

ILLUSTRATIVE VERSION
AFTER ADOPTION OF ORDINANCE 1207

AN ORDINANCE PERMITTING AND REGULATING
MOBILE FOOD VENDORS IN THE CITY OF TELL CITY, INDIANA

WHEREAS, there is a growing interest in food trucks, food concession carts, and other forms of mobile food sales;

WHEREAS, it is the intent of the Common Council of the City of Tell City, Indiana, ("Common Council") to encourage Mobile Food Vendors who attract residents and tourists, and who add to the vibrancy of the City of Tell City, Indiana, and while providing a framework under which such businesses operate;

WHEREAS, the current municipal code of the City of Tell City, Indiana ("City") does not address the regulation of mobile food vending;

WHEREAS, it is appropriate to establish reasonable regulations to govern mobile food vending in the City, in an effort to provide reasonable opportunities for Mobile Food Vendors to operate within the City;

WHEREAS, the Common Council finds that such regulations are needed in order to protect the public health, safety, and welfare of the City of Tell City, Indiana, and the citizens and inhabitants thereof.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF TELL CITY, INDIANA, as follows:

SECTION 1. There is hereby added to the Code of Ordinances of the City of Tell City, Indiana, Chapter 117, the language of which shall be as follows:

Chapter 117. Mobile Food Vendors

SECTION 2. (117.01) Purpose of Chapter. The purpose of this Chapter is to regulate the activities of individuals, firms, or corporations engaging in the practice of mobile food sales to sustain a safe and consistent standard of operation and to promote public health, safety, and welfare of the City of Tell City, Indiana and the citizens and inhabitants thereof.

SECTION 3. (117.02) Definitions. For the purpose of this Chapter, the following terms, phrases, words and abbreviations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include future tense, words in the plural number include the singular number and words in the singular number include the plural number:

- (1) "Board" shall refer to the Board of Public Works and Safety of the City of Tell City, Indiana.
- (2) "City" shall refer to the City of Tell City, Indiana.
- (3) "Director" shall refer to the appropriate personnel determined by officials of the City of Tell City, Indiana.
- (4) "Food" shall mean any raw, cooked, or processed edible substance, ice, beverage, drink or ingredient used or intended for the use or for sale in whole or in part for human consumption.
- (5) "Food Caterer" shall refer to a person or company hired and paid to provide and serve food, usually for a large group and at a location separate from where the food is prepared. A food caterer does not include someone preparing and selling food to individuals.
- (6) "Food Vending Pushcart" shall mean any box or container with wheels that is not propelled or moved by an engine and was designed and manufactured specifically for the purpose of selling food.

- (7) "Mobile Food Vehicle" shall mean a self-contained food establishment that is on wheels, self-propelled or moved by an engine, weighs no more than sixteen thousand (16,000) pounds, and for which the primary purpose of the vehicle is the sale and/or production of food.
- (8) "Mobile Food Vendor" ("Vendor") includes any individual person, firm, or corporation who operates mobile food vending pushcarts and/or mobile food vehicles.
- (9) "Mobile Food Vendor Permit" ("Permit") shall mean a permit which has been issued pursuant to the requirements of this ordinance.
- (10) "Special Event" shall mean any event so designated by the Board of Public Works and Safety of the City of Tell City, Indiana.

SECTION 4. (117.03) Permit Required.

- (1) It shall be unlawful for a Mobile Food Vendor to engage in their respective businesses within the corporate limits of the City of Tell City, Indiana, without obtaining a Mobile Food Vendor Permit in compliance with the provisions of this chapter. The obtaining of a permit by an employer or principal shall in no way relieve any employee or agent of that employer or principal of their legal obligation to obtain a permit, if their activity falls within the jurisdiction of this ordinance.
- (2) A Mobile Food Vendor shall obtain a separate permit for each Mobile Food Vehicle and/or Food Vending Pushcart they wish to operate. All permits issued under the authority of this Chapter shall not be transferable.
- (3) If any permit holder desires to continue in business after the expiration of a permit, a new permit must be obtained as required under this Chapter.
- (4) Each Mobile Food Vendor must obtain all necessary and required licenses prior to applying for the City permit and must comply with all regulations established by the Perry County Health Department and/or other regulatory bodies.
- (5) Nothing contained in this Chapter shall relieve a Mobile Food Vendor from obtaining other required licenses and/or permits from other regulatory bodies.

