

# TOWN OF BAILEYVILLE

## MOBILE VENDING ORDINANCE

### ARTICLE I. PURPOSE

The purpose of this Ordinance is to regulate mobile vendors, to protect the public's health, safety, and welfare, while fostering a dynamic business climate that generally promotes an active vehicular and pedestrian environment.

### ARTICLE II. DEFINITIONS

**Mobile Vendor:** Any person engaged in selling, or offering for sale, food and beverages for human consumption from a mobile vending unit, on the streets or sidewalks of the Town; or from a temporary location within the Town boundaries. This includes privately owned property.

**Mobile Vending Unit:** A moveable cart, trailer, or vehicle or other device designed to be portable and not permanently attached to the ground from which a mobile vendor sells their product.

**Transient Vendor:** A mobile vendor that operates without a fixed location within the Town's boundaries, that frequently moves about to sell their merchandise or services. Examples include ice cream trucks and mobile lunch canteens.

**Transient Sellers of Consumer Products:** This includes persons who sell door to door, at public fairs, carnivals, expositions or bazaars or members selling on behalf of public service of non-profit organizations. (See Article IX.)

**Vendor License:** Authorization by the Town Council and State of Maine to conduct mobile vending operations.

### ARTICLE III. GENERAL

- A. It shall be unlawful for any mobile vendor to sell, display, or offer for sale any food, beverages for human consumption within the Town without first obtaining a mobile vendor license signed by the Code Enforcement Officer. The provisions of this ordinance also apply to mobile vending occurring at festivals, public fairs, carnivals, community projects, sporting events, and public events that occur on a periodic basis but that which requires a different license. (See Article IX.)
- B. Applications for all mobile vendor licenses shall be made in writing to the Code Enforcement Officer on an application provided by the Town and shall contain the following information:

1. The name, mailing address, phone number and email of the applicant; and the name, mailing address, phone number, and email of the owners of the mobile vending unit to be used, if other than the applicant.
  2. A specific description of the vending operation including the types of food and/or beverage, to be sold, the hours of operation, and the method of refuse disposal.
  3. A description and photograph of the mobile vending unit and other accessory items (coolers, umbrellas, signs, refuse cans, lights) to be used as part of the vending operation.
  4. The specific location(s) in which the mobile vendor intends to conduct business.
  5. Applicants operating from a fixed location will be required to submit a notarized statement from the property owner stating that the applicant has permission to utilize the premises for vending purposes and inclusive dates of operation.
  6. Applicants operating from within a public right-of-way which does not abutt their own property must submit a notarized statement from the abutting landowner stating that they approve of the vending operation.
  7. Applicants operating without a fixed location and who are operating as a transient vendor will be required to submit a statement outlining their proposed route, and estimated time of arrival and departure from each location. The Code Enforcement Officer may require that the applicant submit a written statement from the property owners and abutting property owners, approving the uses of their property for vending purposes, as outlined above.
  8. Copies of required State licenses, general liability insurance, motor vehicle registration/inspection, and a signed criminal history statement must be provided with the Town's application and all additional information as deemed necessary by the Town.
- C. The fee for a mobile vendors license shall be \$200.00/year or \$10.00 per day.
- D. The Code Enforcement Officer may, prior to granting a permit and after reasonable notice to the public and the applicant, hold a public hearing within 30 days of the date the request was received, at which the testimony of the applicant and that of any interested member of public shall be taken. The notice to the public will be paid for by the applicant.

