

AN ORDINANCE OF THE CITY OF OSAGE BEACH, MISSOURI, AMENDING CHAPTER 610 PEDDLERS AND SOLICITORS, SECTION 610.010 DEFINITIONS, SECTION 610.030 IDENTIFICATION CARD REQUIRED FOR PEDDLERS AND SOLICITORS – AVAILABLE FOR CANVASSERS, SECTION 610.040 FEES, SECTION 610.050 APPLICATION FOR IDENTIFICATION CARD, SECTION 610.060 CONTENTS OF APPLICATION, SECTION 610.070 ISSUANCE OF IDENTIFICATION CARD, SECTION 610.090 DENIAL-ADMINISTRATIVE REVOCATION, SECTION 610.100 HEARING ON APPEAL, SECTION 610.130 REVOCATION OF CARD, SECTION 610.160 VIOLATION TO BE PROSECUTED AS TRESPASS, ADDING SECTION 610.170 ADDITIONAL REQUIREMENTS FOR MOBILE FOOD ESTABLISHMENTS, SECTION 610.180 FOOD TRUCK SPECIAL EVENTS PURPOSES OF THE CITY CODE FOR VARIOUS PURPOSES AS SET FORTH.

WHEREAS, the City on October 19, 2023, the Board of Aldermen held a first reading of Bill No. 23.77 was unanimously approved: and

WHEREAS, the Board of Aldermen along with the Citizen's Advisory Committee wanted to add additional language to Chapter 610 so no further action on Bill No. 23-77: and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF OSAGE BEACH, MISSOURI AS FOLLOWS:

Section 1. Within the City Code there are hereby enacted new Sections with material repealed and replacing set forth below with new material set out in **RED** and deleted material struck as follows:

**Section 610.010 Definitions.**

As used in this Chapter, the following words have the meaning indicated:

**CANVASSER**

A person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of:

1. Attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to such purpose the canvasser accepts the donation of money for or against such cause, or
2. Distributing a handbill or flyer advertising a non-commercial event or service.

**FOOD TRUCK**

An operation that stores, prepares, packages, serves or otherwise provides food for human consumption, and that operates from a movable vehicle, portable structure, or pushcart.

**PEDDLER**

One who either:

1. For profit to himself/herself or his/her principal, locates temporarily at one (1) place or goes from place to place to sell any good or service or seeks donations for any cause of a profit-making or commercial character, or
2. Attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident for the primary purpose of attempting to sell a good or service.
3. A "peddler" does not include a person who distributes handbills or flyers ~~for a commercial purpose~~, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a "solicitor".
4. A "peddler" does not include a Food Truck.

### SOLICITOR

One who either:

1. ~~Solicits at any location within the City for a charitable, political or religious purpose, even if incidental for such purpose there is the sale of some good or service; or~~
2. ~~A~~ **Makes or** attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident **for a commercial purpose.** ~~for the primary purpose of:~~
  - a. ~~Attempting to obtain a donation to a particular patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, charitable, political or religious purpose, even if incidental to such purpose there is the sale of some good or service; or~~
  - b. ~~Distributing a handbill or flyer advertising a commercial event or service.~~

### Section 610.030 Identification Card Required For Peddlers and Solicitors — Available For

#### **Canvassers; Permit Required for Food Trucks.**

No person shall act as a peddler or as a solicitor within the City without first obtaining an identification card in accordance with this Chapter. A canvasser is not required to have an identification card but any canvasser wanting an identification card for the purpose of reassuring City residents of the canvasser's good faith shall be issued one upon request.

A Food Truck shall be required to obtain a Food Truck Permit as provided in this Chapter.

## **Section 610.040 Fee.**

A. The fee for the issuance of each identification card shall be as follows:

1. For a peddler acting on behalf of a merchant otherwise licensed to do business within the City, no fee as long as the peddler is operating on the merchant's licensed premises.
2. For a peddler acting on behalf of a merchant not **listed in subsection 1 above** ~~otherwise licensed to do business within the City~~, a five-hundred-dollar (\$500.00) fee for six (6) months plus thirty-five dollars (\$35.00) per card issued.
3. The applicant shall deposit with the City Clerk a bond in the amount of one hundred dollars (\$100.00) (cash or surety) per card to secure collection and payment to the Missouri Department of Revenue all sales tax due and payable by reason of sales made within this City. Said bond shall be forfeited to the City if the applicant does not, within ninety (90) days of the expiration or surrender of the peddler's card, demonstrate by affidavit or otherwise that sales tax has been paid.
4. For a solicitor ~~(including a commercial solicitor) advertising an event, activity, good or service for purchase at a location away from the solicitor's premises~~ — no fee.
- ~~5. For a charitable organization recognized by the Internal Revenue Service (IRS) as a 501(c)(3) exempt organization — no fee.~~
- ~~6~~5. For a canvasser requesting an identification card — no fee.

**B. The fee for a Food Truck Permit shall be five hundred dollars (\$500.00) for one year.**

## **Section 610.050 Application For Identification Card or Food Truck Permit.**

Any person or organization may apply for one (1) or more identification cards **or a Food Truck Permit** by completing an application form at the office of the City Clerk during regular office hours.

## **Section 610.060 Contents of Application.**

A. The applicant shall provide the following information:

1. Name of applicant. **If the applicant is a company, LLC, corporation, partnership, or other entity, said entity shall provide the name(s) of all responsible owners, members, officers, and/or employees of said entity and provide the following information for each.**
2. Number of identification cards **or permits.**
3. The name, physical description and photograph of each **applicant** ~~person for which a card is requested~~. In lieu of this information, a driver's license, State identification card, passport or other government-issued identification (issued by

a government within the United States) containing this information may be provided and a photocopy taken. If a photograph is not supplied, the City will take an instant photograph of each person for which a card is requested at the application site. The actual cost of the instant photograph will be paid by the applicant.

4. The permanent and (if any) local address of the applicant.
5. The permanent and (if any) local address of each **applicant** ~~person for whom a card is requested~~.
6. A brief description of the proposed activity related to this ~~identification card~~ **application**. (Copies of the literature to be distributed may be substituted for this description at the option of the applicant.)
7. ~~Date and place of birth for each applicant person for whom a card is requested and the Social Security number of such person.~~
8. A list of all ~~infraction, offense,~~ misdemeanor and felony convictions of each **applicant** ~~person for whom a card is requested~~ for the seven (7) years immediately prior to the application.
9. The motor vehicle make, model, year, color and State license plate number of any vehicle that will be used by each **applicant** ~~person for whom a card is requested~~.
10. If a card is requested for a peddler, the following additional requirements shall be met:
  - a. The name and permanent address of the business offering the event, activity, good or service (i.e., the peddler's principal).
  - b. A copy of the principal's sales tax license as issued by the State of Missouri showing Osage Beach as their place of business, provided that no copy of a license shall be required of any business which appears on the City's annual report of sales tax payees as provided by the Missouri Department of Revenue.
  - c. The location where books and records are kept of sales which occur within the City and which are available for City inspection to determine that all City sales taxes have been paid.
  - d. Written permission from the property owner where the proposed activity is to take place.
  - e. Peddlers are specifically prohibited from setting up in a fixed location unless all requirements of the Osage Beach Zoning Code have been met.

11. If a Food Truck Permit is requested:

- a. A copy of the applicant's current health inspection showing that the applicant meets all current health requirements.
- b. A copy of all approvals required by the county(ies) in which the applicant intends to operate.
- c. The address of the applicant's commissary location.
- d. Written permission from the owner or other person in rightful control of the property (such as a lessee) where the establishment intends to operate. If additional locations are added after issuance of the identification card, such written permissions must be provided to the City Clerk before the Food Truck may operate there.

