

*Ordinance Summary published in the Miami County Republic on May 22, 2019 and the full text of the Ordinance made available at [www.cityofpaola.com](http://www.cityofpaola.com) for a minimum of 1 week from the date of publication.*

### **Ordinance No. 3141 Summary**

On May 14, 2019, the City of Paola, Kansas, adopted Ordinance No. 3141, amending TITLE VI: BUSINESS AND OCCUPATION, OF THE MUNICIPAL CODE OF THE CITY OF PAOLA, KANSAS by adding a new CHAPTER 607: MOBILE FOOD VENDORS. A complete copy of this ordinance may be obtained or viewed free of charge at the Office of the City Clerk at City Hall, 19 E Peoria Street or at [www.cityofpaola.com](http://www.cityofpaola.com). This summary is certified by Lee H. Tetwiler, Paola City Attorney pursuant to K.S.A. 12-3001, et seq.

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### **ORDINANCE NO. 3141**

### **AN ORDINANCE ADOPTING TITLE VI: BUSINESS AND OCCUPATION, CHAPTER 607: MOBILE FOOD VENDORS, OF THE MUNICIPAL CODE OF THE CITY OF PAOLA, KANSAS.**

**BE IT ORDAINED** by the City Council of the City of Paola, Kansas, as follows:

**SECTION 1.** That a new CHAPTER 607: MOBILE FOOD VENDORS is hereby added to TITLE VI: BUSINESS AND OCCUPATION, OF THE MUNICIPAL CODE OF THE CITY OF PAOLA, KANSAS and is hereby enacted and reads as follows:

### **Chapter 607 MOBILE FOOD VENDORS**

#### **Section 607.010. Definitions.**

The following words and phrases listed below when used in this Chapter shall have the meaning set out herein:

“CITY APPROVED EVENT” shall mean any event sanctioned by a Permit issued by the City, including but not limited to a Community Event Permit.

“MOBILE FOOD VENDOR” or “VENDOR” shall mean any person, corporation, association, or other entity, however organized, that offers food and/or beverage for sale from a Mobile Food Unit.

“MOBILE FOOD UNIT” or “UNIT” shall mean any self-contained vehicle, trailer, cart, or other type of conveyance from which food and/or beverage is offered for sale, also commonly known as a “food truck”.

“PUBLIC PROPERTY” shall include all City parks, streets, alleys, rights-of-way, parking lots, and parking spaces.

### **Section 607.020. Operating Conditions.**

Mobile Food Vendors may operate within the City under the following conditions:

1. *Locations.* Mobile Food Vendors may vend on property within the City as permitted by the following:
  - a) *Public Property.* Mobile Food Vendors may only vend in designated spaces in the Municipal Parking Lot #1 on Saturday, Sunday & Monday in accordance with this Chapter. Mobile Food Units may not park on any other public property (*see exceptions Section 607.030*).
  - b) *Private Property.* Mobile Food Vendors may park on commercially zoned Private property, with permission from the business owner, and where a line of customers would not hinder the flow of traffic on any street, the flow of bicycles within any bike lane or route, or the flow of pedestrians along any sidewalk. No accessible route providing access to persons with disabilities may be blocked or reduced to less than five (5) feet in width. If any such hindrance occurs, the Vendor must either (a) instruct customers to move to a safe location outside of the flow of traffic, bicycles, and pedestrians, (b) temporarily stop vending from its Unit, or (c) move its Unit to a different location.
2. *Distance from Restaurants.* No Mobile Food Vendor may vend on public or private property within one hundred fifty feet (150') from the front door of a brick and mortar restaurant during such restaurant’s posted hours of operation unless the Mobile Food Truck Vendor has written permission from the restaurant owner and maintains a record of such permission in its Unit for inspection.

3. *Distance from City approved event.* No Mobile Food Vendor shall be allowed to vend within a five hundred-foot (500') radius of a City approved event without permission from the event organizer;
4. *Sale of Alcohol.* Mobile Food Vendors are prohibited at all times from selling or offering for sale alcoholic beverages.
5. *Signage.* Except as otherwise provided herein, no sign or device prohibited by the Land Development Ordinance may be erected, placed, installed, and/or maintained in association with a Mobile Food Unit.
6. *Lights & Sound.* No flashing lights or attention-attracting devices are permitted on or in association with the use of a Mobile Food Unit. No direct light may be shined on adjacent property or cause a glare or distraction for vehicles, bicycles or pedestrians from a Mobile Food Unit. Music or other sounds associated with the Mobile Food Unit must be in compliance with Section 205.015 – Disturbing the Peace – in the Paola Municipal Code.
7. *Accessory Structures.* Unless otherwise provided in this Section, no tables, chairs, or other accessory structures may be erected by a Mobile Food Vendor outside of a Mobile Food Unit.
8. *Trash.* Receptacles shall be provided with each Mobile Food Unit. Such receptacles must be attached to the Unit or located within fifteen (15) feet of the Unit and cannot interfere with vehicle access, pedestrian movement, or handicap-accessible routes to and around the Unit. A minimum access width of five (5) feet must be maintained along all sidewalks and building entrances accessible to the public.
9. *Restoration of Site.* Immediately upon cessation of vending, the Mobile Food Vendor shall return the site to its previous condition, including the removal of all litter, repair of any damage, or other evidence of the vending. If the site is not returned to its previous condition, the City will restore the site at the expense of the vendor.

