

06-25

AN ORDINANCE OF THE TOWN OF MONTEAGLE, TENNESSEE AMENDING TITLE 9,
CHAPTER 4 OF THE MUNICIPAL CODE RELATIVE TO MOBILE FOOD UNITS, A/K/A
“FOOD TRUCKS”

WHEREAS, the food truck industry is a growing aspect of economic development in Tennessee;
and

WHEREAS, the Board of Mayor and Alderman of the Town of Monteagle have determined that
a more comprehensive ordinance is required for the facilitation of the industry and the public
welfare;

NOW, THEREFORE, be it ordained by the Town of Monteagle; Tennessee as follows:

SECTION 1: Ordinance 04-14, passed in June 2014 and codified as Municipal Code §§9-401,
402, 403, 404 and 405 is hereby repealed.

SECTION 2: That new §§ 9-401, 402, 403, 404, 405, 406 and 407 be added to Title 9, Chapter
4 of the Monteagle Municipal Code as follows:

9-401 PURPOSE.

This Chapter 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.

9-402 DEFINITIONS.

Mobile food service vehicle, also known as “food trucks” are mobile food units from which the
operator cooks, prepares, or assembles food items (including products sold by Ice Cream Trucks)
with the intent to sell such items to the general public and includes any other portable unit that is
attached to a motorized vehicle that is intended for use or in service to the operations of the food
service vehicle.

Food Truck Rallies are municipally designated, coordinated, and advertised gatherings of more
than four (4) mobile food service vehicles in one location on a date certain with the intent to serve
the public.

Food Truck Lots are municipally designated areas (no more than two (2) within the Town of
Monteagle corporate limits) where multiple mobile food service vehicles may operate for more
than 4 consecutive days.

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 food products, and pre-packaged beverages.

Location means any single property parcel and all other parcels that are contiguous or
cumulatively contiguous to that owned or controlled by a single or affiliated entities.

Mobile Food Service Permit means a permit issued by the Town for the operation of mobile food service vehicles, special events, Town co-sponsored events, or an approved Food Truck Rally.

Permanent Food Truck- means any Mobile Food Service Vehicle that operates from a single location for more than 4 days as determined by the codes enforcement officer for the Town of Monteagle.

Portable Kitchen- means any Mobile Food Service Vehicle that operates from a single location for more than 4 days as determined by the codes enforcement officer for the Town of Monteagle that is attached or appurtenant to a brick and mortar building where dining and or restroom facilities may be located.

Operate means to promote or sell food, beverages, and other permitted items from the Mobile Food Service Vehicle.

Operator means any person owning, operating, or permitted to operate a Mobile Food Service Vehicle and collectively refers to all such persons.

Vehicle, as used in this Chapter, 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.

SECTION 9-403 GENERALLY.

- A. It is a violation to operate a Mobile Food Service Vehicle at any location except in compliance with the requirements of this Chapter.
- C. Mobile Food Service Vehicle operators must comply with all state and local business tax regulations.
- D. Mobile Food Service Vehicle operators must comply with all federal, state and local ordinances and regulations.
- E. Unless otherwise specified, mobile food units may only operate commercial and industrial business districts as defined by the Zoning map found on the Town's website.
- F. Ice Cream Trucks may operate in any zoning district.
- G. This ordinance applies to all mobile food service vehicles operating within the corporate limits of the Town of Monteagle including those which may have operated within the Town limits prior to adoption of this ordinance.

SECTION 9-404 LOCATIONS AND HOURS OF OPERATION.

- A. *Food Trucks*

1. *Rights-of-way.* Food Trucks may operate consistent with this section from the right-of-way only at the locations listed on the Town's website as right-of-way upon which Food Trucks can operate.
 2. *Public Property.* Food Trucks may operate on Town property, including Town parks, only at the times and locations listed on the Town's website as public property upon which Food Trucks can operate.
 3. *Private Property.* Food Trucks may operate on private property zoned as specified in Section 9-403. 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. *Ice Cream Trucks*
1. *Right-of-way.* An Ice Cream Truck may not operate from the right-of-way at any one location for more than 15 minutes without relocating to another location not less than one-quarter mile from the previous location.
 2. *Hours of Operation.* Ice Cream Trucks may operate after 6:00 a.m. and before 10:00 p.m.
- C. *Permanent Food Trucks.*
1. *Rights-of-way.* Prohibited
 2. *Public Property.* Permanent food trucks may only operate on public property within a municipally designated Food Truck Lot.
 3. *Private Property.* Permanent food trucks may only operate on private property within a municipally designated Food Truck Lot.
- D. *Portable Kitchen*
1. *Rights-of-way.* Prohibited
 2. *Public Property.* Prohibited
 3. *Private Property.* Portable Kitchens may operate on any private property where the codes enforcement officer has determined that the appurtenant structure meets dining and restroom facility requirements as listed for Food Truck Lots in Section 9-407.

