

Changes to Chapter 153.168 OUTDOOR FOOD VENDORS.

Current Code:

153.168 OUTDOOR FOOD VENDORS.

(A) *Purpose.*

(1) The purpose of this section 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 the city, a uniform set of rules and regulations pertaining to non-permanent retailers is required.

(2) The city will issue outdoor food vendor permits only to business locations with an established business at that location, and a valid city business license.

(3) The city will have no more than six outdoor food vendor permits issued at any one time, with a limit of one permit issued per business location and/or business license.

(4) As of the date of the passing of this section, no temporary permits for non-edible merchandise will be issued.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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 entrees, side items, desserts, or appetizers;

(c) On-site prepared food;

(d) Locally grown; and

(e) Consumable.

(C) *Application for required permit.* 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.* Outdoor food vendor of edible items permit fees:

(1) Three hundred dollars annual fee, from July 1st through June 30th.

(2) The town will issue outdoor food vendor permits only to business locations with an established business at that location, and a valid city business license.

(3) Maximum of two vendors operating on site, at any one time, per day, per business location.

(E) *Exemptions.*

(1) This section 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 three 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; or

(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 this section 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.

(Ord. 2017-05-635, passed 5-2-17)

Proposed Code (Draft 1-what we need to do if we make no other changes-legal changes):

153.168 OUTDOOR FOOD VENDORS.

(A) *Purpose.*

(1) The purpose of this section ~~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 the city through a uniform set of rules and regulations pertaining to ~~non-permanent retailers is required~~ temporary and/or mobile outdoor food vendors

(2) The city will issue outdoor food vendor permits only to properly zoned business locations with an established business at that location along with, and a validly issued and current city 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~~ two (2) permit issued per business location and/or business license.

(4) As of the date of the passing of this section, no temporary permits for non-edible merchandise will be issued.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

City. Shall mean the City of Tontitown.

EDIBLE GOODS. Shall include, but are not limited to consumable:

(a) pPrepackaged food including, but not limited to popcorn, snacks, candy, beverages and ice cream;

(b) pPrepared food including, but not limited to hot dogs, hamburgers and other entrees, side items, desserts, or appetizers;

(c) oOn-site prepared food, or

(d) lLocally grown produce; ~~and~~

~~(e) Consumable.~~

(C) *Application for required permit.* Prior to placement, each business location with an established business at that location, must obtain an outdoor food vendor permit from the city. ~~Also t~~The business owner or applicant is required to supply the city with a completed outdoor food vendor ~~information sheet~~ application for ~~each~~ the proposed outdoor food vendor allowed at their business location. The business owner and outdoor food vendor applicant shall be required to comply with all applicable state and local regulations. The application shall include:

(1) The name, address, contact information of both the property owners and the outdoor food vendor requesting to locate on the property;

(2) A valid copy of all required state and county health authority permits, which permits shall be conspicuously displayed by the outdoor food vendor at all times;

(3) A description of the location of the proposed outdoor food vendor; and

(4) Written authorization from the property owner or legal representative or agent.

(D) *Permit fee.* Outdoor food vendor of edible items permit fees:

(1) There shall be a non-transferable ~~Three hundred dollars~~ annual fee of Three Hundred and No/100 Dollars (\$300.00) which shall run, from July 1st through June 30th of the following year.

(2) The ~~town City will~~ shall issue outdoor food vendor permits only to business locations that are properly zoned with an established business at that location along with and a validly issued and current city business license;

(3) Maximum of two (2) outdoor food vendors operating on site, at any one time, per day, per permitted business location.

(E) *Exemptions.*

(1) This section ~~does~~ shall not apply to:

(a) gGoods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment or transfer;

(b) ~~t~~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) oOutdoor or "sidewalk sales" as part of a full-time commercial retail tenant's seasonal promotional activity lasting no more than three (3) consecutive days, with a maximum of three (3) times per year, per location;

(d) lLocal resident's temporary produce stands selling personally grown fruit, vegetables, farm products or provisions provided the owner of the location has granted permission;

(e) mMerchants participating in outdoor markets or special events organized ~~or~~ administered or approved by the city, including but not limited to ~~or~~ the Tontitown Grape Festival and other approved and organized public activities such as planned activities in the city park. Such merchants/vendors must have received prior approval shall be approved by the city or the organizing or administering agency, and 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;~~ or

(f) vVendors 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 provide 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) Any pPersons who ~~knowingly or intentionally~~ violatinges any portion of this section may be is subject to, in addition to a permit revocation, a maximum fine and penalty as set forth in the general penalty clause of the Tontitown Municipal Code as may now or hereafter be enacted by the City Council ~~potentially attorney fees.~~

(G) *Appeal of permit denial, revocation, suspension.*

(1) Following a permit revocation, an outdoor vendor pPermit holder ~~shall~~ will not be eligible to reapply for an outdoor vendor permit for at least one (1) year from the after ~~permit~~ revocation.