SECTION 5. (117.04) Application. Applicants for any Mobile Food Vendor Permit under this Chapter must file a written sworn application signed by the applicant with the Clerk-Treasurer showing at minimum the following information:

- (a) The name, full address, telephone number, and email (if applicable) of the mobile food vending business, business owner, and business operator;
- (b) The intended locations of operation of the Mobile Food Vendor;
- (c) The duration of the permit being sought;
- (d) The intended hours of operation of the Mobile Food Vendor;
- (e) Proof of Perry County Health Permit;
- (f) Proof of insurance, if operating on property owned and maintained by the City, in compliance with the City minimum insurance requirements;
- (g) (g) A letter of approval from the Tell City Board of Public Works and Safety if operating on City-owned property or a letter of approval from the Tell City Parks Board if operating in a city park;
- (h) Dated Mobile Food Vendor's signature verifying that they shall abide by the provisions of this Chapter.

- (i) Any mobile food vendor operating on a city street must be positioned to serve patrons in such a manner that the serving window faces the sidewalk and not the portion of the street travelled by motor vehicles;
- (j) Mobile food vendors shall abide by all city and state traffic codes and regulations.

SECTION 6. (117.05) Investigation of Applicant.

- (1) Upon receipt by the Clerk Treasurer of any application for a permit under the provisions of this Chapter, the Tell City Police Department may investigate a Mobile Food Vendor's criminal history as it deems necessary for the protection of the public good and welfare.
- (2) If, as a result of the investigation, the applicant's criminal history and business responsibility are found to be such as to endanger or be detrimental to the public and its good and welfare, the permit shall be denied or, if issued, revoked by the Tell City Police Department.

SECTION 7. (117.06) Permit Fees.

- (1) Each applicant shall pay a permit fee as follows:
 - (a) Forty dollars (\$40.00) for a one (1) month permit.
 - (b) One hundred eighty dollars (\$180.00) for a six (6) month permit.
 - (c) Two hundred forty dollars (\$240.00) for a one (1) year permit.
- (2) A permit becomes active for a consecutive period of time on the day that the permit is approved.
- (3) In the event the permit is revoked, the City shall retain all funds.
- (4) No permit shall be issued until the permit fee has been paid.

SECTION 8. (117.07) Insurance and Indemnity.

- (1) Applicants operating on property owned and maintained by the City shall provide a certificate of liability upon approval of the permit, which shall insure the applicant and name the City of Tell City, Indiana, as additional insured against the following liabilities and in the following amounts relative to such activity:
 - (a) General Liability \$1,000,000;
 - (b) Automotive Liability \$1,000,000; and
 - (c) Proof of Workers Compensation
- (2) Mobile Food Vendors who are operating a Food Vending Pushcart are exempt from providing proof of automotive liability insurance. Mobile Food Vendors who are self-employed and have no additional employees are exempt from providing proof of workers compensation insurance.

SECTION 9. (117.08) Location Restrictions.

- (1) Mobile Food Vendors shall be permitted to operate pursuant to the approved permission by the Board of Public Works and Safety or Parks Board or in accordance with Section 117.04(e);
- (2) Mobile Food Vendors may make special requests to the Board to operate on other locations owned and maintained by the City of Tell City, Indiana.
- (3) The City shall have the authority to designate other locations of permitted operation for Special Events.

- (4) With written consent of the property owners, Vendors may operate on private property that is in a business or industrial zone.
- (5) When a Vendor seeks to operate in a right of way, the Vendor shall not impede the use of a City street, alleyway, and/or sidewalk.
- (6) No Mobile Food Vendor shall operate within 100 feet of a Special Event, unless granted approval by the coordinator of the Special Event or the Board.
- (7) No Mobile Food Vendor shall locate themselves in an area that significantly impedes or prevents the use of any City of Tell City, Indiana, property, or which would endanger the safety and/or property of the public.

SECTION 10. (117.09) Prohibited Hours.

- (1) Mobile Food Vendors are prohibited from operating or parking on any property owned and maintained by the City of Tell City, Indiana, between the hours of 1:00 a.m. and 6:00 a.m.
- (2) Mobile Food Vendors may make special requests to the Board to operate during prohibited hours.