9-405 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 safe and 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 or regulations.
- B. *Right-of-Way.*
1. Mobile Food Service Vehicles may not operate, stop, stand, or park in any area of the right-of-way that is intended for use by vehicular travel or that in any way impedes the use of the right-of-way or that present an unsafe condition for patrons, pedestrians, or other vehicles.

2. Food Trucks may operate within right-of-way only at times and locations designated as Food Truck locations on the Town's website, and it is the duty of all Operators to obtain current knowledge of the right-of-way designations prior to establishing operations in any area.

3. Unless authorized in writing by the Town, all Mobile Food Service Vehicles are prohibited from operating in public alleys.

4. Food Trucks shall park in the same direction as traffic, with no more than eighteen inches (18") between the curb face or edge of pavement and with the service window of the Unit facing the curb.

5. No Mobile Food Service Vehicle may remain in the right-of-way designated as a permitted Food Truck location non-operational and not open to the public for more than two (2) hours.

6. A Food Truck may park in more than one parking space.

C. *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 cause undue interference with access to other businesses or emergency areas, paths, or facilities.

D. *Pedestrians.* A Mobile Food Service Vehicle may not reduce the clear pedestrian path of travel on the sidewalk to less than six feet (6'). This includes all components of the Unit and any patron queue.

F. *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 subject to regulation by the Fire Department to protect public welfare.

G. *Noise.* Amplified music or other sounds from any Mobile Food Service Vehicle may not at any time unreasonably disturb nearby businesses, pedestrians, or vehicles.

H. *Commissary.* If the Operator has a fixed, non-mobile establishment for the purpose of supply storage, food preparation or vehicle servicing, such a commissary location must comply with all applicable laws, zoning regulations, building code requirements, and requirements of the Town of Montecagle.

I. *Utilities.* All Mobile Food Service Vehicles shall comply with the version of the electrical, water and sewer code currently adopted by the Town. Generators used to produce electrical power shall not produce sound higher than 70 db. All vehicles operating on property having access to public sewers must have an on-board grease interceptor with a cleanout plan and records of the same available for inspection by the Town.

J. *Fire Extinguishers Required.* All Mobile Food Service Vehicles must be equipped with a 2-A:10-B:C fire extinguisher that is certified annually by a licensed company. Additionally, any Mobile Food Service Vehicle that produces grease laden vapors (e.g., those units with deep fat fryers or flat top griddles) must be equipped with a K- Class fire extinguisher that is certified annually by a licensed company.

K. *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 located on public property or within the public right of way.

L. *Pedestrian Service Only.* Mobile Food Service Vehicles operating in the right-of-way shall serve pedestrians only; drive-up, drive-thru, or drive-in service is prohibited.

M. *Spills.* To prevent discharges into the storm drain system, each Unit shall comply with all stormwater 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 the Monteagle Fire Department to assist with the clean-up of spills and to determine the need for a more extensive response.

1. Spill Plan – Food Trucks must post, on the interior of the vehicle, instructions for containing spills; at a minimum such plan should include 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; d) emergency notification requirements; and

2. Spill Kit – Food Trucks must have a response kit on the vehicle including a) minimum 5-gallon storage and clean-up container with lid; b) minimum of 10 adsorbent pads and 2 adsorbent socks or equivalent; c) disposable bag adequate to hold contents of spill kit and spilled materials; d) 1 pair of disposable gloves.

N. *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 the 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.

O. *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 on 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 conform to community standards of decency.

P. *Alcohol sales.* Mobile Food Service Vehicles may not sell alcoholic beverages unless located in an approved food truck lot or as part of a portable kitchen. All alcohol sales must be done in accordance with other relevant state and local requirements.

