

**ORDINANCE NO. 2019-03  
CITY OF FAYETTEVILLE, TENNESSEE**

**AN ORDINANCE OF THE CITY OF FAYETTEVILLE, TENNESSEE, AMENDING THE  
FAYETTEVILLE MUNICIPAL CODE TO PROVIDE FOR THE REGULATION OF  
MOBILE FOOD VENDORS**

**WHEREAS**, the number of mobile food vendors in the Middle Tennessee area has grown significantly in recent years, presenting both opportunities and challenges for local governments; and

**WHEREAS**, the Fayetteville Municipal Code does not currently address or otherwise regulate mobile food vending; and

**WHEREAS**, it is appropriate to establish reasonable regulations to govern mobile food vending in the City of Fayetteville, in an effort to provide reasonable opportunities for mobile food vendors to operate within the City; and

**WHEREAS**, the City further finds that such regulations are needed in order to protect the public health, safety and welfare.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY OF FAYETTEVILLE, TENNESSEE, AS FOLLOWS:**

**SECTION 1:** That Title 9 of the Code of Ordinances of the City of Fayetteville is hereby amended by adding a new article, to be designated as Chapter 12 and to read as follows:

**CHAPTER TWELVE  
MOBILE FOOD VENDORS**

**9-1201. – Purpose.** This article recognizes the unique physical and operational characteristics of mobile food vending and establishes standards for the typical range of activities and mitigates or prohibits practices that are contrary to the health, safety, and welfare of the public.

**9-1202. – Definitions.** The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in these sections, except where the context clearly indicates a different meaning:

- (1) “Canteen Trucks” is defined as vehicles that operate to provide food services to employees at a location where access to other good service is impractical (e.g., a construction site); for which the operator vends fruits, vegetables, pre-cooked foods such as hot dogs; pre-packaged foods, and pre-packaged drinks that require no preparation or assembly of foods or beverages except for the heating of pre-cooked foods; which operate at a single location for a period of no longer than 1.5 hours; and which do not advertise in any form to the general public except by virtue of signage on

the vehicle. Canteen Trucks that operate other than as defined herein are Food Trucks and must comply with all Food Truck regulations.

- (2) "Food Trucks" is defined as vehicles from which the operator cooks, prepares, or assembles food items (including products sold by Canteen Trucks and Ice Cream Trucks) with the intent to sell such items to the general public and which may market their products to the public via advertising, including social media.
- (3) "Ice Cream Trucks" is defined as vehicles from which the operator vends only pre-packaged frozen dairy or frozen water-based food products, soft serve, or hand-dipped frozen dairy products or frozen water-based food products, and pre-packaged beverages.
- (4) "Location" is defined as any single property parcel and all other parcels that is contiguous or cumulatively contiguous to that owned or controlled by a single or affiliated entities.
- (5) "Mobile Food Service Permit" is defined as a permit issued by the City for the operation of Food Trucks within the boundaries of the City.
- (6) "Mobile Food Service Vehicle" is defined as a Food Truck, a Canteen Truck, or an Ice Cream Truck and includes any other portable unit that is attached to a motorized vehicle and that is intended for use or in service to the operations of the Mobile Food Service Vehicle.
- (7) "Operate" is defined as to promote or sell food, beverages, and other permitted items from the Mobile Food Service Vehicle and includes all tenses of the work.
- (8) "Operator" is defined as any person owning, operating, or permitted to operate a Food Truck and collectively refers to all such persons.
- (9) "Vehicle" is defined as used in this article, means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

**9-1203. – Generally.**

- (a) *Permit Required.* It is a violation to operate a mobile food service vehicle at any location except in compliance with the requirements of this article.
- (b) *Compliance with Laws.* Mobile food service vehicle operators must comply with all federal, state and local licensing and permitting regulations and all business tax, sales tax and other tax requirements.

- (c) *Promulgation of Rules.* The City Administrator is hereby authorized to promulgate rules and regulations supplemental to the provisions herein for the purpose of carrying out the administration and enforcement of such provisions.