~~If a card is requested for a solicitor, the following additional requirements shall be met:~~

- ~~a. The name and permanent address of the organization, person or group for whom donations (or proceeds) are accepted.~~
- ~~b. The web addresses for this organization, person or group (or other address) where residents having subsequent questions can go for more information.~~

Section 610.070 **Issuance of Identification Card or Food Truck Permit.**

A. ~~The~~ identification card(s) and Food Truck Permits shall be issued promptly after application but in all cases within sixteen (16) business hours of completion of an application, unless it is determined within that time that:

1. The applicant has been convicted of a felony or a misdemeanor involving moral turpitude within the past seven (7) years;
2. With respect to a particular application card, the applicant individual for whom a card is requested has been convicted of any felony or a misdemeanor involving moral turpitude within the past seven (7) years; ~~or~~
3. Any statement upon the application is false, unless the applicant can demonstrate that the falsehood was the result of excusable neglect.

Section 610.080 **Investigation.**

During the period of time following the application ~~for one (1) or more identification cards and its issuance~~, the City shall investigate as to the truth and accuracy of the information contained in the application. If the City has not completed this investigation within the sixteen (16) business hours provided in Section 610.070, the identification card will nonetheless be issued, subject, however to administrative revocation upon completion of the investigation.

**Section 610.090 Denial — Administrative Revocation.**

If the issuing officer denies (or upon completion of an investigation revokes) ~~an~~ the identification card **or Food Truck Permit** to one (1) or more persons, he/she shall immediately convey the decision to the applicant orally and shall within sixteen (16) working hours after the denial prepare a written report of the reason for the denial which shall be immediately made available to the applicant. Upon receipt of the oral notification, and even before the preparation of the written report, the applicant shall have at his/her option an appeal of the denial of his/her application before the **Board of Aldermen** ~~Municipal Court of the City~~, provided that such a hearing will be scheduled within **twenty (20)** ~~ten (10)~~ days of the request, due notice of which is to be given to the public and the applicant.

**Section 610.100 Hearing On Appeal.**

If the applicant requests a hearing under Section **610.090**, the hearing shall be held in accordance with the Administrative Procedure Act of the State of Missouri and review from the decision (on the record of the hearing) shall be had to the Circuit Court of Camden County. The hearing shall also be subject to the Missouri **Sunshine** ~~Open Meetings and Records~~ law.

**Section 610.130 Revocation of Card or Food Truck Permit.**

- A. In addition to the administrative revocation of an identification card, a card may be revoked for any of the following reasons:
1. Any violation of this Chapter by the applicant or by the person for whom the particular card was issued.
  2. Fraud, misrepresentation or incorrect statement made in the course of carrying on the activity.
  3. Conviction of any felony or a misdemeanor involving moral turpitude within the last seven (7) years.
  4. Conducting the activity in such a manner as to constitute a breach of the peace or a menace to the health, safety or general welfare of the public.

**Section 610.170 Additional Requirements for Food Trucks.**

**A. Any person operating a Food Truck:**

1. Shall not operate within City limits without a merchant's license as required by Section **605.020** of this Code.
2. Shall not set up and remain in a fixed location unless all requirements of the Zoning Code of the City have been met.
3. Shall not operate within 200 feet of any Bar, Restaurant, or Outdoor Dining Area as those terms are defined in Section **405.020** of this Code without the written consent of such Bar, Restaurant, or Outdoor Dining Area, unless operating on the property of an existing Bar or Restaurant with the permission of

the owner or other person in rightful control of the property (such as a lessee). Such distance shall be measured between the Food Truck and the nearest edge of the other structure (including walls, awnings, patios, decks, stairs, or any like improvements).

4. Shall not stand, walk or loiter on the roadway or in any other manner stall, delay or obstruct the normal flow of traffic.
5. Shall not operate in such a manner as to cause grease or other waste to flow into private or public sewers, or otherwise violate the requirements of Section **710.280** of this Code regarding prohibited discharges.
6. Shall not fail to provide means for the Food Truck and its customers to dispose of trash and other solid waste in a sanitary and safe manner, or to fail to collect and dispose of solid waste attributable to the Food Truck, or to otherwise violate Section **215.060** of this Code.
7. Shall comply with all applicable federal, state, and local laws regarding food service and food safety, including but not limited to the Missouri Food Code as stated in 19 C.S.R. § 20-1.025 Sanitation of Food Establishments.
8. Shall comply with all requirements and instructions of the Health Departments of Camden and/or Miller Counties (as appropriate).

