

CITY OF CARO

ORDINANCE NO. 486

AN ORDINANCE TO REGULATE THE OPERATION OF TRANSITORY FOOD SERVICE UNITS AND THE ISSUANCE OF PERMITS, LICENSES, OR APPROVALS FOR TRANSITORY FOOD SERVICE UNITS

THE CITY OF CARO ORDAINS:

Section 1. Purpose

The purpose of this Ordinance is to establish a policy to regulate and manage Transitory Food Service Units in the City of Caro (the “City”); to permit and regulate Transitory Food Service Units in the City; to reduce vehicular and pedestrian traffic congestion; to encourage new business; and to protect the health, safety, and welfare of the City’s business district and the City’s people.

Section 2. Definition

Transitory Food Service Unit means a motorized vehicle, including pulled mobile trailer, a temporary food service station, cart, smoker, grill, freezing or cutting unit, or similar apparatuses that engages in the storage, preparation, service, sale, or distribution of ready-to-eat or immediately consumable food items to the public directly from the unit. Transitory Food Service Unit includes a “special transitory food unit” and a “temporary food establishment” as defined under the Michigan Food Law, MCL 289.1111.

Section 3. Permit Requirements

Except as otherwise authorized under this Ordinance, no Transitory Food Service Unit may engage in the preparation, service, sale, or distribution of food in the City on public or private property without first obtaining a permit from the City in the manner prescribed in this ordinance. The application fee will be set from time to time by resolution of the City Council. All fees must be paid to the City Treasurer at the time the application is submitted. All permits issued pursuant to this Ordinance must be available on site for inspection upon request by the City Zoning Administrator or law enforcement officer. Permits must be conspicuously displayed on the premises or any cart, stand, booth, motorized vehicle, mobile trailer, or similar apparatus used in the business at all times. No person may carry or display any expired, suspended, or revoked permit, or any license or permit for which a duplicate has been issued. Additionally, the Transitory Food Service Unit must comply with all applicable state licensing requirements, including but not limited to filing a Notification of Intent to Operate a Special Transitory Food Unit, and must further comply with all applicable requirements of the Tuscola County Health Department. Failure to comply with all applicable licensing and regulatory requirements may result in revocation of the permit by the City.

Section 4. Permit Exceptions

A Transitory Food Service Unit may engage in the preparation, service, sale, or distribution of food in the City on public or private property without a permit required under Section 3 of this Ordinance if:

1. Operating at a single location for less than 2 hours;
2. The operator is a USA veteran licensed to sell goods under Mich. Public Act 359 of 1921 or is otherwise exempt from the permitting requirements of this Ordinance under state or federal law;
3. The operator is operating under the invitation of a special event permit holder, or a special event held by the City of Caro, or one of its agencies.

The City reserves the right to request documentation in support of any exemption.

Section 5. Applications

1. A person requesting a Transitory Food Service Unit permit must submit a written application no more than 6 months in advance, and no less than 14 days prior to the proposed operation date.
2. Applications are to be on forms provided by the City and must state under oath such facts as may be required for, or applicable to, the granting of the permit. The City reserves the right to request additional information or documentation regarding the application to ensure proper compliance with this Ordinance and the safety of the general public.
3. The applicant must pay a fee of in an amount set by City Council from time to time by resolution. Fees must be made payable to “The City of Caro”. All payments must be made by cash , check, credit card, or electronic fund transfers.
4. The application fee is nonrefundable and does not guarantee approval by the City.
5. Permits are valid for 14 consecutive days. Each additional period of 14 days or less requires an additional application submitted in the same manner as an original application.
6. A Transitory Food Service Unit that is engaged in the business of selling prepared food that is cooked or heated with a device or appliance using any gas or liquid may not receive a permit until and unless the motor vehicle, conveyance, cart, stand, booth or other similar structure or fixture, device or appliance is reviewed or inspected by the Tuscola County Health Department.
7. Application Process
 - A. Applications must be submitted to: City of Caro, 317 South State Steet, Caro MI 48723 in accordance with the requirements this Ordinance for approval by either the City Manager or the Chief of Police.

- B. The City reserves the right to deny the application for incompleteness. No permit may be granted to any person owing any personal property taxes, money judgments, or any other indebtedness to the city, except for real property taxes and special assessments, or to any person using any personal property in the operation of a business upon which personal property taxes are delinquent.
- C. If, within 14 days from application submission, the applicant is unable to furnish any required or requested initial or supplemental documentation and/or delinquent payments, the application will be considered abandoned.

Section 6. Regulations

All the following regulations must be followed at all times by any Transitory Food Service Unit operating in the City:

1. Transitory Food Service Units may operate in zoning districts B-1 and B-2, as designated by the current City of Caro Zoning Map, and in designated public parks, and lots, or on private property. Those applying for a permit to operate on public property may only operate in designated spaces..
2. No Transitory Food Service Unit may operate within the vicinity of a hospital entrance or within 100 ft of the main entrance of a brick-and-mortar food service establishment.
3. Transitory Food Service Units may operate within the hours of 7:00 am and 10:00 pm on Sundays through Thursdays and 7:00 am and 12:00 am on Fridays and Saturdays unless the City Council approves additional permitted hours upon request of a Transitory Food Service Unit.
4. No Transitory Food Service Units may be left overnight, or unattended on public property, unless specified in a special events permit.
5. No Transitory Food Service Unit may block, obstruct, restrict, or otherwise interfere with the movement of vehicular traffic, or designated public parking.
6. No Transitory Food Service Unit may block, obstruct, restrict, or otherwise interfere with the flow of pedestrian foot traffic, movement or access to public walkways, trails or public amenities.
7. No furnishings are allowed on curbs, sidewalks, trails, in roads, pedestrian or vehicular right of ways. This includes, but is not limited to, lights, signs, banners, chairs, tables, or external waste receptacles.
8. The City of Caro reserves the right to permit furnishings on any public lawn, lot, park, or space. All furnishings must be included on a site plan and submitted with application

and must be in good quality condition. Furnishings are subject to approval by the City Manager or Chief of Police.