#### **9-1204. – Location.**

- (a) *Public property:* Food Trucks shall be prohibited from operating on City streets, sidewalks and parking areas unless given specific authority to do so through the issuance of a special event permit allowing such activities. Food Trucks may operate on other City property, including City parks.
- (b) *Private property:* Food trucks may operate on private property where there is a commercial, office, education, or industrial use. Unless the Food Truck operator is the owner of the property where the operation is being conducted, Food Truck operators selling to the public from private property shall have the written permission of the property owner, which shall be made available to the City immediately upon request.
- (c) *Maximum number of Food Trucks* – No more than three (3) mobile food trucks may operate at any location with coordinated advertising to the public unless a Special Event Permit has been secured.

#### **9-1205 – Operating Requirements.**

##### *(a) Vehicle requirements.*

- (1) *Design and construction.* Mobile food service vehicles must be specifically designed and constructed for the purpose of preparation and sale of the specific type of food being sold and may not operate in any manner that is not compatible with the purpose for which the vehicle has been designed and constructed.
- (2) *Licensing.* Mobile food service vehicles must be licensed and equipped in accordance with the rules and regulations of all local, state and federal agencies having jurisdiction over such vehicles. The preparation and sale of food from mobile food service vehicles must comply with all applicable local, state and federal laws and regulations.

##### *(b) Right-of-way.*

- (1) Mobile food service vehicles other than ice cream trucks may not operate, stop, stand or park in any area of the right-of-way that is intended for use by vehicular travel, except in the event of a street closure allowed by the issuance of a special event permit. Mobile food service vehicles, including ice cream trucks, may not operate, stop, stand or park that in any way violates the provisions of Title 15 (Motor Vehicles, Traffic and Parking) of this Code,



impedes the flow of traffic, interferes with ingress or egress to or from any property or presents an unsafe condition for patrons, pedestrians or other vehicles.

- (2) When a mobile food service vehicle is allowed to operate in the public right-of-way, no seating area shall be provided, except as permitted in conjunction with a street closure for a special event.

(c) *Business access.* No mobile food service vehicle may operate in a location that:

- (1) Impedes the ingress to or egress from another business or otherwise causes undue interference with access to another business;
- (2) Blocks the lawfully placed signage of another business; or
- (3) Prevents access to another business by emergency vehicles.

(d) *Pedestrians.* If on or adjacent to a sidewalk, the components of a mobile food service vehicle's operations, including signage, seating areas and patron queue may not reduce the clear pedestrian path of travel on the sidewalk to less than six feet. All awnings or canopies of the vehicle shall be at least six feet, eight inches above the sidewalk.

(e) *Distance between units.* A mobile food service vehicle may not operate within three (3) feet of any other mobile food service vehicle.

(f) *Safety and fire prevention.* All cooking, heating and electrical equipment and all cooking practices must comply with applicable safety regulations, including applicable fire and electrical codes and any other safety requirements imposed by the city's fire and rescue department. No cooking equipment other than a heating apparatus compliant with applicable safety regulations may be used in a canteen truck. No cooking or heating equipment may be used in an ice cream truck. All mobile food service vehicles must be equipped with fire extinguishers that are inspected annually and certified as meeting National Fire Protection Association standards. No power cord, cable or equipment shall be extended across any public street, sidewalk or other public property.

(g) *Noise.* No loud sounds may be produced by a mobile food service vehicle's operations.

(h) *Support methods.* No mobile food service vehicle may use stakes, rods or any other method of support that must be drilled, driven or otherwise fixed into or onto asphalt, pavement, curbs, sidewalks or buildings unless such activity is being conducted on property owned by the Food Truck operator.

(i) *Spills.* To prevent discharges into waterways, drainage systems or public sewer systems, each food truck shall comply with all storm water regulations of the city and all regulations regarding prohibited discharges to public sewers. In addition, each



vehicle shall have a spill response plan to contain and remediate any discharge from the vehicle.