SECTION 11. (117.10) Standard of Conduct

- (1) Mobile Food Vendors shall conduct themselves at all times in an orderly and lawful manner.
- (2) Mobile Food Vendors are prohibited from using a device or machine to produce unreasonable amounts of sound or light (such as but not limited to bull horns, strobe lights, and neon signs).
- (3) Mobile Food Vendors are required to obey the commands of the law enforcement and code enforcement officials.
- (4) No Mobile Food Vendor shall provide tables, seating, or any other dining arrangement.
- (5) No Mobile Food Vendor shall sell or otherwise provide alcoholic beverages.
- (6) Mobile Food Vendors must provide waste receptacles that are sufficient in size for both customer and employee waste.
- (7) Mobile Food Vendors are responsible for the disposal of waste that is generated by the use of their waste receptacles and shall not dispose of their waste in waste receptacles owned and maintained by the City.
- (8) Mobile Food Vendors are prohibited from disposing of any food, liquid, or other waste materials in sanitary and/or storm water sewers.
- (9) Mobile Food Vendors shall not utilize any City or private electrical outlets while in operation. All electrical needs must be self-generated.
- (10) Mobile Food Vendors operating electrical equipment are required to use heavy-duty extension cords.
- (11) Mobile Food Vendors may operate a generator that produces no more than seventy-five (75) decibels.
- (12) Mobile Food Vendors must be parked a minimum of ten (10) feet away from nearby buildings or other Food Vending Pushcarts and/or Mobile Food Vehicles.
- (13) Mobile Food Vehicles operating deep frying appliances must be parked a minimum of twenty (20) feet away from nearby buildings or other Food Vending Pushcarts and/or Mobile Food Vehicles.

- (14) Mobile Food Vendors must be parked a minimum of one hundred (100) feet from the entrance of a restaurant or from an outdoor dining area.
- (15) Mobile Food Vendors must be parked a minimum of fifteen (15) feet from a fire hydrant.
- (16) Mobile Food Vendors are prohibited from smoking within eight (8) feet of their Mobile Food Vehicle or Food Vending Pushcart.
- (17) No Food Vending Pushcart or Mobile Food Vehicle shall operate with a drive thru.
- (18) Mobile Food Vendors must display all permits at all times while in operation.
- (19) Food Vending Pushcarts and Mobile Food Vehicles may be inspected by Code Enforcement Officer of the City when deemed necessary.

SECTION 12. (117.11) Safety Requirements

- (1) All Mobile Food Vehicles must have a 2A-10BC rated fire extinguisher.
- (2) Mobile Food Vehicles operating deep fryer appliances must have a Class K rated fire extinguisher.
- (3) Each fire extinguisher provided by a Mobile Food Vendor shall have a label or tag securely attached that indicates the last time it was serviced. The label or tag must state the month the service took place and the individual, firm, or corporation responsible for servicing it. All fire extinguishers must have been serviced and validated within the last twelve (12) months.
- (4) Mobile Food Vehicles must have all fire extinguishers mounted at a minimum of three (3) feet in height and a maximum of five (5) feet in height.

SECTION 13. (117.12) Suspension; Revocation; Penalties.

- (1) Permits issued under the provision of this Chapter may be revoked by appropriately designated city officials after notice and hearing for any of the following causes:
 - (a) Fraud, misrepresentation, or false statements contained in the application for the permit.
 - (b) Fraud, misrepresentation, or false statements made in the course of the business for which the permit is issued.
 - (c) Any violation of any of the provisions of this Chapter.
 - (d) Conducting the business for which the permit is issued in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- (2) Notice of hearing for revocation of a permit shall be given, in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. The notice shall be mailed, postage prepaid, to the permit holder at their last known address, at least five (5) days prior to the date set for the hearing.
- (3)
 - (a) **Penalties.** Any individual, firm, or corporation convicted of a violation of any provision of this chapter shall be fined in a sum not less than the applicable amount set forth below:

First Offense:	\$ 25.00
Second Offense:	\$100.00
Third Offense:	\$300.00
Fourth Offense:	\$600.00

Each day any violation of this chapter continues shall be considered a separate offense. The City of Tell City, Indiana, shall also have the right to recover the costs of administering this offense, including but not limited to, filing fees and attorney fees. If the violation includes a failure to obtain a permit under this Section, said penalty shall also include a permit fee equal to the appropriate amount established under 117.06(1).