- E. The Code Enforcement Officer shall grant a license unless it is found that the issuance of the license will be detrimental to the public health, safety or welfare, or would violate municipal ordinances, or rules and regulations, articles or bylaws.
- F. A mobile vendor license shall be valid for 1 year from date of issuance and must be renewed annually (July 01). The maximum number of mobile vendors licensed in Town at one time shall not exceed 5. (First come, first serve. See Article IX.)
- G. Mobile vendors will be subject to periodic inspections by the Health Officer and Code Enforcement Officer to ensure compliance with health regulations, zoning or safety regulations, and licensing requirements. The Code Enforcement officer may revoke a mobile vendor license of any licensee who refuses to permit any such officer or Town/State official, or employee to conduct an inspection and take sufficient samples for analysis or who interferes with such officer, official or employee while in the performance of his duty.
- H. The Code Enforcement Officer may after a public hearing preceded by notice to the license holder and general public, suspend or revoke any mobile vendor license which has been issued under this ordinance on grounds that the license, so issued, constitutes a detriment to the public health, safety, welfare, or violates the terms of the license or this ordinance or any other municipal ordinance, articles, by-laws, or rules and regulations.
- I. Any licensee requesting a mobile vendor license from the CEO shall be notified in writing of their decision no later than 30 days from the date the request was received. In the event that an applicant is denied the license, the applicant shall be provided with the reasons for the denial in writing. The applicant may not reapply for a license until 30 days has passed *after* an application has been denied or in the event of a revocation, a 1 year waiting period must elapse before a vendor can reapply.

#### **ARTICLE IV. PERFORMANCE STANDARDS**

- A. ***Permitted Merchandise:*** Sale of items from a mobile vendor are limited to the following:
  - 1. All foods and drinks for human consumption, non-alcoholic beverages;
  - 2. Produce, farm products, home processed foods such as jams, jellies, pickles, and baked goods;

- B. **Location:** No mobile vendor selling food items shall be located within 200 feet of an existing restaurant or within 25 feet of another mobile vendor. 10 feet between push carts. 20' min. from adjacent side lot lines of abutting property. 10' min. from roadway.
- C. **Prohibited areas:** Mobile vending is not allowed within cemeteries.
- D. Mobile vendors will not be situated or so located in a way that will obstruct the free passage of pedestrians and vehicular traffic, or obstruct an entrance or exit, or obstruct visual access to a fire hydrant or the free movement of emergency vehicles and personnel.
- E. **Size:** A trailered mobile vending unit shall not exceed 8 ½ feet wide by 16 feet long. The height of a mobile vending unit including canopies, umbrellas, or signs shall not exceed 10 feet. Total length of a motorized mobile vending unit will not exceed 24 feet. No vendor shall set up tables, racks, or other devices to increase the selling or display capacity of the unit. Push cart/stand dimensions (4'x 6'x 6') max.
- F. **Sound:** Generators are allowed to be utilized as part of the mobile vending unit. The use of bells, chimes, microphones, or loudspeakers are prohibited from being used to attract business. Hawking or calling out to people is also prohibited. The sound pressure level limits must not exceed 60db at any point on or beyond the site.
- G. **Maintenance:** The area around the vendor shall be kept clean and free of litter, garbage, insects, vermin and debris within a 25 foot radius of the vending unit. Frequent and daily disposal of all refuse is the responsibility of the vendor. At least one large trash receptacle must be provided and maintained by the vendor. All evidence of a vending unit must be removed from the premises each day after operations have ceased. No merchandise shall be displayed using street structures such as planters, trees, light poles, sign posts, etc.
- H. **Hours of Operation:** A mobile vendor may only operate between the times of 6 :00 am to 10:00 pm unless special permission is given in writing by the Code Enforcement Officer or by a majority vote of the Town Council. *Transient mobile vendors* may only stay in one location for a period not to exceed 20 minutes.
- I. **Service:** There shall be no service by the vendor to customers remaining in vehicles. No on-site dining is permitted. The presence of on-site dining would qualify the use as a restaurant, which is regulated under a separate set of State laws and local ordinances.
- J. **Signs:** A sandwich board style sign, not to exceed 8 square feet may be placed next to the mobile vending unit in a manner that is visible to passing pedestrians or vehicles providing it does not block the visibility of pedestrian and vehicular traffic. Signs not to exceed a total of 8 square feet, may be placed on the mobile unit, or incorporated into the unit through means of paint, banners, or canopies. A menu sign, not to exceed 4 square feet, is permitted and will not be counted towards the total sign area. Off-site signage advertising the mobile vendor is prohibited.