- (j) *Waste collection.* The area of a mobile food service vehicle operation must be kept neat and orderly at all times. Operation of a mobile food service vehicle in an area is deemed acceptance by the operator of the responsibility for cleanliness of the area surrounding the operations (not less than 50 feet from all parts of the vehicle) regardless of the occurrence or source of any waste in the area. During each period of operation at a location, the operator must provide proper trash receptacles for public use that are sufficient and suitable to contain all trash generated by the mobile food service vehicle. All trash receptacles must be emptied when full, and all waste must be removed prior to departure of a mobile food service vehicle from a location.
- (k) *Pedestrian service only.* Mobile food service vehicles shall serve pedestrians only. Drive-through or drive-in service is prohibited.
- (l) *Signage.* Signage for Food Trucks being operated on property owned by the Food Truck operator must comply with the City's ordinance regulating commercial signage. Signage for each mobile food service vehicle operating on property not owned by the Food Truck operator shall be limited to signs on the exterior or interior of the vehicle and one sandwich board sign. All signs on the exterior of the vehicle shall be secured and shall not project more than six inches from the vehicle. One sandwich board sign may be placed outside the mobile food service vehicle, provided that the base of a sandwich board sign must be placed no further than two feet beyond the mobile food service vehicle. Sandwich board signs shall not exceed eight square feet per side or 48 inches in height and shall not obstruct or impede pedestrian or vehicular traffic.
- (m) *Alcohol sales.* Food trucks may not sell alcoholic beverages, except as may be specifically allowed by applicable state law and city ordinance. Canteen trucks and ice cream trucks are prohibited from selling alcoholic beverages.
- (n) *Insurance.* Mobile food service vehicles must maintain all motor vehicle insurance coverage required by applicable state and federal laws and regulations.
- (o) *Exterior cooking equipment.* Any food preparation equipment outside of the mobile food service vehicle shall not obstruct vehicular or pedestrian traffic, and the use and operation of such equipment shall not create safety hazards for the public. Food shall not be served to customers directly from any outside food preparation equipment. Any smoker or other exterior equipment that generates heat shall be surrounded with at least three traffic safety cones.

**Sec. 9-1206. - Mobile food vendor permits.**

(a) *Required.* The City Administrator shall oversee the issuance, suspension and revocation of mobile food vendor permits. No mobile food service vehicle may operate within the city without a mobile food vendor permit issued by the city. A mobile food vendor permit authorizes the holder only to engage in the vending of products from a mobile food service vehicle in compliance with this Code and as specified on the permit. The mobile food vendor permit must be prominently displayed when the mobile food service vehicle is in operation. This section shall not apply to contractual arrangements between a mobile food service vehicle operator and any individual, group or entity for pre-arranged catering at a specific location for a period of not more than four hours, provided that the mobile food service vehicle is not open to or serving the general public.

(b) *Application.*

(1) In order to obtain a mobile food vendor permit, a mobile food service vehicle operator must complete an application form provided by the city. The application shall include the following information:

- (a) Name and address of the owner of the vehicle.
- (b) Name and address of the operator of the vehicle.
- (c) Color photographs of the exterior (front, side, and back) of the vehicle in its final condition and with all markings under which it will operate.
- (d) A copy of the vehicle license and registration form reflecting the vehicle identification number (VIN) of the vehicle.
- (e) A copy of the state or county health department license or permit applicable to mobile food providers.
- (f) A copy of any alcoholic beverage licenses, if applicable.
- (g) A copy of the operator's business license.
- (h) A signed acknowledgement that the operator has read this article and will comply with all applicable requirements herein.
- (i) Any additional information required by the permit administrator.

(2) Submittal of an application for a mobile food vendor permit must be accompanied by payment of an application fee in the amount of \$100.00.

- (3) Each mobile food vendor permit holder shall have an ongoing duty to provide the city with notice of any change to any of the information submitted with its permit application, including current photographs of the mobile food service vehicle in the event of any change in the appearance of or signage on the vehicle.
- (c) *Issuance.* A mobile food vendor permit shall be issued upon verification that an application has been completed in accordance with the requirements of this section, except that no such permit will be issued to an operator whose permit is currently suspended or has been revoked within the preceding 12 months, or to any person who intends to operate the same mobile food service vehicle for which the operator's permit is currently suspended or has been revoked within the preceding 12 months. If the permit administrator denies the application, such denial shall be in writing and provided to the applicant within 15 days of receipt of the application.
- (d) *Expiration.* All mobile food vendor permits shall expire on December 31 of each year, or on such alternate date as may be set by the City Administrator. A mobile food vendor permit may be renewed for the next 12-month period, provided that all applicable requirements are met and the permit is not currently suspended or has not been revoked within the preceding 12 months. The fee for renewal shall be the same as the application fee for a new mobile food vendor permit.
- (e) *Transferability.* A mobile food vendor permit may not be transferred except as part of the sale of a controlling interest in a business holding the permit or a sale of substantially all of the assets of a business holding the permit. The operator of the mobile food service vehicle shall notify the city within ten days of any such sale and shall update any information that has been changed since the submittal of the application for the mobile food vendor permit.

