

ORDINANCE NO. 2016-__

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING SECTION 153.105 OUTDOOR FOOD VENDORS OF CHAPTER 153: ZONING REGULATIONS OF THE TONTITOWN MUNICIPAL CODE IN ITS ENTIRETY OF THE CITY OF TONTITOWN AND DELCARING AN EMERGENCY

WHEREAS, the City Council of Tontitown has adopted Section 153.105 OUTDOOR FOOD VENDORS of Chapter 153: ZONING REGULATIONS et seq., as amended in its entirety; and

WHEREAS, on or about July 3, 2012, the City Council of Tontitown adopted Ordinance No. 2012-07-393 to provide for regulations for outdoor food vendors within the city and said Ordinance No. 2012-07-393, as it has been amended from time to time and as was thereafter codified within Chapter 153: ZONING REGULATIONS in the Tontitown Municipal Code; and

WHEREAS, the Tontitown Planning Commission has reviewed the revisions of Section 153.105 OUTDOOR FOOD VENDORS and recommends to the City Council that these revisions be approved; and

WHEREAS, the City Council of the City of Tontitown now finds it to be in the best interest of the citizens of the City of Tontitown to amend Section 153.105 OUTDOOR FOOD VENDORS of the Tontitown Municipal Code to better provide for regulations for outdoor food vendors; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Section 153.105 OUTDOOR FOOD VENDORS of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code should be revised and restated in its entirety as incorporate herein below.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the City Council of the City of Tontitown, as follows:

Section 1. Section 153.105 OUTDOOR FOOD VENDORS of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code is hereby revised, in its entirety, and as attached hereto as Exhibit "A".

Section 2. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided to be invalid or unconstitutional, and the remaining provisions of this Ordinance shall be construed as if such invalid, unenforceable or unconstitutional provision or provisions had never been contained herein.

Section 3. Declaration of Emergency. It is hereby found and determined that Section 153.105 OUTDOOR FOOD VENDORS of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code should be immediately amended in its entirety in order to provide regulations for outdoor food vendors within the City of Tontitown. Therefore, an emergency is declared to exist, and this act, being immediately necessary for the preservation and protection of the public peace, health, safety and welfare of the City and its citizens, shall become effective on the date of its passage and approval by the Mayor. If the Ordinance is neither approved nor vetoed by the Mayor, it shall become effective on the expiration of the period of time during which the Mayor may veto this Ordinance. If the Ordinance is vetoed by the Mayor and the veto is overridden by the City Council, it shall become effective on the date the City Council overrides the veto.

PASSED AND APPROVED this _____ day of _____, 2016.

Paul Colvin, Jr., Mayor

ATTEST:

Rhonda Ardemagni, City Recorder-Treasurer

§ 153.105 OUTDOOR FOOD VENDORS.

(A) Purpose

1. The purpose of this ordinance is to differentiate between temporary and/or mobile vendors of edibles and non-edibles. To attempt to ensure public health, safety, order and general welfare of the residents and visitors to Tontitown, Arkansas, a uniform set of rules and regulations pertaining to non-permanent retailers is required.
2. Tontitown will issue Outdoor Food Vendor permits ONLY to business locations with an established business at that location, and a valid City of Tontitown business License.
3. The City will have no more than six (6) Outdoor Food Vendor permits issued at any one time, with a limit of one (1) permit issued per business location and/or business license.
4. As of the date of the passing of this Ordinance, no temporary permits for non-edible merchandise will be issued.

(B) Definitions Edible goods shall include, but are not limited to:

1. Prepackaged food including, but not limited to popcorn, snacks, candy, beverages and ice cream.
2. Prepared food including, but not limited to hot dogs, hamburgers and other entrees, side items, desserts, or appetizers.
3. On-site prepared food.
4. Locally grown.
5. Consumable.

(C) Application for Required Permit

1. Prior to placement, each business location with an established business at that location, must obtain an Outdoor Food Vendor Permit from the city. Also the business owner is required to supply the City with a completed Outdoor Food Vendor Information sheet for each vendor allowed at their business location:

(D) Permit Fee

1. Outdoor Food Vendor of Edible Items Permit Fees
 - (a) \$300.00 annual fee, from July 1st thru June 30th.
 - (b) Tontitown will issue Outdoor Food Vendor permits ONLY to business locations with an established business at that location, and a valid City of Tontitown business License.
 - (c) Maximum of 2 vendors operating on site, at any one time, per day, per business location.

(E) Exemptions

1. This ordinance does not apply to:
 - (a) Goods, wares, or merchandise temporarily deposited on the sidewalk in the

- ordinary course of delivery, shipment or transfer
- (b) The placing and maintenance of unattended stands or sales devices for the sale, display or offering for sale of newspapers, magazines, periodicals and paperbound books
- (c) Outdoor or “sidewalk sales” as part of a full-time commercial retail tenant’s seasonal promotional activity lasting no more than three consecutive days, with a maximum of 3 times per year, per location.
- (d) Local resident’s temporary produce stands selling personally grown fruit, vegetables, farm products or provisions provided the owner of the location has granted permission.
- (e) Merchants participating in outdoor markets or special events organized or administered by the city or the Grape Festival. Such merchants/vendors shall be approved by the city or the organizing or administering agency. Any and all merchants/vendors must be located by the area designated by the organizing or administering agency. Special city events such as but not limited to the Tontitown Grape Festival.
- (f) Vendors associated with public auction events.

2. Claims of Exemption

Any person claiming to be legally exempt from the regulations set forth herein, or from the payment of a permit fee, shall cite to the Planning Board the statutes or other legal authority under which exemption is claimed and shall present proof of qualification of such exemption.

(F) Permit Revocation

- (1) No refunds will be provided for any revocation or suspension of Outdoor Food Vendor Permit.
- (2) Persons who knowingly or intentionally violating any portion of these ordinances is subject to a fine and potentially attorney fees

(G) Appeal of permit denial, revocation, suspension

- (1) Permit holder will not be eligible to reapply for an Outdoor Vendor permit for at least one year after permit revocation
- (2) Any permit denial, revocation or suspension challenged by the operator will be in writing to the Tontitown City Council
- (3) All decisions regarding denial, revocation or suspension shall be reviewed and decided upon by the City Council within 90 days of receiving written challenge from the operator.

Location – See application for regulation requirements.

Rules of Operation: See application for regulation requirements.