## ARTICLE V. PENALTY, SEPARABILITY & EFFECTIVE DATE

- A. **Penalty:** Whoever violates any of the provisions of this ordinance shall be punished by a fine of not more than \$500.00 for the first offense, and up to \$1000.00 for each subsequent offense, to be recovered on complaint, to the use of the Town of Baileyville.
- B. **Separability:** The invalidity of any provision of this ordinance shall not invalidate any other part.
- C. **Effective Date:** This ordinance shall become effective when adopted by Town Council through a series of 3 public hearings. This ordinance specifically supersedes any and all previous ordinances regulating mobile vendors prior to \_\_\_/\_\_\_/2014

**TOWN OF BAILEYVILLE CHECKLIST FOR MOBILE VENDOR APPLICATION**

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

Vending Unit Operator: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_ Email: \_\_\_\_\_

- o Certificate of Liability Insurance. \$300,000.00 bodily injury, death, property damage.
- o Maine Department of Human Services "Certificate"
- o Description of Vehicle and copy of Maine registration
- o Photographs (interior/exterior) of mobile unit or push cart
- o Statement from applicant stating he/she has no criminal convictions.
- o Written permission to use the land by the property owner.
- o Map # \_\_\_\_\_ Lot # \_\_\_\_\_ where mobile unit will be operated.
- o Diagram of specific location(s) of vending unit including measurements to abutting landowners, public ways etc.
- o Signed statement from applicant giving permission to release any information relevant to the above items.
- o Types of foods/merchandise being sold from mobile unit
- o Dimension of mobile unit including tongue and bumper/hitches.
- o Non-refundable application fee \$xx.xx      Date: \_\_\_/\_\_\_/\_\_\_
- o Site Fee \$xxx.xx (due upon approval)      Date: \_\_\_/\_\_\_/\_\_\_

- Per Diem fee of \$xxx.xx Date Start: \_\_\_/\_\_\_/\_\_\_ Date Finish: \_\_\_/\_\_\_/\_\_\_
  - **ALL FEES WILL BE DETERMINED ANNUALLY BY TOWN COUNCIL**
- Vending Unit Owner: \_\_\_\_\_

**TOWN OF BAILEYVILLE**  
**MUNICIPAL REVIEW OF MOBILE VENDOR APPLICATION**

Date: \_\_\_/\_\_\_/\_\_\_

Applicant Name: \_\_\_\_\_

Business Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Business address: \_\_\_\_\_

Email: \_\_\_\_\_

Having reviewed this Mobile Vendor's License Application and based upon the Mobile Vendor Ordinance of the Town Of Baileyville, I make the following recommendation(s):

- Approve
- Disapprove
- Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signed: \_\_\_\_\_ Code Enforcement Officer

Signed: \_\_\_\_\_ Health Officer

Signed: \_\_\_\_\_ Fire Chief

TOWN OF BAILEYVILLE

APPLICATION FOR MOBILE VENDOR'S LICENSE

Owner: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Business name: \_\_\_\_\_

Operator: (if different from owner) \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Site(s) of Operation: 911 Address: \_\_\_\_\_ Map# \_\_\_\_\_ Lot# \_\_\_\_\_

911 Address: \_\_\_\_\_ Map# \_\_\_\_\_ Lot# \_\_\_\_\_

911 Address: \_\_\_\_\_ Map# \_\_\_\_\_ Lot# \_\_\_\_\_

Description of Items to Be Sold: \_\_\_\_\_

Attach the following documents/information to this application:

1. Certificate of Liability Insurance
2. Maine Department of Human Services "Certificate"
3. Description of Vehicle and Vehicle registration (if applicable)
4. Photograph(s) of vehicle (interior/exterior)
5. Statement from applicant stating he/she has no criminal convictions
6. Written permission to use land by the property owner
7. Signed statement from applicant giving permission to release any information relevant to the above items

Under penalty of perjury, I believe the statements made in this application and any documents made a part thereof are , to the best of my knowledge, correct and complete.

