

CHAPTER 112: FOOD SALES

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GENERAL PROVISIONS

§ 112.01 DEFINITIONS.

For the purpose of this chapter the following words and phrases shall have the following meanings ascribed them respectively.

"BEVERAGES." Drinkable, nonalcoholic liquids prepared for immediate human consumption and may be served only in cans, paper or Styrofoam cups or plastic containers. No glass.

"EMPLOYEES." Any person who handles food or drink during preparation or serving, or who comes in contact with any eating or cooking utensils, or who is employed at any time in a room in which food or drink is prepared or served.

"FOOD." Food prepared for immediate human consumption, including condiments and prepackaged foods, all as allowed by the Kentucky Department of Health and Family Services.

"FOOD ESTABLISHMENT." A place where food or beverages intended for human consumption are manufactured, prepared, kept, handled, stored or offered for sale and shall include grocery stores, meat markets, restaurants, cafeterias, coffee shops, short order cafes, luncheonettes, taverns, sandwich stands, soda fountains, bakeries, confectioneries, fish markets, beverage manufacturing plants, fruits and vegetable markets, and all other public eating and drinking establishments.

"HEALTH OFFICER." The health officer of Nelson County Health Department or his authorized representative.

"LOCATION." Any lot or set of contiguous lots, with the same owner.

"MOBILE FOOD VENDOR." A food vendor who conducts business from a food establishment on wheels or is otherwise mobile, and which only sells food and beverages.

"PRIVATE PROPERTY." All property not included within the definition of public property or public place.

"PUBLIC PROPERTY or PUBLIC PLACE." Any place, property or premises dedicated to public use, owned by the City of Bardstown, occupied by the City of Bardstown as a lessee, or occupied by the City of Bardstown by reason of an easement, including, but not limited to streets, parks or parking lots so owned or occupied.

"UTENSILS." Any kitchenware, tableware, glassware, cutlery, utensils, containers, or other equipment with which food or drink comes in contact during storage, preparation or serving.

(Ord. passed 9-14-48; Am. Ord. B2014-03, passed 1-28-14)

§ 112.02 PERMITS.

(A) It shall be unlawful for any person to operate a food establishment in the city who does not possess an unrevoked permit from the health officer and in whose place of business such permit is not posted in a conspicuous place. Only persons who comply with the requirements of this chapter shall be entitled to receive and retain such a permit.

(B) Such a permit may be suspended by the health officer, or revoked after an opportunity for a hearing by the health officer, upon the violation by the holder of any of the terms of this chapter.

(Ord. passed 9-14-48) Penalty, see § 112.99

§ 112.03 PLACARDING OR PUBLIC DISPLAY OF GRADE NOTICE.

Every food establishment shall display at all times in a place designated by the health officer, a notice approved by the health officer, stating the grade of the establishment.

(Ord. passed 9-14-48) Penalty, see § 112.99

§ 112.04 EXAMINATION AND CONDEMNATION OF UNWHOLESOME OR ADULTERATED FOOD OR DRINK.

Samples of food and drink may be taken and examined by the health officer as often as he deems necessary for the detection of unwholesomeness or adulteration. The health officer may condemn and forbid the sale of, or cause to be removed or destroyed, any food or drink which he deems unwholesome or adulterated.

(Ord. passed 9-14-48)

§ 112.05 INSPECTION OF FOOD ESTABLISHMENTS.

(A) At least once every 6 months the health officer shall inspect every food establishment located within the city. In case the health officer discovers the violation of any item of sanitation required for the grade then held, he shall make a second inspection after the lapse of such time as he deems necessary for the defect to be remedied, and the second inspection shall be used in determining compliance with the grade requirements of this chapter. Any violation of the same item of this chapter on 2 consecutive inspections shall call for immediate degrading or suspension of permit.

(B) One copy of the inspection report shall be posted by the health officer upon an inside wall of the food establishment, and the inspection report shall not be defaced or removed by any person except the health officer. Another copy of the inspection report shall be filed with the records of the health department.

