

AN ORDINANCE REGULATING THE MOBILE RETAIL SALE AND VENDING OF FOOD; DEFINING TERMS; PROVIDING STANDARDS, PROVIDING FOR FEES AND THE ENFORCEMENT OF THIS CODE.

An ordinance governing the operation of mobile food vending operations within Taney County requiring certain permits for operations and providing penalties thereof.

WHEREAS, RSMo 192.300 provides that county health center boards may make and promulgate orders, ordinances, rules or regulations, respectively as will tend to enhance the public health and prevent the entrance of infectious, contagious, communicable or dangerous diseases into a county; and

WHEREAS, the *U.S. Department of Health and Human Services Public Health Service Food and Drug Administration 2009 Food Code* serves as the basis for the Missouri Department of Health and Senior Services Food Code, and likewise has been adopted by both the cities of Branson and Hollister; and

WHEREAS, the Taney County Health Department Board of Trustees desires to provide uniform standards and consistency in its application of rules and regulations and provide for the health, safety and welfare of county inhabitants;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TANEY COUNTY HEALTH DEPARTMENT, AS FOLLOWS:

Section 1. Purpose.

(a) This ordinance is intended to provide for the health, safety and welfare of county inhabitants by enacting a process for licensing, inspecting, and enforcing food code standards for mobile food vending operations in Taney County, MO.

Section 2. Definitions.

(a) *Sidewalk/Parking Lot.* All that area legally available to the public to use as a pedestrian public way between the curb line and the legal house line of the abutting property; or locations agreed upon to use by the legal owner of that sidewalk or parking lot.

(b) *Vending Trailer/Cart/Stand.* Any showcase, table, bench, rack, handcart, pushcart, trailer (permanent or non-permanent) or any other fixture, device or thing which is used to display, exhibit, carry, transport, store, offer for sale, or sell any food, beverages, upon the sidewalk, parking lot, right of way, or property that has been approved by owner and health department.

(c) *Mobile Food Vendor.* Any person who exhibits, displays, gives away, offers for sale or sells any food, beverages, from any vending cart/stand from a sidewalk, parking lot, or other public designated location.

(e) *Mobile Vendor Location.* A specified location within a permitted area that is designated and/or approved by the Taney County Health Department where mobile food vending may occur. Locations that are chosen to be reviewed and permitted by Taney County Health

Department shall also meet any local zoning requirements that allow or disallow the sale of goods or food in that location.

(f) *Vendor Site*: A specified location with-in a permitted area that is approved by Taney County Health Department and owner of property or business where street, sidewalk, or parking lot vending may occur. The vendor location must be a geographic location with a continuous border: example a town square or designated square blocks.

Section 3. Exceptions. The provisions of this Section shall not apply to:

(a) The temporary placement of goods, wares, or merchandise on the sidewalk in the ordinary course of delivery, shipment or transfer;

(b) The placing and maintenance of stands and other display or sales devices for the sale, display or offering for sale of newspapers, magazines, periodicals, paperbound books, and the maintenance of lottery machines for the sale of the State Lottery as provided for by the State Lottery Law;

(c) The display and sale of Christmas trees;

(d) Sidewalk vending by the owner or tenant of the abutting building that takes place within six feet of that building.

- (i) If the business is preparing food within 6 feet of their building and they are a permitted permanent food establishment with Taney County Health Department, and the sale of food is taking place inside the food establishment, then no vendor permit is required.
- (ii) If the business is preparing food outside of their building and they are selling the food from that location outside the business then a vendor permit will be required.
- (iii) If the business is preparing food outside and they are not a permitted food establishment, they will be required to obtain a permit from the Health Department.

(e) All religious, educational, nonprofit, fraternal or civic organizations shall be exempt from the fees authorized by the fee schedule.

Section 4. License. It shall be unlawful for any person to engage in the business of a mobile food vendor that also includes: street, sidewalk, or parking lot; within the county without first obtaining a Health Permit by Taney County Health Department.

