

## ORDINANCE 21-007

### AN ORDINANCE TO AMEND TITLE 9 BUSINESS PEDDLERS, SOLICITORS, ETC. ADDING CHAPTER 2 - MOBILE FOOD VENDING.

WHEREAS, the food truck industry is a growing and vital economic generator and there is increased popularity of food trucks in the Town of Kingston Springs; and

WHEREAS, the Town of Kingston Springs desires to promote economic development through the encouragement of vibrant entertainment alternatives, including accommodating the popularity and growth of the food truck industry.

NOW, THEREFORE, BE IT ORDAINED, AND IT IS HEREBY ORDAINED, by the Board of Commissioners of the Town of Kingston Springs, Tennessee, that:

1. A new chapter of Title 9 of the Municipal Code is added as follows:

#### CHAPTER 2

#### MOBILE FOOD VENDING

##### SECTION

9-201. Purpose.

9-202. Definitions.

9-203. Generally.

9-204. Locations and Hours of Operation.

9-205. Operating Requirements.

9-206. Mobile Food Service Permits.

9-207. Food Truck Rallies.

##### 9-201. 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.

##### 9-202. DEFINITIONS.

- (1) Food Trucks are vehicles from which the operator cooks, prepares, or assembles food items 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.
- (2) Food Truck Rallies are coordinated and advertised gatherings of more than four (4) Food Trucks in one location on a date certain with the intent to serve the public.
- (3) Ice Cream Trucks are 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 products, and pre-packaged beverages.
- (4) Location means 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 means a permit issued by the Town for the operation of Food Trucks, special events, Town co-sponsored events, or an approved Food Truck Rally as specified in this Chapter.
- (6) Mobile Food Service Vehicle means 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* means to promote or sell food, beverages, and other permitted items from the Mobile Food Service Vehicle and includes all tenses of the word.
- (8) *Operator* means any person owning, operating, or permitted to operate a Food Truck and collectively refers to all such persons.
- (9) *Vehicle*, 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.

**9-203. GENERALLY.**

- (A) It is a violation to operate a Mobile Food Service Vehicle at any location except in compliance with the requirements of this article.
- (B) Mobile Food Service Vehicle operators must comply with all state and local business license and tax regulations.

**9-204. LOCATIONS AND HOURS OF OPERATIONS**

(A) *Food Trucks.*

- (1) *Public Property.* Food Trucks may operate on Town property, including Town parks, only at times and locations listed on the Town's website as public property upon which Food Trucks can operate.
- (2) *Private Property.* Food Trucks may operate on private property where there is a commercial, office, educational, church, or industrial use subject to the following conditions:
  - (a) *Permission.* Food Trucks selling to the public from private property shall have the written permission of the property owner, which shall be made available to the Town immediately upon request.
  - (b) *Frequency.* Food Trucks may operate no more than four (4) days per calendar week at a location on privately owned property.
  - (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.
  - (d) *Existing Parking Spaces.* Mobile food trucks may not require the use of more than twenty-five percent (25%) of existing parking spaces located on the property for which it has an agreement to operate.
- (3) *Restroom Facility.* Food Trucks operating at a location for a duration of more than three (3) hours must have a written agreement, available upon request by the Town, that permits employees to have access to a flushable restroom no more than 450 feet of the vending location during all hours of operation.

(B) *Ice Cream Trucks*

(1) *Locations.*

- (a) *Private Property.* An Ice Cream Truck may operate on private property with written permission of the property owner, which will be immediately available to the Town upon request. An Ice Cream Truck may not require use of more than twenty-five percent (25%) of existing parking spaces. No Ice Cream Truck may operate on the same or adjoining private property more than two (2) days per week.
  - (b) *Food Truck Rallies.* An Ice Cream Truck may operate at a Food Truck Rally only after complying with all requirements applicable to a Food Truck.
  - (c) An Ice Cream Truck may also be mobile on public streets and stopping on private property to sell inventory; however, they may not impede traffic, shall obey all traffic rules and regulations, and will use extreme caution in its operation.
- (2) *Hours of Operations.* Ice Cream Trucks may operate after 11:00 a.m. and before sunset.