(Ord. passed 9-14-48) Penalty, see § 112.99

§ 112.06 GRADING OF FOOD ESTABLISHMENTS.

The grading of all food establishments shall be based upon the following standards:

(A) Sanitation requirements for grade A food establishments. All grade A food establishments shall comply with all of the following items of sanitation.

(1) Floors. The floors of all rooms in which food or drink is stored, prepared or served or which utensils are washed, shall be of such construction as to be easily cleaned, shall be smooth, and shall be kept clean and in good repair.

[Text continues on page 17]

(2) Walls and ceilings. Walls and ceilings of all rooms in which food or drink is stored, prepared or served, shall be kept clean and in good repair. All walls and ceilings of rooms in which food or drink is stored or prepared shall be finished in light color. The walls of all rooms in which food or drink is prepared or utensils are washed, shall have a smooth, washable surface up to the level reached by splash or spray.

(3) Doors and windows. When flies are prevalent, all openings into the outer air shall be effectively screened and doors shall be self-closing, unless other effective means are provided to prevent the entrance of flies.

(4) Lighting. All rooms in which food or drink is stored or prepared or in which utensils are washed shall be well lighted.

(5) Ventilation. All rooms in which food or drink is stored, prepared, or served, or in which utensils are washed, shall be well ventilated.

(6) Toilet facilities. Every food establishment shall be provided with adequate toilet facilities conveniently located and conforming with the regulations of the state board of health. Toilet rooms shall not open into any room directly in which food, drink or utensils are handled or stored. The doors of all toilet rooms shall be self-closing. Toilet rooms shall be kept in a clean condition, in good repair and well lighted and ventilated. Hand-washing signs shall be posted in each toilet room used by employees. In case privies or earth toilets are permitted or used, they shall be separate from the building, and shall be of a sanitary type, constructed and operated in conformity with the requirements of the state department of health and state plumbing code.

(7) Water supply. The water supply shall be easily accessible to all rooms in which food is prepared or utensils are washed, and shall be adequate, and of an approved sanitary quality.

(8) Lavatory facilities. Adequate and convenient hand-washing facilities shall be provided, including hot running water, soap and approved sanitary towels. The use of a common towel is prohibited. No employee shall return from the toilet room without washing his hands.

(9) Construction of utensils and equipment. All eating and cooking utensils and all show and display cases or windows, counters, shelves, tables, refrigerating equipment, sinks, and other equipment or utensils used in connection with the operation of a food handling establishment shall be so constructed as to be easily cleaned and shall be kept in good repair.

(10) Cleaning and bactericidal treatment of equipment and utensils.

(a) All equipment including display cases or windows, counters, shelves, tables, refrigerators, stoves, hoods and

sinks, shall be kept clean and free from dust, dirt, insects, and other contaminating material. All cloths used by waiters, chefs and other employees shall be clean. Single-service containers shall be used only once.

(b) All except single-service eating and drinking utensils shall be thoroughly cleaned and subjected to an approved bactericidal process after each usage. All multi-use utensils used in preparation, cooking, or serving of food and drink shall be thoroughly cleaned and subjected to an approved bactericidal process immediately following the day's operation. Drying cloths, if used, shall be clean and shall be used for no other purpose. No article or other substance containing any cyanide preparation or other poisonous material shall be used for the cleaning or polishing of utensils.

(11) Storage and handling of utensils and equipment. After bactericidal treatment no utensils shall be stored except in a clean, dry place, protected from flies, dust, or other contamination, and no utensils shall be handled except in such a manner as to prevent contamination as far as practicable. Single-service utensils shall be purchased only in sanitary containers and shall be stored therein in a clean, dry place until used.

(12) Disposal of wastes. All wastes shall be properly disposed of, and all garbage and trash shall be kept in suitable receptacles, in such manner as not to become a nuisance.

(13) Refrigeration.

(a) All perishable food or drink shall be kept at or below 50° F. except when being prepared or served.

(b) Waste water from refrigeration equipment shall discharge into an open sink or drain, properly trapped and sewer connected, provided that where sewer connections are not available, clean adequate watertight pans may be used.

(14) Wholesomeness of food and drink. All food and drink shall be wholesome and free from spoilage. All milk, milk products, ice cream, and other frozen desserts served shall be of a grade approved by the health officer. Milk, milk products and other beverages shall be served in the original containers in which they were received from the distributor or from a bulk container equipped with an approved dispensing device; provided, that this requirement shall not apply to cream, which may be served from the original bottle or from a dispenser approved for such service. All oysters, clams, and mussels shall be from approved sources.

(15) Storage and display of food and drink. All food and drink shall be so stored and displayed as to be protected from dust, flies, vermin, handling, droplet infection, overhead leakage, and other contamination. No animals or fowls shall be kept or allowed in any room in which food and drink is prepared or stored. All means necessary for the elimination of flies, roaches and rodents shall be used.

(16) Cleanliness of employees. All employees shall wear clean outer garments and shall keep their hands clean at all times while engaged in handling food, drink, utensils, or equipment.

(17) Miscellaneous. The surroundings of all food establishments shall be kept clean and free of rubbish. None of the operations connected with a food establishment shall be conducted in any room used for domestic purposes. Adequate lockers or dressing rooms shall be provided for employees' clothing. Soiled linens, coats, and aprons shall be kept in containers for this purpose. No spitting in food handling establishments except into proper receptacles.

(B) Grade B food handling establishments. Grade B food handling establishments are those which have been found on 2 successive inspections to have violated the same one of any of the following items of sanitation required for grade A establishments: (1), (2), (4), (5), or (17). Item (7) in a grade B establishment requires cold running water only.

(C) Grade C food handling establishments. Grade C establishments are those which fail to comply with grade A or grade B requirements. (Ord. passed 9-14-48) Penalty, see § 112.99

§ 112.07 GRADES OF FOOD ESTABLISHMENTS WHICH MAY OPERATE.

No food establishment shall be operated within the city or its police jurisdiction, unless it conforms with the grade A, or grade B requirements of this chapter; provided, that when any food establishments fail to qualify for either of these grades, the health officer is authorized to revoke the permit or in lieu thereof to degrade the food establishment and permit its operation during a temporary period not exceeding 30 days. (Ord. passed 9-14-48) Penalty, see § 112.99

§ 112.08 REINSTATEMENT OF PERMIT; SUPPLEMENTARY REGRADING.

(A) Any food establishment, the grade of which has been lowered and all grade displays have been changed accordingly, or the permit of which has been suspended, may at any time make application for regrading of the reinstatement of the permit.

(B) Within one week after the receipt of a satisfactory application, accompanied by a statement signed by the applicant to the effect that the violated item or items of the specifications have been conformed with, the health officer shall make a reinspection, and thereafter as many additional reinspections as he may deem necessary to assure himself that the applicant is again complying with the higher grade requirements, and, in case the findings indicate compliance, shall award the higher grade or reinstate the permit. (Ord. passed 9-14-48)

§ 112.09 DISEASE CONTROL.

No person who is affected with any disease in a communicable form or is a carrier of such disease shall work in any food establishment, and no food establishment shall employ any such person or any person suspected of being affected with any disease in a communicable form or of being a carrier of such disease. If the food establishment manager suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease, he shall notify the health officer immediately. A placard containing this section shall be posted in all toilet rooms.

(Ord. passed 9-14-48) Penalty, see § 112.99

§ 112.10 PROCEDURE WHEN INFECTION SUSPECTED.

When suspicion arises as to the possibility of transmission of infection from any food establishment employee, the health officer is authorized to require any and all of the following measures:

(A) The immediate exclusion of the employee from all food establishments.

(B) The immediate closing of the food establishment concerned until no further danger of disease outbreak exists, in the opinion of the health officer.