- (b) Enforcement. Appropriate city officials shall enforce this Ordinance. Upon determination by said officials that there exists an emergency and that for the protection of the public welfare any permit should be immediately suspended, the appropriate officials may forthwith suspend the permit pending hearing as provided for in this Ordinance.
- (c) Administrative Liability. No officer, agent, or employee of the City of Tell City, Indiana, shall render themselves personally liable for any damage that may occur to persons or property, as a result of any act required or permitted in the discharge of their duties under this chapter. Any suit brought against any officer, agent, or employee of the City of Tell City, Indiana, as a result of any act required or permitted in the discharge of their duties under this chapter, shall be defended by the City Attorney until the final determination of the proceedings therein.

SECTION 14. (117.13) Right to Appeal.

- (1) Any individual, firm, or corporation aggrieved by a decision in regard to the denial or revocation of a permit as provided for herein shall have the right to appeal to the Board. Appeal shall be taken by filing with the Board, without fourteen (14) days after notice of the decision has been mailed to the last known address of the individual, firm, or corporation, a written statement, setting forth the grounds for the appeal. The Board shall set the time and place for a hearing on the appeal and notice of the hearing shall be given to the individual, firm, or corporation in the manner provided for notice of hearing on revocation. The order of the Board on the appeal shall be final.

SECTION 15. (117.14) Exemptions.

- (1) Ice cream trucks, caterers, food delivery drivers, and other food service vehicles that do not park or locate in any one place for longer than one (1) hour are exempt from the jurisdiction of this chapter.
- (2) Lemonade stands, bake sales, and other stands operated by children for the purpose of selling homemade foods are exempt from the jurisdiction of this chapter.
- (3) Indiana not-for-profit fraternal organizations, Indiana not-for-profit organizations that are tax exempt under the Internal Revenue Code §501(c)(3), Indiana not-for-profit veteran's organizations, and persons 17 and under selling merchandise, services, or seeking donations on behalf of a school, church, sports, or charitable or scouting organization are exempt from the jurisdiction of this chapter.

SECTION 16. Prior Ordinances. All ordinances and/or parts of ordinances in conflict herewith are hereby repealed.

SECTION 17. Separability. If any section, sub-section, sentence, clause, phrase or portion of this Ordinance shall for any reason be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereunder.

SECTION 18. Effective Date. This Ordinance shall be in full force and effect from and after its passage by the Common Council, its approval by the Mayor, and completion of any other legal requirements, all in the manner as provided by law.

Mobile Food Vendor Permit Application

CITY OF TELL CITY

City of Tell City Clerk-Treasurer
 PO Box 515
 Tell City, Indiana 47586
 (812) 547-2349

PART A - IDENTIFICATION			
Name of Business			
Address of Business (if applicable)	City	State	Zip
Phone Number		Email Address	
Name of Operator (required)			
Address	City	State	Zip
Phone Number		Email Address	

PART B - DETAILED INFORMATION			
LOCATIONS OF OPERATION (List all that apply)	PERMIT DURATION	HOURS OF OPERATION	FOOD VENDING METHOD
<input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____	<input type="checkbox"/> \$40 for 1 month <input type="checkbox"/> \$180 for 6 months <input type="checkbox"/> \$240 for 1 year	From: _____ To: _____ *Prohibited hours of operation: 1:00 a.m. to 6:00 a.m.	<input type="checkbox"/> Food Vending Pushcart <input type="checkbox"/> Mobile Food Vehicle

Please include the following items with your completed application:

- Proof of Perry County Health Permit.
- Proof of insurance.
- Letter of approval if operating on property owned and maintained by City of Tell City.

Owner's Certificate: I hereby certify that I, as a Mobile Food Vendor, shall abide by the provisions of Chapter 117.10 of the City of Tell City Municipal Code.

Applicant's Signature:

Date: _____

FOR OFFICE USE ONLY

Approval by Administrator:

Approval Date:

Permit Number: