

ORDINANCE NO. 4213

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AN ORDINANCE AMENDING ORDINANCE NO. 4212, REGULATING THE SALE OF FOOD AND BEVERAGE FROM MOBILE UNITS; REQUIRING A LICENSE; DECLARING ALL VIOLATIONS OF THIS ORDINANCE A MISDEMEANOR AND PROVIDING PENALTIES FOR SUCH VIOLATION.

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BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARNETT, KANSAS:

SECTION 1: MOBILE FOOD VENDOR'S LICENSE REQUIRED. (A) "Mobile Food Unit" shall mean any self-contained vehicle, trailer, cart or other type of conveyance or vehicle from which there is offered for sale food, beverage or either, cooked or otherwise prepared for immediate consumption and sold in a container or package intended for single servings.

(B) "Mobile Food Vendor" shall mean any person, corporation, association or other entity, however organized, who shall operate or oversee, manage or direct the operation of a "Mobile Food Unit".

(C) No Mobile Food Vendor shall operate a Mobile Food Unit within the City of Garnett, Kansas, unless such Mobile Food Vendor shall possess a valid Mobile Food Vendor license issued by the City Clerk of Garnett, Kansas, for the current calendar year or for a particular event. Such license shall at all times be displayed in a prominent place on the Mobile Food Unit. Such license shall be personal to the applicant and shall not be transferable or subject to assignment.

SECTION 2: MOBILE FOOD VENDOR APPLICATION FOR LICENSE; ANNUAL FEE REQUIRED. (A) Application for a Mobile Food Vendor license shall be made to the City Clerk on a form supplied by the City. All statements made by the applicant on such application form shall be made under penalty of perjury. Such application form shall include (but not limited to) the following information:

- (1) Applicant's full, legal name, date and place of birth, and social security number.
- (2) Applicant's permanent address, business mailing address, business (and if different, personal) telephone number, and e-mail address, if applicant has one.
- (3) A copy of applicant's government-issued photo identification.
- (4) Brief description of the nature of the business and the food or beverage to be offered for sale; applicant's Kansas retailer's sale tax number; and a copy of applicant's Kansas license for food service operation, if required.

- (5) Evidence of general liability insurance covering applicant's operations of the Mobile Food Unit in the amount of \$500,000.00, or more.
- (6) A statement indicating whether or not applicant has had a Mobile Food Vendor's license, or any similar license, revoked within the preceding two years.

The fee for such license shall be \$300.00 per year. All such licenses shall be issued for the calendar year or the remainder thereof following application date, expiring on December 31st of each year. There shall be no pro-ration of such fee nor shall such fee be refunded for any reason, including denial of an application or revocation of such license.

PROVIDED, HOWEVER, in the same manner an applicant may indicate that he or she is applying for an event license, which shall be valid for a period of 72 hours from issuance. The fee for an event license shall be \$125.00. There shall be no refund of fee for any reason, including denial of an application or revocation of such.

(B) The application shall be granted and the City Clerk shall issue the required license, unless the City Clerk finds one of the following to exist:

1. The application is incomplete, including failure to pay the required application fee in full.
2. The application contains a material misrepresentation or materially false statement.
3. The applicant has had a Mobile Food Vendor's license revoked by the issuing authority thereof within two years immediately preceding the date of application.

Written notice of denial shall be mailed to applicant at the address on such application. The notice shall state the basis for the denial.

### SECTION 3: MOBILE FOOD UNIT STANDARDS OF OPERATION AND RESTRICTIONS.

(A) All Mobile Food Units shall be maintained in good, operable and sanitary condition and shall at all times be capable of being moved.

(B) All Mobile Food Units, unless completely self-contained, shall be located in close proximity to and shall be connected safely to electricity and other necessary utilities, such that they do not pose a threat to the public, health, welfare and safety.

(C) Signage for all Mobile Food Units shall be limited to those that can be mounted or incorporated on the Mobile Food Unit itself. No sign shall exceed the dimensions of the

Mobile Food Unit by more than one foot in any direction. No flashing signs shall be permitted. Illuminated signs are permitted, but only when the unit is stationary and when the unit is in operation. Any sign within 500 feet of any traffic signal shall not emit or display a green, amber or red light. When any sign is illuminated by a light or lights reflected upon it, direct rays of such light or lights shall not beam upon any residential building or into any residential neighborhood or street.

(D) Mobile Food Units' operations:

1. Shall be restricted to improved surfaces within Garnett Zones B-1 (Business-General District), B-2 (Business-Central District), O-I (Office-Institutional District) and I-1 (Light Industrial District).
2. Shall not operate from or offer for sale any merchandise while located upon a public right of way.
3. Shall operate from private property only with the express permission of the property owner and shall not operate from any unoccupied or vacant lot.
4. Shall be limited to two units at the same time on a single property and to 14 hours per day at any one location.

SECTION 4: MOBILE FOOD VENDOR LICENSE REVOCATION. (A) The City Clerk may revoke any Mobile Food Vendor's license for any one of the following reasons:

1. Fraud, misrepresentation or false statement in the application.
2. Any violation of the provisions of Kansas law or the provisions of this ordinance.
3. Conducting a licensed activity in an unlawful manner, in a manner that disturbs the peace, or in a manner that is injurious to the health, safety or welfare of the residents of the City of Garnett.
4. Unauthorized use of a public right of way or any other violation of the Municipal Code of Garnett.
5. Revocation of licensee's Kansas Food Service license or revocation of licensee's Kansas Sales Tax registration or failure to remit collected sales taxes to the Kansas Department of Revenue.

(B) Written notice of revocation shall be mailed to the licensee at the address on the application. The notice shall state the basis for the revocation.

SECTION 5: MOBILE FOOD VENDOR LICENSE EXCEPTIONS. The provisions of this ordinance shall not apply to vendors selling at the Garnett Farmer's Market or to vendors selling at a City approved event. Such events shall include those events sanctioned by written agreement of the City of Garnett. The sanctioning agreement may, but is not required to, address

special conditions upon which Mobile Food Units may operate. Such special conditions may include limitations on operation including prohibiting all operations during the sanctioned event.

SECTION 6: VIOLATION OF THIS ORDINANCE A MISDEMEANOR. Operating as a Mobile Food Vendor without a license shall be a misdemeanor. Violation of any of the other provisions of this ordinance is a misdemeanor. Any person upon being found guilty of such violation shall be subject to a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00); and for a second or subsequent conviction in three years, in addition to such fine, 30 days confinement in the Anderson County jail.

SECTION 7: REPEAL. Ordinance No. 4212 is hereby repealed, but any annual license issued thereunder shall remain in force and effect until expiration or revocation, but otherwise shall be governed by this amendatory ordinance.

SECTION 8: EFFECTIVE DATE. This ordinance shall take effect and be in force upon passage and publication in an official city newspaper.

PASSED this 28 day of July, 2020.

Bryette Buchheim Hurd  
Mayor

ATTEST:

Jane Wilson  
City Clerk