9. No liquid, solid, or food waste, or debris will be permitted to emit from the Transitory Food Service Unit. The permittee must keep the premises whereon said Transitory Food Service Unit is located free from their own rubbish, waste products, cans, bottles and debris including napkins, straws, paper cups and plates and other waste material.
10. Only reasonable vapors, steam or exhaust will be permitted to emit from the Transitory Food Service Unit.
11. Use of generators may be prohibited if its use, location, or condition is anticipated to create a nuisance to neighbors or pedestrians.
12. The Transitory Food Service Unit must comply with all local, state, and federal laws set forth by the Michigan Food Code, Michigan Health Department, USDA, Michigan Department of Agriculture, Michigan Secretary of State, Michigan Liquor Control Code, Internal Revenue Service, Tuscola County Health Department, or any other agency or entity with lawful jurisdiction over the Transitory Food Service Unit, its operation, and product sales.
13. Transitory Food Service Unit must comply with all regulations herein, and subsequent recommendations by the City of Caro. The Transitory Food Service Unit must furnish all documents as outlined, and any other proofs, or documents requested by Chief of Police.

Section 7. Indemnification

A Transitory Food Service Unit permit holder, and private property owner, agrees to hold harmless and indemnify the City of Caro, its agencies, its employees, or agents in all matters arising from the permitted application, and/or the operation of the Transitory Food Service Unit.

Section 8. Insurance

A Transitory Food Service Unit permit holder, operating on public property, must have no less than \$1,000,000.00 business liability insurance naming the City of Caro as an additional insured for approved dates of operation. Proof of business insurance must be submitted with permit application. Proof of insurance is due prior to the Transitory Food Service Unit permitted operation dates.

Section 9. Impoundment

Any equipment associated with a Transitory Food Service Unit that is not in compliance with this Ordinance and is left on public property may be impounded at the owner's sole expense.

Section 10. Non-exclusivity:

No provision in this chapter limits or intends to limit in any way the Transitory Food Service Unit, or its operator the right to offer or sell its products to the general public, other business entities, municipalities, or agencies before, during or after the operation permitted herein. The permit does not limit the City of Caro from freely engaging other persons, organizations, or businesses to provide the same or similar products or services at any time. Approval for a permit does not constitute approval or agreement to approve future applications.

Section 11. Revocation, Suspension, or Refusal; Appeal

Once a permit has been issued, the Zoning Administrator may, at any time, revoke or suspend a license for failure to comply with the provisions of this Ordinance or any rules or regulations promulgated by the City included, but not limited to one or more of the following reasons:

1. Failure to pay all required fees;
2. Fraud, misrepresentation or false statement contained in the application for a permit;
3. Fraud, misrepresentation or false statement made in the operation of a business;
4. Any violation amounting to a felony, or misdemeanor involving moral turpitude, resulting from or related to operation of a business in the City;
5. Conducting a business in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a nuisance per se to the health, safety or welfare of the public;
6. Failure to comply with an requirement of any authorized city official as it relates to the operation or business pertaining to the permit;
7. The failure of any applicant or permittee (including all employees, agents and representatives of the applicant or permittee) to meet and satisfy any provision of this Code or any other duly established rule or regulation of the city applicable to the business for which the permit has been requested or granted;
8. Failure to obtain any other required license or permit for the business from any federal, state or local agency or authority and lack of any evidence that such state license or permit has been obtained and proof that all fees pertaining thereto have been paid;
9. Failure to provide any information reasonably requested by the Zoning Administrator related to the application;
10. Failing to comply with this Ordinance.

The City must provide a permittee with reasonable notice and an opportunity to be heard before revoking or suspending a permit.

If a permit application is denied or a permit is revoked or suspended, the aggrieved party may appeal to the City Council in writing within ten days. If no appeal is timely filed, then the denial, revocation, or suspension is final.

Section 12. Other Permits

A permit obtained does not relieve any Transitory Food Service Unit of its responsibility for obtaining any other permit or license or authorization required by any other ordinance, statute, law or administrative rule promulgated by any entity with jurisdiction over the location or conduct considered within this Ordinance.

Section 13. Validity and Severability

Should any portion of this Ordinance be found invalid for any reason, such holding will not be construed as affecting the validity of the remaining portions of this Ordinance.

Section 14. Repealer Clause

Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 15. Violation

A violation of this ordinance is a municipal civil infraction and, in addition, the City of Caro is entitled to enforce this ordinance by seeking injunctive relief or any other remedy allowed by law.

Section 16. Effective Date

This ordinance is effective 30 days after publication.