Date: \_\_\_/\_\_\_/\_\_\_

Applicant Signature: \_\_\_\_\_

Fee: \$XXX.XX **Must be paid upon approval**

Cash: \_\_ Check: \_\_

## **ARTICLE VI. REQUIREMENT**

It shall be unlawful for any person, directly or indirectly, to conduct any business or activity or to use in connection therewith any vehicle, premises, machine or device, in whole or in part, for which a license or permit is required under this ordinance or any other regulation of the Town of Baileyville or under any State statute.

All administrative powers and authority vested in the Town Council to grant or deny the license(s) and permit(s) required hereunder shall be delegated to the Code Enforcement Officer.

The license and permit fees for various businesses and occupations shall be set from time to time by the Town Council without notice. The schedule of such fees will be on file at the Town office.

## **ARTICLE VII. LICENSING STANDARDS/CRITERIA**

In determining whether to grant or deny a license or permit required hereunder, the Town shall determine whether the applicant complies with all standards and criteria for the issuance of said license or permit as established by ordinance or statute. In addition, unless otherwise prohibited by law, there must be an affirmative showing by the applicant that he/she complies with the following:

1. The activity to be licensed or authorized is an allowed use in the zone in which it is to be located or conducted.
2. The applicant has obtained all necessary approvals and permits required under this ordinance.
3. The applicant is of good moral character.

## **ARTICLE VIII: ENFORCEMENT**

Provisions of this ordinance and applicable state statutes shall be enforced by the Code Enforcement Officer and/or the Town council. See appeals procedure in Section #7 of the Baileyville Land Use Ordinance.



**TRANSIENT VENDOR DAILY SCHEDULE**

( 20 minutes maximum for sites on public ways )

Name: \_\_\_\_\_ Address: \_\_\_\_\_

License #: \_\_\_\_\_ Issued: \_\_\_/\_\_\_/\_\_\_ Food/Merchandise for Sale: \_\_\_\_\_

Site #1 Address: \_\_\_\_\_ Time Start: \_\_\_\_\_ Time Finish \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_

Site #2 Address: \_\_\_\_\_ Time Start \_\_\_\_\_ Time Finish \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_

Site #3 Address: \_\_\_\_\_ Time Start \_\_\_\_\_ Time Finish \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_

Site #4 Address: \_\_\_\_\_ Time Start \_\_\_\_\_ Time Finish \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_

Site #5 Address: \_\_\_\_\_ Time Start \_\_\_\_\_ Time Finish \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_

Site #6 Address: \_\_\_\_\_ Time Start \_\_\_\_\_ Time Finish \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_

The MVU shall not create a safety or health hazard, or obstruct vehicular/ pedestrian traffic.

## ARTICLE IX. SPECIAL EVENT VENDOR LICENSE

The *Special Event Vendor License* is intended for events that occur once annually or on special occasions or events on a non-regular basis. This license is inclusive for mobile vendors, stationary vendors, and transient vendors (including people on foot selling food/beverage). The license is on a per diem basis only. There are no limits to the number of allowable vendors during a *Special Event*. All terms and conditions of this ordinance apply to Article IX.

## **ARTICLE X. ALLOWABLE AREAS OF OPERATION**

All public areas within the boundaries of Baileyville are open to Mobile Vending Units during special events, annual celebrations, fairs, carnivals, sporting events and the like (except cemeteries), and which will not last more than 72 hours, with the understanding that written permission must be given to each MVU and submitted with the MVU application provided by the Town of Baileyville and must be approved by the Code Enforcement Officer at least 1 week in advance of the event. This also applies to the use of private land for the purpose of vending (See Article III and IV ).

