFU clear of litter and debris at all times. All trash and debris generated by customers and staff shall be collected by the vendor and deposited in their trash or recycling container and removed from the site by the vendor. The vendor may not use city trash or recycling receptacles.

(14) Fire safety. Mobile food units must be equipped with an appropriate fire extinguisher as applicable to the mobile food unit's operation.

(15) Sight distance/safety. Mobile food units must be positioned so as not to block or obstruct the view of motorist or pedestrian at any intersection or any point of ingress/egress. A police or codes officer is authorized to require the mobile food unit to move if in their reasonable judgement the mobile food unit is creating a safety issue for the public.

(as added by Ord. #O16-10-23, March 2017, as replaced by Ord. #O18-10-30, November, 2018)

#### **9-1211. Use of streets/sidewalks.**

No vendor who has obtained a permit shall have any right to operate at any location on public property, including but not limited to the public streets/sidewalks, public parks, public parking lots or spaces, nor shall any be permitted to operate a "road block" of any kind, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of such streets/sidewalks, unless as otherwise may be permitted as a special event. Use of public property may be granted subject to compliance with the Department of Leisure Services and Public Facilities Policy Manual on *Mobile Food Units in Parks and on City Properties* and as subsequently amended. For the purpose of this chapter, the judgement of a police officer and/or a codes officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

(as added by Ord. #O16-10-23, March 2017, as replaced by Ord. #O18-10-30, November, 2018)