### **Section 607.030. Exceptions**

A vendor operating under the following conditions for the purpose of this Chapter and the licensing provisions required herein shall not apply to:

1. Vendors selling in conjunction with and as part of the Paola Heartland Car Show or the Paola Roots Festival.
2. One (1) Mobile Food Unit will be allowed on the Park Square in conjunction with the Paola Farmer's Market. The Unit must be on the Southeast corner with vending window facing the square.
3. Vendors selling food that does not require temperature control, such as lemonade stands, bake sales, produce stands, etc.
4. Catering a private event.
5. Ice cream vendors.

#### **Section 607.040. Licenses and Permits.**

All Mobile Food Vendors shall acquire and maintain all required licenses and permits applicable to the use and operation of Mobile Food Units from the City of Paola and the State of Kansas. Evidence of all such licenses and/or permits shall be kept in the Unit and produced upon request by the Chief of Police or designee or other public officer charged by the City Manager with enforcement of this Chapter.

#### **Section 607.050. Application**

To receive a Mobile Food Vendor license, the vendor must file a completed Mobile Food Vendor application with the City Clerk or other designated representative, on a form provided by the City. Incomplete applications will not be accepted. The applicant must provide the following information:

1. The full legal name, date of birth, permanent address, business mailing address, email address and telephone number of the applicant and the contact person for the business, if different from the applicant;
2. The name under which the Mobile Food Unit does business ("dba" name) and, if applicable, the registered name of the legal entity owning the Mobile Food Unit (corporation, limited liability company, partnership, limited partnership association, firm or other name);
3. The name of the owner and the type, make and vehicle identification number or other identifying number of the vehicle from which the applicant proposes to conduct business;
4. The applicant's valid Kansas sales tax number;
5. A current Health Inspection Certificate from the State of Kansas;

6. A brief description of the nature of the business and the food and/or beverage to be offered for sale;
7. A statement as to whether the applicant has ever had a mobile vending license or other similar license, permit or registration revoked or suspended under the Code of the City of Paola or any similar laws of any other city or state;
8. A statement that the applicant understands and agrees that the license issued pursuant to this Chapter will not be used or represented in any way as an endorsement of the applicant by the City of Paola or by any department, officer, or elected or appointed official of the City;
9. Proof of a valid Kansas driver's license for operation of the class of vehicle or vehicles identified in the application to be used in the business for the applicant;
10. Proof that the applicant has procured a policy of general liability insurance covering the mobile vending operation and vehicle or vehicles written by an insurance carrier licensed to do business in Kansas, with minimum limits of one million dollars (\$1,000,000), naming the City of Paola as "Additional Insured"; and evidence of compliance with the insurance requirements shall be in the form of a certificate of insurance that shall be submitted with the application;
11. The application shall contain a statement certifying that all of the information provided in the application is true and correct and must be signed personally and acknowledged by an individual applicant, by a partner for a partnership applicant, by an officer legally authorized to sign for a corporate application or by a member of a limited liability company legally authorized to sign company documents;
12. The application shall also contain a statement by the applicant or partner, officer or member that he or she is familiar with the provisions of this chapter and is complying and will comply with all requirements set forth within

#### **Section 607.060. License Fee**

Mobile Food Vending license is required to vend on public and private property and may be obtained from the office of the City Clerk. An application for a Mobile Food Vending license shall be accompanied by a non-refundable fee for each vehicle from which the applicant intends to conduct business according to the following schedule and shall be valid and effective only for the dates as set out therein:

1. *Annual.* Two Hundred Fifty Dollars (\$250.00) annually beginning January 1<sup>st</sup> to December 31<sup>st</sup>. The full amount of the license fee shall be required regardless of the time of the year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued.

2. *Daily*. Twenty-Five Dollars (\$25.00) per day. The licensee will be authorized to operate on the days specific to the application. If operating on private property, permission needs to be acquired from the property owner.

#### **Section 607.070. Penalties.**

Any person, firm, partnership or corporation violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) or by imprisonment not more than thirty (30) days, or by both such fine and imprisonment. Additionally, upon conviction of violating any of the provisions of this Chapter, the City of Paola License/Permit shall be revoked for a minimum of 1 year.

#### **Section 607.080. Severability.**

Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

**SECTION 2.** That this ordinance shall become effective after its passage, approval, and publication in the official city newspaper pursuant to KSA 12-3001, et seq.

**PASSED** by the Governing Body of the City of Paola this 14<sup>th</sup> day of May, 2019.

**APPROVED** by the Mayor of the City of Paola this 14<sup>th</sup> day of May, 2019.

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Artie Stuterville, Mayor

ATTEST: (seal)

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Daniel G. Droste, City Clerk