(C) Adequate medical examinations of the employee and of his associates, with such laboratory examinations as may be indicated.

(Ord. passed 9-14-48)

§ 112.11 ENFORCEMENT INTERPRETATION.

(A) This chapter shall be enforced by the health officer in accordance with the interpretations thereof contained in the 1943 edition of the United States Public Health Service Code Regulating Eating and Drinking Establishments, and Instructions for Grading of Food Establishments and Hotels, 1946, State Department of Health of Kentucky, certified copies of which shall be on file at the city clerk's office.

(B) The Board of Health of Nelson County is authorized to make rules and regulations as are necessary for the enforcement of this chapter.

(Ord. passed 9-14-48)

MOBILE FOOD VENDORS

§ 112.25 PERMIT REQUIRED.

(A) It shall be unlawful for any mobile food vendor to engage in business within Bardstown without obtaining a City of Bardstown special mobile food vendor permit in compliance with the provisions of this subchapter.

(B) Unless otherwise exempted, every mobile food vendor, in order to do business within Bardstown, shall have a valid City of Bardstown business license and shall be subject to the required net profits and occupational license fee.

(C) A permit shall be required for each vehicle engaged by a mobile food vendor. However, a separate permit is not required for each location. Permits shall include all locations that the mobile food vendor will be located, and a fixed permit period.

(Ord. 2014-03, passed 1-28-14) Penalty, see § 112.99

§ 112.26 PERMIT APPLICATION.

(A) The application for a permit shall include:

(1) The name, home and business address of the applicant, the name and address of the owner of the business, if other than the applicant;

(2) A description of the food and beverages to be sold;

(3) A photograph and a description of any vehicle (including the size, license and registration number) to be used in the operation of the business;

(4) Two prints of a full-face photograph of any person, taken not more than thirty (30) days prior to the date of the application, who will sell or offer for sale any food or beverage within the city;

(5) A copy of the Kentucky Statewide Mobile Food Unit Permit, or a Statewide Retail Food Unit Permit, issued to the applicant; and

(6) Proof of an insurance policy, issued by an insurance company licensed to do business in the Commonwealth of Kentucky, protecting the permittee and the city from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the permit. Such insurance shall name the city as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days advance written notice to the city. Such insurance shall afford minimum limits of one hundred thousand dollars (\$100,000) per person bodily injury, three hundred thousand dollars (\$300,000) per occurrence bodily injury, and twenty-five thousand dollars (\$25,000) per occurrence property damage.

(B) All items listed in the permit application are required annually for renewal of permit.

(C) Not later than thirty (30) days after the filing of a completed application for a permit, the applicant shall be notified by

the Mayor, or his/her designee of the issuance or denial of the permit. The Mayor or his /her designee shall consider the standards set forth in this chapter in determining whether to grant a permit. If the permit is denied, the applicant shall be provided with a statement of the reasons therefore, which reasons shall be entered in writing on the application. (Ord. 2014-03, passed 1-28-14)

§ 112.27 LIMITATION ON PERMIT DURATION.

(A) Per KAR 902 45:005 of the Kentucky State Food Code, a mobile food unit, (mobile food vendor), shall stay in operation at one location for fourteen (14) consecutive days then the unit must move and cannot return to the same location for thirty (30) consecutive days. Restrooms shall be available near the area of operation.

(B) Neither the mobile food vendor vehicle, nor any portion of a mobile food vendor's inventory, sales equipment, or any other structure or equipment used in the sales or solicitation process shall be left overnight upon any unenclosed portion of any lot or site within the city, except that it may be stored on property belonging to the owner of the mobile food vendor vehicle in accordance with all other laws and regulations.

(Ord. 2014-03, passed 1-28-14) Penalty, see § 112.99

§ 112.28 REGULATIONS.

The City Council may set and enforce additional rules and regulations deemed necessary for the orderly and complete administration of this subchapter, which are not inconsistent with any of the provisions of this chapter. Such rules and regulations shall be promulgated by Municipal Order.