Mobile Vending on public areas during all other times of the year is limited to areas zoned as Retail, General and Industrial.

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Mobile Vending on public areas during all other times of the year is limited to areas zoned as Retail, General and Industrial.

REVISED 9-2-14  
10-02-14

DRAFT COPY AMENDMENTS

Date: 08/11/14

To: Town Manager/Town Council

From: Codes Enforcement

Re: Mobile Vending Ordinance changes

The following changes to the MVO are as follows:

**Article III.** – Part F: Does not include 72 hour permits. to be inserted at the end of the paragraph.

**Article IV.** – Part A4: No copyrighted merchandise is to be sold unless vendor is properly licensed. to be inserted at end of paragraph.

Part G: All refuse must be separated and recycled by vendor. to be inserted after the third sentence.

**Article IX.** See attachment.

**Article X.** See Baileyville Zoning maps. to be inserted at end of last paragraph.

ALL FEES SET FORTH HEREIN SHALL BE DECIDED BY COUNCIL MANUALLY.

## ARTICLE IX. SPECIAL EVENT PERMIT ORDINANCE (addendum)

### **Purpose**

The purpose of this Ordinance is to provide the Town of Baileyville with a mechanism for regulating the dates, times, location and conditions under which grantees are authorized to make use of Town Property for special recreational, entertainment, or charitable events and to help avoid conflicts in the public's use of Town property for private or organizational purposes.

### **Definitions**

*Special Event* shall mean any event, sponsored by an individual, corporation, partnership or other entity or organization intended for recreational, entertainment or charitable purposes, which requires use of Town Property in Baileyville, Maine.

1. Minor Event shall mean an event not exceeding four hours in duration and fewer than 100 people.
2. Major Event shall mean an event exceeding four hours in duration and/or more than 100 people affiliated with the event (community festival, carnival, street dance). Also, a major event will involve additional Town services such as Police protection, more than one vendor needing electrical usage, etc.

*Town Property* shall mean any land and buildings owned by the Town of Baileyville including but not limited to parks, streets, and empty lots.

### **Special Events Permit Required**

All special events shall require an application, which will be reviewed and interpreted as a Major or Minor event by the Codes Officer, Town Manager, Police Chief and other department managers. No person may conduct a special event on Town property without a Special Events Permit issued by the Baileyville Codes Officer pursuant to this Ordinance. The Codes Officer shall set a fee for this permit and may waive this fee (for any local not for profit organizations) if it is found to be in the best interest of the public or if the costs to the Town to allow the event are found to be minimal.

When granted, a Special Events Permit shall confer on the grantee the exclusive rights to use the building(s) and/or area(s) described in the permit, during the time and for the purposes described in the permit. During the time of a permitted Special Event, the building(s) and/or area(s) where the event is conducted shall be deemed closed to other public uses, except for emergency uses. The grantee shall have authorization to issue its own licenses and fees for participation by other vendors and/or organizations in the event. The Codes Officer may approve a blanket fee for the grantee to cover a specified amount of vendor licenses for the event. Any individual and/or organization operating as a vendor without the required license(s) shall be considered in violation of this ordinance and subject to the penalties herein.

### **Special Events Application**

Each Special Events Application shall be submitted to the Baileyville Codes Officer no earlier than 12 months prior to the proposed special event and no later than 30 days prior to the date of the minor event and 60 days prior to the date of a major event, unless waived by the

Codes Officer. The application shall be on the form provided by the Town and shall include at a minimum:

1. Dates and Times of the event
2. Description of the event
3. Designated areas of Town property to be affected.
4. Estimated number of people attending event.
5. Proof of liability insurance and ability to add the Town as an additional insured.
6. Plan for after function clean-up.
7. Plan for dealing with traffic, parking, and crowd control.
8. Need for sanitary facilities for the event.
9. Need for Town services, utilities, etc. for the event
10. Whether amplified sound will be used.
11. Such additional information as the Baileyville Town Council deems necessary for determination of compliance with this ordinance.
12. Proof of all State licenses and Permits.