Q. *Insurance Requirements.* Unless designated as a portable kitchen or permanent food truck, Mobile Food Service Vehicles shall obtain, at a minimum, any motor vehicle insurance required by any local, state, or federal laws and regulations. Food Trucks 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.

R. *Sales tax.* All Mobile Food Service vehicles are required to collect sales tax as required by law. All Portable Kitchens and Permanent Food Trucks must be licensed for business within the corporate limits of the Town of Monteagle so that sales tax revenue accrues to the town.

SECTION 9-406 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 to engage only in the vending of products from a Mobile Food Service Vehicle in compliance with Town Codes 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 by payment of a \$200 application fee and the following:

1. Complete an application form provided by the Town Clerk, 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 portions 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; and
- f. A certificate of insurance coverage.

The completed application will be filed with the Town Clerk along with the fee, with a copy to the Codes Officer.

2. 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.

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 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 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 had a Mobile Food Service Permit revoked within the prior twelve (12) months.

D. *Expiration.* All Mobile Food Service Permits expire at the end of the calendar year during which the permit was issued. A new application with supporting documentation

and application fee is required for renewal and issuance of a permit for the following calendar year.

E. *Transferability.* A Mobile Food Service Permit may not be transferred.

F. *Enforcement.*

1. *Enforcing Authority.* The Town of Monteagle Police Department and the Town of Monteagle Codes Department shall have authority to investigate and address violations of these regulations.

2. *Violations.* If an Operator is found to be in violation of any part of this ordinance, the violation will be enforced by warning or citation.

a. *Warnings.* The enforcing authority may issue one (1) warning to any Operator for a violation of this section except in the case of an Operator's failure to obtain a permit.

b. *Citation.* The enforcing authority will issue citations to any Operator as notice of the violation and a scheduled time to appear to answer the violation.

3. *Penalties.* An Operator cited for a violation is subject to the penalties set forth below:

a. *Failure to Obtain a Permit.* Any Mobile Food Service Vehicle failing to obtain a permit is in violation of this section and is subject to pay double the current permit fee on the first offense. On second and subsequent offenses, the operator may pay an increased fee or be disallowed from operating within the Town.

b. *Failure to license Portable Kitchen or Permanent Food Truck within Corporate limits of Monteagle.* Any Mobile Food Service Vehicle deemed a Portable Kitchen or Permanent Food Truck will be issued a warning providing 45 days to provide documentation of Monteagle as primary business location for sales and use tax. After 45 days without documentation, the business will be subject to a fine not to exceed \$50 per day for every day in operation. Fines will be calculated beginning at the date of the issuance of the warning.

c. *Suspension.* A Mobile Food Service Permit shall be suspended upon the issuance of a citation and pending the disposition of violation proceedings and the satisfactory completion of any requirements to become compliant with all regulations.

d. *Revocation.* The Town shall revoke a Mobile Food Service Permit after two (2) suspensions within a twelve (12) month period or if the Operator fails to show satisfactory compliance within ninety (90) days after being cited for a violation.

e. *Fees.* The Operator will pay a fee of \$250 to offset the Town's costs of compliance measures, inspections, and correction of any circumstance resulting from Operator's failure to comply with the provisions of this Chapter.

4. *Reinstatement*

a. *Suspension.* An Operator may apply for reinstatement of a suspended Mobile Food Service Permit after the payment of the fee set forth in § 9-406(F)(3)(d), completion of necessary inspections, and the correction of any circumstance 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. The Operator must show that all circumstances that lead to the violations have been corrected,

and the Operator must pay the fee of \$250 to offset the Town's costs of compliance measures, completion of necessary inspections, and the correction of any circumstance that lead 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.

SECTION 9-407 FOOD TRUCK LOTS and RALLIES.

- A. Application for Designation of a Food Truck Lot shall be made to the Planning commission.
- B. Designation of a Food Truck lot by the Planning commission only after the following conditions have been verified by the Codes Enforcement Officer:
 - 1. The property is of sufficient size to allow for multiple mobile food service vehicles as well as customer ingress and egress,
 - 2. Sufficient public seating is provided,
 - 3. ADA accessible restroom facilities with hand washing stations are available,
 - 4. The location complies with all standards outlined in section 9-405 Operating Requirements,
 - 5. All permanent food trucks and Portable Kitchens located on the premises must be licensed for business within the corporate limits of the Town of Monteagle.
- C. All Food Truck Rallies on public property require a Parade/Special Event Permit.