(Ord. 2014-03, passed 1-28-14)

§ 112.29 PERMIT REVIEW.

The Mayor has the authority to deny or revoke any mobile food vendor permit for the following reasons:

(A) Any felony or misdemeanor conviction for the following offenses:

- (1) Larceny;
- (2) Assault;
- (3) Domestic violence crimes;
- (4) Fraud;
- (5) Sex crimes;

- (6) Drug-related crimes;
 - (7) Crimes against children and/or vulnerable adults;
 - (8) Any other criminal offenses directly related to fitness for a license or permit;
- (B) A history of traffic violations of an applicant for mobile vendor;
- (C) Discovery of facts supporting lack of business responsibility or discovery of any reason that the applicant presents a risk to citizens if permitted to engage in activities as a mobile food vendor; and
- (D) Noncompliance with any applicable City of Bardstown ordinance or regulation provision or state laws, rules or regulations.
(Ord. 2014-03, passed 1-28-14)

§ 112.30 PUBLIC PLACE MOBILE FOOD VENDING.

(A) The City Council may, by municipal order, designate certain public places within the city, which it determines to be suitable from the standpoint of the health and safety of the public, and proper from the standpoint of site characteristics as locations in which mobile food vending activities may be allowed.

(B) Mobile food vendors with a valid statewide retail mobile food unit permit shall be permitted to operate on streets within the city, bounded on both sides by residential zoned areas.
(Ord. 2014-03, passed 1-28-14)

§ 112.31 PRIVATE PROPERTY MOBILE FOOD VENDING.

Except as provided in § 112.30, mobile food vendors with a valid statewide mobile food unit permit, or a statewide retail mobile food unit permit, shall only be permitted on private property, zoned B-1 through B-5, and LIP.
(Ord. 2014-03, passed 1-28-14) Penalty, see § 112.99

§ 112.32 PERMIT CONDITIONS.

All mobile food vendors with a permit shall comply with, or be subject to the following:

(A) No permit shall be transferable nor shall such permit authorize activities by any person other than the person to whom it is issued.

(B) Every person to whom a permit is issued shall conform at all times with all applicable city requirements, including without limitation, public health and safety ordinances and regulations; local

zoning codes and regulations; local occupational license fee ordinances and regulations; and any other applicable regulation or code provisions.

(C) Any permit issued under this subchapter shall be posted conspicuously at the place of business authorized therein.

(D) Permits issued under this subchapter shall be valid for the time period specified thereon.

(E) Re-application shall be required upon expiration of a permit if the applicant wishes to continue such activity.

(F) Issuance of a permit under this subchapter shall not excuse any permit holder from compliance with any other applicable ordinance or law.

(G) A mobile food vendor must be 18 years or older or if between the age of 14 and 17, inclusive, must submit proof of a valid work permit.

(H) No mobile food vendor may set out chairs or tables or both unless their location is within 100 feet of a public rest-room.

(I) No mobile food vendor's vehicle shall be located closer than 20 feet from any building or structure on the licensed property or adjoining property.

(J) No mobile food vendor's vehicle shall be located on a lot that does not have an approved entrance to a street or roadway.

(K) No mobile food vendor shall operate as a "drive through" business.

(L) No mobile food vendor's vehicle shall locate closer than 50 feet from flammable combustible liquid or gas storage and dispensing structures.

(M) No mobile food vendor's vehicle shall locate closer than 100 feet from a city permitted community event or fair, without the written permission of the event organizers.

(N) No mobile food vendor shall locate his or her vehicle within 20 feet of any public right-of-way or within 20 feet of the intersection of any public right-of-way and private driveway.

(O) No mobile food vendor shall conduct business in violation of any zoning, traffic or sidewalk ordinances of the city as now in effect or hereafter amended, or to cause a traffic hazard.

(P) The location used by and for the mobile food vendor, along with the entrance and driveway to the location shall be paved, (to accommodate HS 20 loads).