**Sec. 9-1207. – Special Event Permits.**

- (a) *Applicability.* This section shall apply to all events conducted pursuant to the issuance of special event permit that involve the participation or presence of Food Trucks.
- (b) *Application.*
  - (1) Any person, organization or entity seeking to conduct an event to be held on public streets, sidewalks or parking areas, or an event necessitating the closure of public streets or sidewalks, shall be required to obtain a Special Event Permit from the City of Fayetteville in order to conduct such an event. Applicants for such events may obtain an application for such events at the Fayetteville Police Department. The Board of Mayor and Aldermen shall issue or deny such permits.
  - (2) Any person, organization or entity making application for a Special Event Permit shall disclose whether it seeks to be permitted to have Food Trucks



present and participating in the proposed event and, if so, the maximum number expected. If such application is granted, the organizer of such event shall be limited to having the maximum number of food trucks indicated in its application.

(c) *Financial guarantees.*

- (1) The City Administrator may establish requirements for the posting of a financial guarantee prior to issuance of a food truck rally special event permit to ensure that the premises will be cleared of all debris at the conclusion of the event and any damage to the public right-of-way resulting from the operation of food trucks during the event is repaired.
- (2) Any financial guarantee required shall be returned to the applicant only after all costs for removal of debris or repairs to public right-of-way damage have been deducted. In the event the financial guarantee is not sufficient to cover such costs, the entity or organization hosting the event shall be responsible for paying all remaining costs.

(d) *Conditions of approval.*

1. All special event permits involving the participation of food trucks shall be subject to the following conditions:
  - (a) All mobile food service vehicles participating in an event authorized by the issuance of a special event permit shall be exempt from the requirements of acquiring a mobile food vendor permit; however, the organizer of each event authorized by the issuance of a special event permit shall transmit to the City 25% of all fees collected from participating mobile food vendors.
  - (b) Hours of operation: Mobile Food Trucks, Canteen Trucks, and Ice Cream Trucks participating in events authorized by the issuance of special event permits may operate Saturday after 4:00 p.m. and before 10:00 p.m. and Sunday after 12:00 p.m. and before 6:00 p.m. in all areas unless extended days and hours of operation are approved by the Board of Mayor and Aldermen through the issuance of a special events permits with extended times of operation. Set up times are allowed one hour before operating time only.
  - (c) All lighting and electrical equipment brought to the site shall be subject to applicable permitting and inspection requirements, including payment of applicable fees.
  - (d) All tents, stages and other temporary facilities shall be subject to safety inspections by the City before use.

- (e) The location shall be cleared of all trash and debris at the conclusion of the event and cleared of all temporary structures and restored to its previous condition within 48 hours after the conclusion of the event.
  - (f) Traffic control and pedestrian safety in the vicinity of the event shall be the responsibility of the permittee of the event. The City may require that city forces be employed to assist with traffic control and pedestrian safety. Costs anticipated by the city for these services shall be estimated by the city and paid at least ten days in advance by the permittee as a condition of the permit. Following the event, any overpayment shall be refunded to the permittee, and any underpayment shall be billed to the permittee.
- (2) In order to protect the health, safety, and welfare of the general public, to mitigate the potential impacts of the special events involving the presence of food trucks, and to ensure compliance with applicable laws and regulations, the City may impose additional conditions and restrictions on the issuance of a special event permit involving the presence of food trucks. Such conditions and restrictions may relate to, but are not limited to, hours of operation, layout, parking and security.

**Sec. 9-1208. - Enforcement.**

(a) *Citation.* Each of the following circumstances constitute a violation of this article, for which a citation may be issued by a codes enforcement officer or police officer of the city:

- (1) Operation of a mobile food service vehicle without a current, valid permit, provided further that each day and each separate location at which a mobile food service vehicle is operated without a current, valid permit shall be considered a separate violation.
- (2) Continuation of temporary mobile food service vehicle operations beyond the time period authorized by staff.
- (3) Holding a special event without a permit or failing to comply with the conditions of approval for a special event permit.
- (4) Failure to comply with any other provision of this article.

(b) *Responsibility for violations.* The city codes enforcement officers and police officers may, at their discretion in consideration of the situation, cite any of the individuals or entities listed below for any violation of the provisions of this article:

- (1) The operator of a mobile food service vehicle.