(a) All permits issued under this Section shall permit the mobile food vendor to conduct permitted operations only at the vendor site or sites designated in an assigned location stated within the permit application from Taney County Health Department.

(i) The mobile food vendor can be permitted up to four approved sites under their one permit.

(ii) The mobile food vendor will designate their site or sites for approval in the application. The vendor will have a maximum of two weeks to notify the inspector approving the permit of any site location changes. Site changes must be approved before vendor moves. At two weeks, the permitted sites that were last communicated (*in writing*) to the Health Department, will become permanent. If there is no notification from vendor at the end of two weeks, then the sites listed in the application will be the permanent sites. If vendor has moved from their site without notification, they will be in violation of their permit and will have to begin the permitting process again and will be subject to section (10) of the ordinance.

(b) Every license shall be non-transferable.

(c) Permit must be posted in a place visible to the public.

Section 5. Application and Permits. Each person or his or her employee shall, while engaged in the business of mobile food vending under this Section, carry a certified food manager card per the food code adopted by the TCHD on his or her person. In addition to the certified food manager card, the Department shall issue a health permit to be displayed for the specific location in which the food vending may take place; and the vendor shall not go out of their approved location.

(a) The health permit will allow the vendors to go to temporary events provided they appropriately associated with the temporary event organizer who has submitted a temporary event application with the Taney County Health Department.

Section 6. Permit Issuance, Renewal, and Inspections. Permits shall be issued and renewed upon payment of an annual fee as set forth in the TCHD fee schedule. The mobile food vendor shall be in compliance with the current food code adopted by and enforced by Taney County Health Department.

- (a) Health Permits that are renewed shall permit the mobile food vendor to continue to vend from the same site as designated in the permit being renewed.
- (b) Mobile Food Vendors will be classified by risk category according to the current food code adopted by and enforced by Taney County Health Department.
- (c) Fees for High, Medium, and Low Risk facilities will apply, including reinspection and complaint investigation fees. These will be established according to the current food code adopted by and enforced by Taney County Health Department.
- (d) Vendors will be subject to unannounced inspections per year according to the risk classification defined by the current food code adopted by and enforced by Taney County Health Department.

Section 7. Vendor Site Process. The mobile food vendor applying for a vendor's permit will have to issue the site locations as well as permit application including menu, site plans and mobile food vendor plans of the vending trailer, cart or stand.

Section 8. Trash Removal and Clean Up.

(a) Mobile Food Vendors are responsible for keeping the sidewalk, parking lot, or street within twenty feet of their stands clean of all trash generated by their vending operations, and for washing that area or any eating areas occupied by their stand in a manner that will prevent rodent and/or pest build up.

(b) Mobile Food Vendors must take with them at the end of each day all trash, litter, garbage, refuse and waste, including but not limited to greasy cooking water, generated by their vending operations. No vendor may place or deposit any trash, litter, garbage, refuse or any other wastes generated by his or her licensed operations on the sidewalk, in any public receptacle, or on any private property without the express permission of the property owner.

Section 9. Permitted Stand Designs and Required Stand Maintenance.

(a) Permitted Mobile Food Vendors may only use stands that have been inspected and approved by the Taney County Health Department and in conformance with the current FDA food code adopted by the Taney County Health Department (As stated in section (6) *Vendor Site Process*: The mobile food vendor applying for a vendors permit will have to issue the site location as well as permit application, site plans and mobile food vendor plans of the vending trailer, cart or stand.) This application process shall address the dimensions, structural materials, mobility, and other design aspects of the stands, with the purpose of protecting public safety and ensuring that stands are placed on the public rights-of-way and maintained in neat, clean and orderly fashion.

(b) All Mobile Food Vending carts/trailers/stands shall have a minimum of a 3 compartment sink, and handwash sink, and hot and cold running water.