B. Upon the violation of any of the terms of this Article, any Food Truck Permit may be temporarily suspended by the City Clerk, or revoked after an opportunity for a hearing by the City Administrator upon serious or repeated violations. The City Clerk shall have the specific authority to suspend the permit of any Food Truck when such shall constitute a public health hazard or jeopardizes public health by reason of food that is unsafe for human consumption. Any Food Truck may at any time make an application for the reinstatement of its permit. Within five business days after the receipt of a satisfactory application, accompanied by a statement signed by the applicant to the effect that the violated provision has been conformed with, the City Clerk shall determine whether the violation has been corrected and so inform the applicant. Once the City Clerk determines the violation has been resolved, the Food Truck Permit shall be reissued unless it has been revoked under this section.

#### **Section 610.180 Food Truck Special Events.**

A. This section shall apply only to City-sponsored events on City-owned property. A Food Truck Permit is not required to participate in such events.

B. Any person operating a Food Truck at such an event:

1. Shall pay to the City Clerk an event fee set by the City Administrator or his/her designee, not to exceed \$100.00.

2. Shall provide to the City Clerk the following:
  - a. A copy of the applicant's sales tax license as issued by the State of Missouri showing Osage Beach as their place of business, provided that no copy of a license shall be required of any business which appears on the City's annual report of sales tax payees as provided by the Missouri Department of Revenue.
  - b. The location where books and records are kept of sales which occur within the City and which are available for City inspection to determine that all City sales taxes have been paid.
  - c. A copy of the applicant's current health inspection showing that the applicant meets all current health requirements.
  - d. A copy of all approvals required by the county(ies) in which the applicant intends to operate.
  - e. The address of the applicant's commissary location.

The City Clerk may provide an application form to collect such information.

3. Shall comply with the directions of City officials, including any rules and regulations for such event.
4. Shall not operate in such a manner as to cause grease or other waste to flow into private or public sewers, or otherwise violate the requirements of Section **710.280** of this Code regarding prohibited discharges.
5. Shall not fail to provide means for the Food Truck and its customers to dispose of trash and other solid waste in a sanitary and safe manner, or to fail to collect and dispose of solid waste attributable to the Food Truck, or to otherwise violate Section **215.060** of this Code.
6. Shall comply with all applicable federal, state, and local laws regarding food service and food safety, including but not limited to the Missouri Food Code as stated in 19 C.S.R. § 20-1.025 Sanitation of Food Establishments.
7. Shall comply with all requirements and instructions of the Health Departments of Camden and/or Miller Counties (as appropriate).

## Section 2. Severability

The chapters, sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or degree of any Court of any competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance since the same would have been enacted by the Board of Aldermen without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

Section 3. Repeal of Ordinances not to affect liabilities, etc.

Whenever any part of this ordinance shall be repealed or modified, either expressly or by implication, by a subsequent ordinance, that part of the ordinance thus repealed or modified shall continue in force until the subsequent ordinance repealing or modifying the ordinance shall go into effect unless therein otherwise expressly provided; but no suit, prosecution, proceeding, right, fine or penalty instituted, created, given, secured or accrued under this ordinance previous to its repeal shall not be affected, released or discharged but may be prosecuted, enjoined and recovered as fully as if this ordinance or provisions had continued in force, unless it shall be therein otherwise expressly provided.

Section 4. That this Ordinance shall be in full force and effect from and after the date of passage and approval of the Mayor.

READ FIRST TIME: March 7, 2024      READ SECOND TIME: April 18, 2024

I hereby certify that Ordinance No.24.28 was duly passed on April 18, 2024, by the Board of Aldermen of the City of Osage Beach. The votes thereon were as follows:

Ayes: 5      Nays: 1      Abstentions: 0      Absent: 0

This Ordinance is hereby transmitted to the Mayor for his signature.

April 18, 24  
Date

Tara Berreth  
Tara Berreth, City Clerk

Approved as to form:

Cole Bradbury  
Cole Bradbury, City Attorney

I hereby approve Ordinance No.24.28.

April 18, 24  
Date

Michael Harmison  
Michael Harmison, Mayor  
Tara Berreth  
Tara Berreth, City Clerk