**9-205. 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 in accordance with the rules and regulations of any local, state, and federal agency having jurisdiction over motor vehicles and all products sold therein must be properly licensed, permitted, and allowed by local, state, and federal laws of regulation.
- (B) *Business Access.* No Mobile Food Service Vehicle may operate in a location that impedes the ingress to, egress from, or signage of another business or otherwise causes undue interference with access to other businesses or emergency areas, paths, or facilities.
- (C) *Pedestrians.* A Mobile Food Service Vehicle may not reduce the clear pedestrian path of travel on sidewalk to less than six feet (6'). This includes all components of the Unit and any patron queue. All awnings or canopies of the Unit shall be at least six feet, eight inches (6'8") above the sidewalk.
- (D) *Distance between Units.* A Mobile Food Service Vehicle may not operate within three (3) feet of any other Mobile Food Service Vehicle.
- (E) *Types of Cooking Apparatuses.* Open flame cooking (other than with a gas range specifically constructed and designed within the Food Truck) either within or outside a Mobile Food Service Vehicle is prohibited, except where such activity is specifically permitted by the Fire Department. Ice Cream Trucks can have no heating apparatus installed within the vehicle for the purpose of food service.
- (F) *Noise.* Amplified music or other sounds from any Mobile Food Service Vehicles may not at any time unreasonably disturb nearby businesses, pedestrians, or vehicles and must comply with Town noise ordinances.
- (G) *Commissary.* If the Operator has a fixed, non-mobile establishment or any other place that is used for the storage of supplies, the preparation of food to be sold or served at or by Mobile Food Service Vehicle, or the cleaning and servicing of the Mobile Food Service Vehicle, such a commissary location within the Town cannot be located in any residential zoning district unless such commissary complies with all applicable zoning regulations, building code requirements, and requirements of the Town of Kingston Springs Water and Sewer Department.
- (H) *Utilities.* All Mobile Food Service Vehicles shall comply with the version of the electric code currently adopted by the Town and any power, water, and sewage required for the Mobile Food Service shall be self-contained and shall not use utilities drawn from other sources.
- (I) *Fire Extinguishers Required.* All Mobile Food Service Vehicles must be equipped with a fire extinguisher that complies with local code regulations.
- (J) *Support Methods.* No Mobile Food Service Vehicle may use stakes, rods, or any method of support that must be drilled, driven, or otherwise fixed, into or onto asphalt, pavement, curbs, sidewalks, or buildings.
- (K) *Spills.* To prevent discharges of grease or other contaminants into the storm drain system and river, each Unit shall comply with all storm water regulations of the Town. In addition, each Unit shall have a spill response plan and kit on board to contain and remediate any discharge from the Unit. In the event of a spill, Operators are required to call Kingston Springs Fire Department immediately to assist with the clean-up of spills and to determine the need for a more extensive response. Further, the following are required:
- (1) *Spill Plan* – Food Trucks must have posted, on the interior of the vehicle, instructions for containing spills; at a minimum such plan should include a) a description of and typical quantities of materials that may be spilled; b) procedures for containing potentially spilled materials including proper disposal of spilled materials; c) procedures for storage, use, handling and transfer of materials to reduce potential for spilling; and d) emergency notification requirements;
  - (2) *Spill Kit* – Food Trucks must have a response kit on the vehicle including a) a minimum 5-gallon storage and clean-up container with lid; b) a minimum of 10 adsorbent pads and 2 adsorbent socks or equivalent; c) a disposable bag adequate to hold contents of spill kit and spilled materials; and d) 1 pair of disposable gloves.