Section 10. Prohibited Conduct. No mobile food vendor shall:

(a) Conduct him/herself or his/her business in such a way as would restrict or interfere with the ingress or egress of the abutting owner or tenant, or in such a way as would create or become a nuisance or hazard to public health, safety or welfare, or increase traffic congestion or delay, or constitute an obstruction to adequate access to fire, police, or sanitation vehicles;

(b) Leave any stand unattended on a sidewalk at any time; if it is a trailer/stand/cart in a parking lot they may be unattended when not in operation.

(c) Load or unload merchandise for a period exceeding twenty minutes during operating hours and not to exceed thirty minutes before or after operating hours; and

(d) Conduct sales from a vehicle or park or maintain any vehicle in parking spaces adjacent to mobile food vendor sites.

Section 11. Penalties; License Suspension.

- (a) The penalty for violation of any provision of this section as well as the current FDA Food Code adopted by the Taney County Health Department shall have 10 days to correct the issue. If the violation is not corrected and in compliance with this ordinance as well as the current FDA Food Code adopted by the Taney County Health Department, the mobile food vendor will receive a warning of violation and will have three days to correct the issue or the vendor will have a permit suspension of up to 30 days and will not be able to operate until the suspension is over and/or the violation has been corrected. If the mobile food vendor has not come into compliance within 30 days of the suspension; the vendor will have to reapply for a mobile food vending permit and will have a 90 day waiting period to have a new health permit. Priority Foundation and Core violations, as defined in the currently adopted FDA Food Code, will be required to be corrected by the next routine inspection or they will become Priority violations.
- (b) When a mobile food vendor receives a score of less than 70 but greater than 59 on a routine inspection, then that vendor, at the discretion of the regulatory agency, shall have three days to correct all priority and 90 percent of priority foundation and core violations.
- (c) When a mobile food vendor receives a score of less than 60 on a routine inspection, or with six or more priority violations, it shall have 24 hours to correct all priority and 95 percent of all priority foundation and core violations, or be immediately closed for a time frame determined by inspector.
- (d) Enforcement of code violations will be in compliance with the current food code adopted by and enforced by Taney County Health Department.

(b) Any permit issued under this Ordinance may also be revoked for any of the following reasons:

- (i) Fraud, misrepresentation or knowingly false statement contained in the application for the health permit; or
- (ii) Fraud, misrepresentation or knowingly false statement in the course of carrying on permitted operations.

Section 12. Jurisdiction.

(a) The regulations contained in this ordinance shall be applicable to all mobile food vending throughout Taney County, MO except within through jurisdictions that maintain a health officer, have an ordinance equal to this code, and actively enforce same.

Section 13. Severability.

(a) All sections of this mobile food vending ordinance shall be severable. In the event that any section of this ordinance is found by a court of competent jurisdiction to be unconstitutional or unlawful, the remaining sections are valid unless the court finds the valid sections are so essentially and inseparably connected with and so dependent upon the void section that it cannot be presumed that the Taney County Health Department could have enacted the valid sections without the void ones; or unless the court finds that the valid sections standing alone are incompetent and incapable of being executed in accordance with legislative intent.

Section 14. Amendments.

(a) This ordinance may be amended at any time.

Section 15: Effective Date

(a) This ordinance shall be in full force and effect upon and after its passage, approval and publication in a newspaper of general circulation for (3) three successive weeks not later than thirty days after passage.

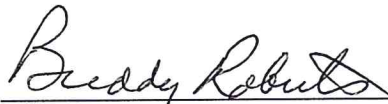
Section 16: Duties of County Clerk

(a) After the promulgation and adoption of this ordinance, the county health board shall make and enter an order, or record declaring the ordinance be printed and available for distribution to the public in the office of the county clerk.

Section 17: Duties of County Prosecutor- Penalties

(a) A PERSON who violates a provision of this mobile food vending ordinance shall be guilty of a misdemeanor.

Read, passed and truly agreed to by the Board of Trustees Taney County Health Department, Taney County, Missouri this 24th day of November, 2014.



Buddy Roberts, Chairperson-Board of Trustees

ATTEST:



Della Russell, Secretary/Treasurer-Taney County Health Department