- (2) An employee working at a mobile food service vehicle.
- (3) The owner of the property on which a mobile food service vehicle is operated.
- (4) The entity or organization hosting a special event, or the person in charge of the special event.

(c) *Suspension of permit.* A mobile food vendor permit shall be suspended by the City Administrator if:

- (1) The applicant for the permit knowingly provided false information on the application.
- (2) Two violations of this article have occurred within a six-month period in conjunction with the mobile food service vehicle for which the permit has been issued.
- (3) The operator of a mobile food service vehicle fails to maintain a current, valid vehicle registration, health department permit, business license or proof of required motor vehicle insurance coverage.

(d) *Revocation of permit.* A mobile food vendor permit shall be revoked by the City Administrator if:

- (1) Four violations of this article have occurred within a 12-month period.
- (2) A mobile food service vehicle is operated in an unlawful manner so as to constitute a breach of the peace or otherwise threaten the health, safety or general welfare of the public.

(e) *Reinstatement.*

- (1) *Suspended permit.* An operator may obtain reinstatement a suspended mobile food vendor permit by taking such actions as may be necessary to correct a mobile food service vehicle's noncompliance and paying a reinstatement fee of \$500 to offset the city's cost of enforcement measures, inspections and compliance verifications.
- (2) *Revoked permit.* An operator whose mobile food vendor permit has been revoked may apply for a new permit after 12 months from the date of revocation, provided the operator has taken such actions as may be necessary to correct a mobile food service vehicle's noncompliance. The operator shall pay a permit reinstatement fee of \$500 to offset the city's cost of enforcement measures, inspections and compliance verifications.



- (3) No permit will be issued to any person who intends to operate the same mobile food service vehicle for which the operator's permit is currently suspended or has been revoked within the preceding 12 months.
- (f) *Notice.* Notice of the suspension or revocation of a mobile food vendor permit shall be issued to the operator in writing by the City Administrator.

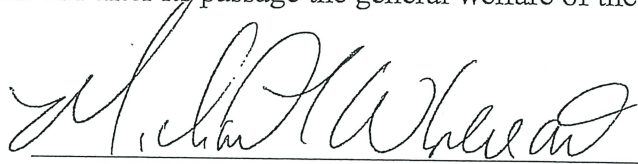
**Sec. 9-1209. - Appeals.**

- (a) *Filing.* The denial, suspension or revocation of a mobile food vendor permit or the denial of a food truck rally permit may be appealed by filing a written notice of appeal, establishing the grounds for the appeal, with the City Administrator no later than ten business days following receipt of the notice of denial, suspension or revocation.
- (b) *City Administrator's review.* When an appeal is filed as set forth herein, the City Administrator may request such additional information from the operator as may be deemed necessary. At the City Administrator's discretion, the appeal may be decided based on the written information and documentation submitted, or a hearing may be scheduled with the operator. The City Administrator's decision shall be issued in writing, based on a written summation of the pertinent facts, and shall be final. The City Administrator may reverse the denial, suspension or revocation of a permit, or may reduce the waiting period required for reinstatement of a revoked permit if it is determined that the operator has taken reasonable steps to mitigate the violations leading to the revocation and to prevent future violations.
- (c) *Refunds.* There shall be no refund of an application fee for a mobile food vendor permit or special event permit that has been denied. There shall be no refund of a reinstatement fee for a suspended or revoked permit unless the City Administrator determines on appeal that suspension or revocation of the permit was in error.

**Sec. 9-1210. - Conflicts.**

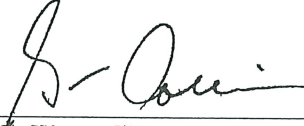
- (a) In case of conflict between this ordinance or any part hereof, and the whole or part of any existing ordinance of the City, the provision that establishes the higher standard shall prevail.
- (b) If any section, subsection, clause, provision or portion of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, subsection, clause, provision or portion of this ordinance.

This ordinance shall take effect fifteen days from and after its passage the general welfare of the City of Fayetteville, Tennessee, requiring it.

A handwritten signature in cursive script, appearing to read "Michael Whisenant", written over a horizontal line.

**MAYOR MICHAEL WHISENANT**

**ATTEST:**

A handwritten signature in cursive script, appearing to read "Scott Collins", written over a horizontal line.

**Scott Collins, City Clerk**