- (L) *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 reasonable area surrounding operations (not less than 20 feet from all parts of the Vehicle) regardless of the occurrence or source of any waste in the area. 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 during the period of operation at a location. All trash within the area of operations regardless of the source must be removed and all garbage, trash, and trash receptacles must be removed when full and prior to departure of a Mobile Food Service Vehicle from a location.
- (M) *Signage.* Mobile Food Service Vehicles are limited to signs mounted to the exterior of the mobile food establishment and one (1) sandwich board sign with dimensions no larger than six (6) square feet. All signs mounted to the Unit shall be secured and mounted flat against the Unit and shall not project more than six inches (6") from the exterior of the Unit. Sandwich board signs shall not obstruct or impede pedestrian or vehicular traffic. All signage must at all times conform to community standards of decency.
- (N) *Alcohol Sales.* Food Trucks may not sell alcoholic beverages, except as may be specifically allowed by state law and Town ordinance. Canteen Trucks and Ice Cream Trucks are prohibited from selling alcoholic beverages.
- (O) *Insurance Requirements.* Mobile Food Service Vehicles shall obtain, at a minimum, any motor vehicle insurance required by any local, state, or federal laws, and regulations. Further,
- (1) Food Trucks operating on Town property are required at all times to maintain insurance coverage in the form and amounts required by the Town. In the event the required coverage is not properly maintained, the Operator's Mobile Food Service Permit will be immediately revoked. The failure of the Operator to notify the Town of any change in coverage will preclude the Operator from obtaining a permit for a period of six months from the date the Town learns of the failure to provide the required notification of change.
- (3) Ice Cream Trucks shall not operate on Town property except upon obtaining written permission from the Town and may be required to obtain insurance consistent with the type of operation permitted.
- (P) All food trucks must meet all of the requirements with the State of Tennessee Department of Health and have documentation of such compliance on the food truck and available for Town review. A minimum score of 80 is required on the Tennessee Department of Health Inspection Report.

#### **9-206. MOBILE FOOD SERVICE PERMITS.**

- (A) *Applicable.* No Mobile Food Service Vehicle may operate within the Town without a Mobile Food Service Permit issued by the Town. A Mobile Food Service Permit authorizes the holder only to engage in the vending of products from a Mobile Food Service Vehicle in compliance with Town Code and as specified on the permit. The Mobile Food Service Permit must be prominently displayed when the Mobile Food Service Vehicle is in operation.
- (B) *Application.* A Mobile Food Service Vehicle Operator shall apply for a Mobile Food Service Permit, pay a \$50 application fee and comply with the following:
- (1) Complete an application form provided by the Town, which 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) Three color photographs of the exterior (front, side, and back) and interior food service portion of the vehicle in the 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 Mobile Food Service Vehicle;
- (e) A copy of the state or county health department license or permit applicable to mobile food providers currently issued to the Operator;
- (f) A copy of the current Fire Marshal's inspection report;
- (g) A copy of any current alcoholic beverage licenses, if applicable;

- (h) A copy of the operator's current Tennessee business license issued by the Town or the operator's home-based County; and
  - (i) A copy of current insurance coverage.
- (2) *Permittee Obligations.*
- (a) Permittee has an on-going duty to provide the Town with notice of any change to any of the information required by the Town to obtain a Mobile Food Service Permit, including current photographs of the Mobile Food Service Vehicle in the event of any change in the appearance of or signage on the vehicle.
  - (b) Permittee shall display permit sticker provided by the Town, upon approval of application, on the Mobile Food Service Vehicle.
  - (c) Permittee is responsible for renewal of permit and will file renewal application with the Town 30 days prior to expiration of permit.
- (3) This section does not apply to contractual arrangements between a Mobile Food Service Vehicle Operator and an individual, group, or the Town for catering at a specific location, for a period of not more than four (4) hours, and that is not open to or serving the public.
- (C) *Issuance.* A mobile Food Service Permit shall be issued upon full completion and review of the application required by this section except that no Mobile Food Service Permit will be issued to:
- (1) An Operator that operated within the prior six (6) months notwithstanding a Mobile Food Service Permit that is suspended or has been revoked; or
  - (2) An Operator, or any person affiliated with the Operator for purposes of operating a Mobile Food Vehicle that is the subject of a suspended Mobile Food Service Permit or has held a Mobile Food Service Permit revoked within the prior twelve (12) months.
- (D) *Expiration.* A Mobile Food Service Permit expires on the date twelve (12) months after issuance and may be renewed provided that all Town requirements are met and the license has not been suspended or revoked.
- (E) *Transferability.* A Mobile Food Service Permit may not be transferred except as part of the sale of an interest in a business holding the license or a sale of substantially all of the assets of a business holding the license and upon authorization granted by the Town.
- (F) *Enforcement.* The Town holds the right to inspect at any given time of operation, and responsibility of enforcement will be a shared responsibility between the Police Department, Fire Department and Building & Codes Department.
- (1) *Temporary Permit.* If an Operator is found to be operating within the Town and without a Mobile Food Service Permit, the Operator will be cited, and the Town may, if the Operator has proof of all applicable licenses and insurance, issue a Temporary Permit that will allow the Operator to operate for not more than one hour after which time the Temporary Permit will be revoked. The Operator will pay a fine of \$500 to offset the Town's costs of compliance measures, inspections, and correction of any circumstances resulting from Operator's failure to comply with this Article.
  - (2) *Warnings.* A Town Enforcement Officer may provide one (1) warning to any Operator for a violation of this section except that a citation shall be issued as set forth in the section.
  - (3) *Citation.* A Town Enforcement Officer must issue a citation to the mobile food service Operator for the following:
    - (a) A second violation of this section is found to have occurred after a warning has been issued with the previous six (6) months; or
    - (b) Any violation that constitutes grounds for revocation of a mobile food service permit;
  - (4) *Suspension.* A Mobile Food Service Permit shall be suspended until restatement upon issuance of a citation for the following reasons:
    - (a) A second violation of this section is found to have occurred after a warning has been issued within the previous six (6) months;
    - (b) The required vehicle license, health permit, or business tax license for the Operator or the Mobile Food Service Vehicle has expired or been suspended, revoked, or otherwise terminated;
    - (c) The Operator fails to obtain or maintain the insurance coverages required by this section.