#### **Criteria for issuance of Special Events Permit**

In considering whether to issue a Special Events Permit, the Code Officer shall consider whether the proposed special event is consistent with the goal of promoting use of Town Property for recreational, entertainment, or charitable events. This criterion shall not apply to demonstrations, protests, or other First Amendment activities. The Town reserves the right to establish blackout dates where Town Property will not be available for permitted events and may use this as a basis to deny a permit.



Some events may necessitate the need for Town services, including staff time, materials, equipment and other resources. The Town shall provide a good faith estimate to each applicant for the cost of these services and the applicant shall be responsible for these costs as a condition of the issuance of the permit. The Town Council may elect to waive this charge for any 501(c) non-profit organization where the expected cost will be \$500.00 or less and the Council deems the event is in the best interest of the community. The Council may waive up to half of this charge if the amount exceeds \$500.00.

For events at which the sponsoring individual or organization expects to make a profit, the Town shall require that any waived charges be reimbursed to the Town before the entity takes a profit. "*Profit*" shall be defined as the difference between all related event revenue less all related event expenses. "*Event revenue*" shall be defined as any money raised related to the event, including but not limited to admission fees, food, merchandise, goods sales or commissions, vendor participation fees, and cash sponsorships and donations. "*Event expenses*" shall be defined as actual cash costs incurred by an organization specific and exclusive to the event.

### **Penalties**

Any person who violates any provision of this Ordinance or who fails to comply with the terms of a Special Event Permit commits a civil violation and shall be subject to a penalty. ( See Article IV. )

### **General**

This Ordinance grants no rights to and creates no property or other legal interest in any person. The Town Council retains full control over Town Property and may at its

sole and exclusive discretion issue, issue with conditions or deny any and all Special Events Permits. Decisions of the Town Council shall be subject to appeal (see Section #7 of the BLUO)

The holder of a Special Events Permit shall be solely responsible for conducting the Special Event in compliance with the conditions of the Permit and for maintaining public safety and order during the event. The Town of Baileyville assumes no liability or responsibility by issuing the permit.

#### **Conflict with other Ordinances**

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other statute, rule, ordinance, regulation, by-law, policy, permit or other legal requirements. Where this Ordinance imposes a greater restriction upon the use of Town Property, the provisions of this Ordinance shall prevail.

#### **Validity and Severability**

See Article V.

#### **Exemptions**

This Ordinance shall not apply to any event sponsored, organized or conducted by any department or agency of the Town of Baileyville.

**SPECIAL EVENTS PERMIT APPLICATION**

Name of Event Organizer: \_\_\_\_\_

Contact Person: \_\_\_\_\_ 501 ( c ) Verification: Y / N (copy)

Address: \_\_\_\_\_

Email/Tel: \_\_\_\_\_ / / \_\_\_\_\_

Date(s) of Event: \_\_\_\_\_

Time(s) of Event: \_\_\_\_\_ Street Closure: Y / N

Location of Event: \_\_\_\_\_ Amplified Sound: Y / N

Names/Addresses of all vendors and type of goods being sold by each (attach sheet).

Proof of Liability Insurance (with Baileyville as an additional carrier) Y / N

Town Services Needed: Y / N (explain) Estimated Cost to Town: \$ \_\_\_\_\_

Amount of money waived by Town of Baileyville. \$ \_\_\_\_\_

Cleanup Provided by Organizer: Y / N Need Sanitary Facilities: Y / N

Plan for traffic control, parking, crowd control: (Use additional sheet)

Cost per event is \$100.00 or \$5.00 per vendor/per day whichever is more.

Signature: \_\_\_\_\_ Event Contact Person

Signature: \_\_\_\_\_ Codes Officer

Signature: \_\_\_\_\_ Town Manager

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_