

Revisions to 153.105 Outdoor Vendors

(A) Purpose Replaces current (A) Purpose and Intent

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.

(B) Definitions replaces current (B) Permit Required

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

- a. Prepackaged food including, but not limited to popcorn, snacks, candy, beverages and ice cream
- b. Prepared food including, but not limited to hot dogs, hamburgers and other sandwiches, side items, desserts, or appetizers.
- c. On-site prepared food
- d. Locally grown

(2) Non-edible goods shall include, but are not limited to:

- a. General merchandise
- b. Apparel
- c. Jewelry
- d. Fireworks
- e. All other non-edible merchandise, manufactured or handmade

(C) Application for Required Permit (replaces current C – Exemptions)

(1) Prior to placement, each outdoor vendor must complete an application with the Building Department

- a. Application must state the owners name, address, insurance coverage, operator's name (whether same or different from owner) address and financially responsible party in case of public safety or health violation.
- b. Application must state Tax ID number and identify other sales tax collection compliance methods
- c. Application must be submitted with letters of endorsement from property owners, neighboring property owners and proximate property owners who may be adversely impacted by potential ingress and egress of traffic or parking flow
- d. Application may contain other information as determined by the Tontitown City Council and may change according to state law.
- e. Surety Bond (need to check with City Attorney)
- f. The Current application will be available at the City offices.
- g. Permits for Edible retail sales will include Board of Health requirements
 - i. If a governmental agency, such as Washington County or the State of Arkansas Health Department has additional requirements for temporary, mobile or concession cart vendors, all required documents must be coordinated with Tontitown officials.

- ii. Upon request, operators of outdoor vending, approved under this ordinance, will provide proof of license, insurance, health requirements and any other documentation requested (such as proof of identification) or risk revocation of the permit
- (2) Permit applications will be reviewed, rejected or accepted by the Planning Board, during regularly scheduled meetings.
 - a. The Planning Board will review the proposed application to ensure the proposed location qualifies for an outdoor vendor permit
 - b. Review will also include completion of other application sections
 - c. The intent of the planning board review is to stay current with request types, trends and public opinion in an effort to keep these rules relevant.
 - d. Permit applications may be denied where:
 - i. An applicant is found to have outstanding civil judgments against him or the business
 - ii. An applicant has been convicted of a crime which directly relates to the duties and responsibilities of the requested outdoor vendor operation
 - iii. The application is incomplete or inaccurate
 - iv. The applicant has been previously issued a permit which was revoked

(D) Permit Fee

- (1) From time to time, Tontitown City Council will review the approved permit fee structure and may determine changes are required for the good community. The intent is to recruit and retain full time retail establishments within the City of Tontitown yet welcome start-up and smaller retailers who may eventually require full time, permanent commercial real estate locations.
- (2) Vendor of Non-Edible items Permit Fees
 - a. Less than 15 consecutive days requires a one-time \$500 permit fee valid for 1 to 14 days at one location. Additional units or additional locations requires separate permits.
 - b. Fifteen to 31 consecutive days requires an additional \$900 permit fee valid for 15 to 31 days at one location. Additional units or additional locations requires separate permits.
 - c. You may not be granted a permit for one location, then move to a different location within the approved time without paying for a separate permit, unless a catastrophic event has occurred at the first location making it necessary to relocate (such as flood, power outage, fire or other disaster)
- (3) Vendor of Edible Items Permit Fees
 - a. Less than 31 consecutive days requires a \$1200 permit fee per unit per location
 - b. More than 31 but less than 181 consecutive days requires a \$3000 permit fee per unit per location

- c. No Edible Item Permit will be extended beyond 181 days without review by Tontitown's City Council, Building department and/or Planning board.

(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.
- (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) Special city events such as but not limited to the Tontitown Grape Festival

(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 <building official?> the statutes or other legal authority under which exemption is claimed and shall present proof of qualification of such exemption.

(xx) Location (Replaces current D Private Property)

- (1) Outdoor Vendors, regardless of Edible or Non-Edible application, shall be permitted in Zoning locations identified as Commercial or Industrial. No Outdoor Vendors are permitted in any Residential Zoning locations.
- (2) No more than 900 square feet (width * length * height) of any commercial or industrial zoned lot can contain a permitted Outdoor Vendor
- (3) No Outdoor Vendor parks are permitted or allowed
- (4) No vendor shall be permitted to operate:
 - a. Within 10 feet of any street intersection, pedestrian crosswalk, driveway, loading zone, building entrance, disability parking or access space
 - b. Within 50 feet of any fire hydrant or fire escape, police or fire station
 - c. Within 50 feet of an established retail real estate "brick and mortar" location – intent is to prevent interference with property owners with permanent structures
 - d. On a median or any other portion of the street which may hinder, block or disrupt the normal flow of vehicular traffic

(xx) Rules of Operation

- (1) Outdoor Vendors may not operate between 11:00pm and 07:00am
- (2) Noise, Music or other sound-mechanisms are prohibited as these may cause interference with surrounding tenants, traffic or potentially cause safety issues

- (3) Vendors shall keep all space adjacent to their location clean and free of paper, trash, refuse of any kind generated from the operation and will continually collect and deposit into a trash container
- (4) All trash containers are to be serviced regularly to prevent potential safety or health issues.
- (5) A tagged fire extinguisher shall be kept accessible as directed by the Tontitown fire department
- (6) Any obstruction of pedestrian or vehicular traffic may lead to revocation of permit
- (7) Vendor will adhere to any local sign ordinances

(xx) Permit Revocation

- (1) Permits obtained under this ordinance shall be both non-assignable and nontransferable
- (2) Permits obtained under this ordinance shall be revoked upon conviction of any offense committed by an individual operating as an Outdoor Vendor while engaged in the permitted business, or if a final conviction occurs or is found to have existed at the time of application, or if civil judgments, as set forth are placed or found of record against an applicant.
- (3) A permit may be suspended in the event of pending charges of a crime, upon a determination of probable cause or at the request of a majority of City Council members based upon numerous citizen complaints
- (4) A permit may be suspended or revoked for not complying with the requirements of this sections, or any other ordinances or laws.
- (5) No refunds will be provided for any of the above reasons of revocation or suspension
- (6) Persons who knowingly or intentionally violating any portion of these ordinances is subject to a fine and potentially attorney fees
 - a. First warning will be a verbal request for operator to comply with ordinance
 - b. Second warning will be a written letter requesting operator comply with ordinance
 - c. Third warning, regardless of whether or not the offense is similar or different from First and Second warning(s), will be revocation of permit
 - d. If operator doesn't comply with revocation order, materials will be confiscated by Tontitown police department and retained until an arbitrator has reached an agreement between the operator and the City.

(xx) 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.