- (d) Operator violates any other provision of this Ordinance, the Town Municipal Code, or state law.
- (5) *Revocation.* The Town shall revoke a Mobile Food Service Permit after two (2) suspensions within a twelve (12) month period. Additionally, a Mobile Food Service Permit shall be revoked (i) if an Operator fails to obtain a permit and upon expiration of the Temporary Permit as set forth in the Article; or (ii) the Operator operates in an unlawful manner such as to constitute a breach of the peace, interferes with the normal use of the right-of-way, or otherwise constitutes a menace to the health, safety, or general welfare of the public.
- (6) *Reinstatement.*
  - (a) *Suspension.* An Operator may reinstate a suspended Mobile Food Service Permit by payment of a fee of \$500 to offset the Town's costs of compliance measures, necessary inspections, and the correction of any circumstances that led to the suspension.
  - (b) *Revocation.* The Town may allow an Operator to reapply for a Mobile Food Service Permit after three (3) months from the date of revocation, provided the Operator corrects all circumstances that led to the violations, and the Operator pays a fee of \$500 to offset the Town's costs of compliance measures, necessary inspections, and the correction of any circumstances that led to the suspension.
- (G) *Notice.* Upon denial, suspension or revocation of a Mobile Food Service Permit, the Town shall give notice to the Operator in writing. There shall be no refund of any other fee paid to the Town.
- (H) *Appeal.* A citation may be appealed by the Operator to the Board of Commissioners, which shall conduct a hearing thereon within thirty-five (35) days of the date of the filing of an appeal. Such appeal request must be filed with the Town Recorder no later than ten (10) days after the issuance of such appeal.

**9-207. FOOD TRUCK RALLIES.**

All Food Truck Rallies on public or private property require a Special Event Permit.

**2. Legal Status Provisions**

(1) Exercise of Police Power

This entire ordinance shall be deemed and construed to be an exercise of the police power of the Town of Kingston Springs, Tennessee, adopted under the authority of Tennessee Code Annotated § 6-19-101 et seq. for the preservation and protection of the public health, safety, morals, and general welfare, and pursuant to all other powers and authorities for the aforesaid purposes, and all of its provisions shall be liberally construed with a view toward effectuation of such purposes.

(2) Severability

If any section, 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, clause, provision, or portion of this ordinance, which is not of itself invalid or unconstitutional.

(3) Conflict with Other Ordinances

In case of conflict between this ordinance or any part hereof, and the whole or part of any existing or future Ordinance of the Town, the most restrictive provision shall in all cases apply.

(4) Interpretation

Words herein in the singular number shall include the plural, the present tense shall include the future, and the masculine gender shall include the feminine and neuter.

(5) Effective Date

This Ordinance shall take effect the later of the date that is 15 days after its passage or upon publication of this Ordinance or its caption, the public welfare demanding it.

Passed First Reading: May 20, 2021

Passed Second Reading: June 17, 2021

Francis A Gross III  
Francis A Gross III, Mayor

ATTEST:

Jamie Dupré  
Jamie Dupré, Town Recorder

APPROVED AS TO FORM AND LEGALITY:

Martha Brooke Perry  
Martha Brooke Perry, Town Attorney