(2) Any applicant (including the property owner associated with an applicant) aggrieved from any determination made by an official charged with the administration of this section, including but not limited to the granting of an annual permit, a permit denial, or a revocation of a permit shall be in writing and filed with the City Clerk or Recorder within ten (10) days of the date of the determination being appealed. The city administration shall promptly fix a time and place for a hearing of the appeal, and the city shall mail notice of the hearing to the applicant or property owner at the address provided to the city in the application. ~~or suspension challenged by the operator will be in writing to the Tontitown City Council.~~

(3) All decisions regarding the appeal of a determination ~~denial, revocation or suspension~~ shall be reviewed and decided upon by the City Council within 90 days of receiving written appeal and the determination of the City Council shall be final. ~~challenge from the operator.~~

(Ord. 2017-05-635, passed 5-2-17)

DRAFT

Proposed Code (Expanding the code to address other types of mobile uses and expand food vendors/courts):

153.168 OUTDOOR FOOD MOBILE VENDORS.

(A) *Purpose.*

(1) The purpose of this section ~~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 the city through a uniform set of rules and regulations pertaining to ~~non-permanent retailers is required~~ seasonal outdoor vendors, and temporary and/or mobile outdoor food vendors (accessory to primary business use)

(2) The city will issue outdoor food vendor permits as an accessory use, only to properly zoned business locations with an established business at that location along with, and a validly issued and current city 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~~ two (2) permit issued per business location and/or business license.

(4) A Mobile Food Vendor Court may be established on property that is properly zoned (allowed as a Conditional Use Permit on properties that are zoned for General Commercial, C2), and has received Large-Scale Development approval from the City. A Mobile Food Vendor Court shall not detract from the number of outdoor food vendor permits allowed within the City.

~~—(4) As of the date of the passing of this section, no temporary permits for non-edible merchandise will be issued.~~

(5) The city will issue seasonal outdoor vendor permits only to properly zoned locations.

(6) The city will issue no more than six (6) seasonal outdoor permits at any one time. The seasonal outdoor permit shall be for the site.

(7) Each seasonal outdoor permit site shall be allowed to have three (3) seasonal vendors per year. Each vendor may occupy the site for no more than 21 consecutive days. The three (3) seasonal vendors operations shall be separated by at least 30 days between uses.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

City. Shall mean the City of Tontitown.

EDIBLE GOODS. Shall include, but are not limited to consumable:

(a) p~~P~~repackaged food including, but not limited to popcorn, snacks, candy, beverages and ice cream;

(b) p~~P~~repared food including, but not limited to hot dogs, hamburgers and other entrees, side items, desserts, or appetizers;

(c) o~~O~~n-site prepared food, or

(d) l~~L~~ocally grown produce; ~~and~~

~~—(e) Consumable.~~

Seasonal Outdoor Vendor. Shall include, but are not limited to:

- a) seasonally grown goods such as flowers, plants, trees, and pumpkins;
- b) seasonal decorations such as wreaths, crafts, holiday decorations; or
- c) seasonally grown produce
- d) Seasonal Outdoor Vendors shall NOT include
 - i. Items unrelated to the current or upcoming season.
- e) It shall be at the administrator's discretion to determine if a requested vendor is "seasonal".

Mobile Food Vendor Court. Shall function as a single business and shall be authorized to provide, tables, play areas, a permanent structure, and other outdoor entertainment open to all customers of all vendors. This definition shall not be interpreted to include accessory "outdoor food vendor permits" that are issued as an accessory use to existing business locations. Retail sale of non-food items not associated with the food or beverage operation is not permitted. A Mobile Food Vendor Court may be established if:

- a) the property is zoned for General Commercial, C2
- b) the owner of the property, or their representative receives a Conditional Use Permit and a Large-Scale Development permit;
- c) the individual food vendors shall be required to submit completed outdoor food vendor application to the City prior to occupying a space within the Mobile Food Vendor Court.

(C) *Application for required permit-outdoor food vendor.* Prior to placement, each business location with an established business at that location, must obtain an outdoor food vendor permit from the city. ~~Also t~~The business owner or applicant is required to supply the city with a completed outdoor food vendor ~~information sheet~~ application for ~~each~~ the proposed outdoor food vendor allowed at their business location. The business owner and outdoor food vendor applicant shall be required to comply with all applicable state and local regulations. The application shall include:

- (1) The name, address, contact information of both the property owners and the outdoor food vendor requesting to locate on the property;
- (2) A valid copy of all required state and county health authority permits, which permits shall be conspicuously displayed by the outdoor food vendor at all times;
- (3) A description of the location of the proposed outdoor food vendor; and
- (4) Written authorization from the property owner or legal representative or agent.

(D) *Application for required permit-seasonal outdoor vendor.* Prior to operation, the property owner or their agent must obtain a Seasonal Outdoor Vendor permit from the city.

(1) The property owner or their agent, or the applicant for the seasonal outdoor vendor use is required to supply the city with a completed seasonal outdoor vendor application for the proposed seasonal outdoor vendor allowed on the property. The

business owner and seasonal outdoor vendor applicant shall be required to comply with all applicable state and local regulations. The application shall include:

(1) The name, address, contact information of both the property owners and the seasonal outdoor vendor requesting to locate on the property;

(2) A valid copy of all required state and county health authority permits, which permits shall be conspicuously displayed by the seasonal outdoor vendor at all times;

(3) A description of the location of the proposed seasonal outdoor vendor; and

(4) Written authorization from the property owner or legal representative or agent.

(E) Permit fee. Outdoor food vendor of edible items permit fees:

(1) There shall be a non-transferable ~~Three hundred dollars~~ annual fee of Three Hundred and No/100 Dollars (\$300.00) which shall run, from July 1st through June 30th of the following year.

(a) The ~~town~~ City will shall issue outdoor food vendor permits only to business locations that are properly zoned with an established business at that location along with ~~and~~ a validly issued and current city business license;

(b) Maximum of two (2) outdoor food vendors operating on site, at any one time, per day, per permitted business location.

(F) Permit fee. Seasonal Outdoor Vendor:

(1) There shall be a non-transferable, one time, Fifty dollars fee of Fifty and No/100 Dollars (\$50.00) per seasonal outdoor use event.

(a) The city will issue seasonal outdoor vendor permits only to properly zoned locations.

(b) The city will issue no more than six (6) seasonal outdoor permits at any one time. The seasonal outdoor permit shall be for the site.

(c) Each seasonal outdoor permit site shall be allowed to have three (3) seasonal vendors per year. Each vendor may occupy the site for no more than 21 consecutive days. The three (3) seasonal vendors operations shall be separated by at least 30 days between uses.

(E) Exemptions.

(1) This section ~~does~~ shall not apply to:

(a) gGoods, wares, or merchandise temporarily deposited on the sidewalk in the ordinary course of delivery, shipment or transfer;

(b) tThe 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) oOutdoor or "sidewalk sales" as part of a full-time commercial retail tenant's seasonal promotional activity lasting no more than three (3) consecutive days, with a maximum of three (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 or approved by the city, including but not limited to ~~or~~ the Tontitown Grape Festival and other approved and organized public activities such as planned activities in the city park. Such merchants/vendors must have received prior approval ~~shall be approved~~ by the city or the organizing or administering agency, and ~~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) ~~v~~ Vendors associated with public auction events.

(g) fireworks sales.

(h) children's lemonade stands.

(i) temporary sales for non-profit entities that operate for less than fourteen (14) consecutive days., or

(j) non-profit organizations that prepare and donate or give away food for free.

(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 provide 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) ~~Any p~~ Persons who ~~knowingly or intentionally~~ violatinges any portion of this section ~~may be~~ is subject to, in addition to a permit revocation, a maximum fine and penalty as set forth in the general penalty clause of the Tontitown Municipal Code as may now or hereafter be enacted by the City Council ~~potentially attorney fees.~~

(G) *Appeal of permit denial, revocation, suspension.*

(1) Following a permit revocation, an outdoor vendor p Permit holder ~~shall~~ will not be eligible to reapply for an outdoor vendor permit for at least one (1) year from the ~~after~~ ~~permit~~ revocation.

(2) Any applicant (including the property owner associated with an applicant) aggrieved from any determination made by an official charged with the administration of this section, including but not limited to the granting of an annual permit, a permit denial, or a revocation of a permit shall be in writing and filed with the City Clerk or Recorder within ten (10) days of the date of the determination being appealed. The city administration shall promptly fix a time and place for a hearing of the appeal, and the city shall mail notice of the hearing to the applicant or property owner at the address provided to the city in the application. ~~or suspension challenged by the operator will be in writing to the Tontitown City Council.~~

(3) All decisions regarding the appeal of a determination ~~denial, revocation or suspension~~ shall be reviewed and decided upon by the City Council within 90 days of receiving written appeal and the determination of the City Council shall be final. ~~challenge from the operator.~~

(Ord. 2017-05-635, passed 5-2-17)