

ORDINANCE NO. 2019-09-860

CITY OF TONTITOWN, WASHINGTON COUNTY, ARKANSAS

AN ORDINANCE AMENDING SECTION 153.168 OUTDOOR FOOD VENDORS OF CHAPTER 153: ZONING REGULATIONS OF THE TONTITOWN MUNICIPAL CODE OF THE CITY OF TONTITOWN AND DECLARING AN EMERGENCY

WHEREAS, on or about May 2, 2017, the City Council of Tontitown adopted Ordinance No. 2017-05-635 to zoning regulations within the city and said Ordinance No. 2017-05-635 was thereafter codified within in Chapter 153: ZONING REGULATIONS in the Tontitown Municipal Code; 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 153.168 OUTDOOR FOOD VENDORS of the Tontitown Municipal Code; and

WHEREAS, the Tontitown Planning Commission has reviewed the revisions of Section 153.168 OUTDOOR FOOD VENDORS of Chapter 153: ZONING REGULATIONS and recommends to the City Council that these revisions be approved; and

WHEREAS, having fully reviewed the proposed amendment, the Tontitown City Council has determined that Section 153.168 OUTDOOR FOOD VENDORS of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code should be revised as incorporated herein below.

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

Section 1. Section 153.168 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".

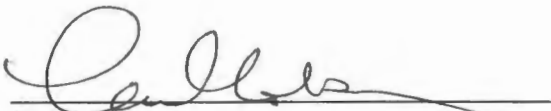
Section 2. In the event that any section, paragraph, subdivision, clause, phrase, or other provision or portion of this Ordinance shall be adjudged invalid or unconstitutional, the same shall not affect the validity of this Ordinance as a whole, or any part or provision, other than the part so decided 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 153.168 OUTDOOR FOOD VENDORS of Chapter 153: ZONING REGULATIONS, of the Tontitown Municipal Code should be immediately amended in order to clarify and amend zoning 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 3rd day of September, 2019.

APPROVED:


Paul Colvin, Jr., Mayor

ATTEST:


Rhonda Ardemagni, City Recorder-Treasurer
(SEAL)

153.168 OUTDOOR FOOD VENDORS.

(A) *Purpose.*

(1) The purpose of this section 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 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 (1) permit issued per business location and/or business license.

(4) One permit allows for two (2) vendors at one time. The permit holder may rotate vendors as they wish, so long as only two (2) vendors are on the site at a time.

(5) 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) 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, or

(d) locally grown produce;

(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. The business owner or applicant is required to supply the city with a completed outdoor food vendor application for 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 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 City shall issue outdoor food vendor permits only to business locations that are properly zoned with an established business at that location along with 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 shall 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 (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 administered or approved by the city, including but not limited to 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 by the city or the organizing or administering agency, and must be located by the area designated by the organizing or administering agency; 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 provide 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 person who violates any portion of this section may be 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.

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

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

(3) All decisions regarding the appeal of a determination shall be reviewed and decided upon by the City Council within ninety (90) days of receiving written appeal and the determination of the City Council shall be final.

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