(Ord. 2014-03, passed 1-28-14) Penalty, see § 112.99

§ 112.33 PARKING.

Mobile food vendor's operations shall provide a minimum of two parking spaces. A mobile food vendor shall not locate in any minimum required parking space for other businesses on the site. Parking spaces may not be shared with other uses on the site. If enough parking cannot be provided, the use may not be located on the site.

(Ord. 2014-03, passed 1-28-14) Penalty, see § 112.99

§ 112.34 SIGNAGE.

No signs or signage shall be permitted other than that which is permanently painted or adhered to the mobile food vendor's vehicle, (no streamers, pennants, flags, and the like).

(Ord. 2014-03, passed 1-28-14) Penalty, see § 112.99

§ 112.35 HEALTH REGULATION.

All mobile food vendors, shall obtain a Kentucky Statewide Mobile Food Unit Permit, or a Statewide Retail Food Unit Permit before a city permit will be issued, and shall comply with all state and local laws, rules and regulations regarding food handling.

(Ord. 2014-03, passed 1-28-14)

§ 112.36 MISCELLANEOUS REGULATIONS.

(A) No mobile food vendor shall utilize music or other noises in the sale of goods or services, which music or noise may be considered to be unreasonably loud, harsh or excessive and in violation of § 94.20 of the Bardstown Code of Ordinances.

(B) No mobile food vendor shall obstruct or cause to be obstructed the passage of any sidewalk, street, avenue, alley or any other public place, by causing people to congregate at or near the place where food is being sold or offered for sale.

(C) All lighting shall be permanently or semi-permanently affixed to the vending facility. No lighting shall be permitted to shine on or into any public right-of-way or other private property, or cause any glare that could be considered a public hazard, nuisance or distraction to vehicular movement, neighboring business operations, or residential uses. No flashing or strobe lighting shall be permitted.

(D) All vendors shall place at least one 30-gallon garbage receptacle upon the site of business for customer use.

(E) Food and beverages shall only be displayed or offered for sale from the vendor's vehicle.

(F) All vehicles shall be equipped with at least one 2A-40 BC fire extinguisher.

(G) At the conclusion of daily business activities, the mobile food vendor shall clean up and remove all debris, trash and litter generated by their business activities.

(H) Every mobile food vendor vehicle shall be totally self contained, with its own potable water supply, its own electric and/or gas generator/supply, and shall not be attached to any exterior utility, including those of any other business at their location. Waste products, (including hot water and drainage from coolers) shall not be poured down a storm drain or a sanitary sewer.

(I) All mobile food vendor vehicles shall be maintained and kept in good operating order and visual appearance, including the removal of graffiti.

(J) In addition to written application, a mobile food vendor shall provide a written authorization from the business owner or authorized representative of the business owner in which the mobile food vendor intends to conduct business on such business owner's property, and the location shall be submitted to the city no less than one business day before use.

(Ord. 2014-03, passed 1-28-14) Penalty, see § 112.99

§ 112.37 IMMUNITY.

(A) Nothing contained in this chapter is intended to be nor shall be construed to create any liability on the part of the city or its employees for any injury or damage resulting from the failure of the licensee or permit holder to comply with the provisions of this subchapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this subchapter on the part of the city or its employees.

(B) As a condition of issuance, the mobile food vendor agrees to indemnify, hold harmless, and defend the city and its representatives against liability and/or loss arising from activities connected with and/or undertaken pursuant to the permit. The city is not liable for any business loss, property loss, or other damage that may result from use of the permit, or suspension or revocation of the permit, and no mobile food vendor shall maintain any claim or action against the city, its officials, officers, employees, or agents on account of any suspension or revocation.

(Ord. 2014-03, passed 1-28-14)

§ 112.99 PENALTY.

Any person who violates any provision of this chapter shall be deemed guilty of a violation and shall be fined not more than \$100 at the discretion of the court having jurisdiction. Each and every violation of the provisions of this chapter shall constitute a separate offense.
(Ord. passed 9-14-48)