

CHAPTER 22 -MOBILE VENDORS

Ord. 22-1 - Purpose.

The general purpose of this article is to promote the health, safety, comfort, convenience, prosperity and general welfare of the citizens of New Albany by establishing reasonable guidelines and regulations for mobile vendors, mobile food preparation vehicles, and mobile pushcarts. This purpose includes job creation, creating a vibrant business environment and encouragement of entrepreneurship within the city.

Ord. 22-2 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Person means an individual, corporation, association, partnership or other entity.

Mobile vendor means any person who sells food, beverages or merchandise of any kind from a mobile pushcart or any other mobile vehicle in the City of New Albany.

Mobile food vendor means any person who sells food and/or beverages from a mobile pushcart or motorized mobile food preparation vehicle in the City of New Albany.

Mobile pushcart means any portable vending device, pushcart, or other wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licensed and registered by the Department of Transportation, used for the displaying, storing or transporting of food offered for sale by a vendor. Said cart may be up to four (4) feet in width, six (6) feet in length, excluding auxiliary items such as handles or fenders, or otherwise the cart shall not occupy space greater than a total of twenty-four (24) square feet.

Mobile food preparation vehicle means any moveable car, van, truck or trailer that includes a self-contained kitchen in which food is prepared, processed or stored and used to sell and dispense food to the consumer. The unit must be on wheels at all times. This definition does not include pushcarts which is defined above.

Public property shall mean any real property owned, controlled by, leased or assigned to a governmental entity excluding such property as has been leased out by that entity for nongovernmental purposes. It shall also include publicly maintained streets or highways, unimproved streets and rights-of-way or similar easements for public

access and use over which the public entity has a legal interest or right of control.

Ord. 22-3 Exemptions

(a) The provisions of this ordinance shall not apply to:

(1) Civic and nonprofit organizations so long as they operate on a limited basis with approval of the Code Enforcement Officer, Mayor or Board of Aldermen;

(2) Fairs sponsored or approved by local governmental entities and conducted primarily for amusement or entertainment;

(3) Any general sale, fair, circus, auction or bazaar sponsored by a church or religious organization for no more than one (1) week continually and no more than four (4) times per calendar year;

(4) Garage sales as defined and regulated by Chapter 13, Article III of the city's ordinances;

(5) Peddlers as defined and regulated by Chapter 15 of the city's ordinances;

(6) Sales of agricultural products, such as at a farmer's market; and

(7) Duly licensed flea markets operating from a fixed location.

(b) A mobile vendor not otherwise exempted from this article is not exempted from this article because of a temporary association with a local merchant.

Ord. 22-4 Privilege License and Permits Required

(a) All mobile vendors shall obtain from the city's clerk's office and maintain a City Privilege License, pursuant to Chapter 11 Article II of the city's ordinances.

(b) All mobile vendors shall also obtain and maintain a mobile vendor's permit, pursuant to the provisions of this Chapter.

Ord. 22-5 Mobile Vendor's Permit: Application, Issuance, Renewal.

(a) A person desiring a mobile vendor permit in the city shall file an application with the City Clerk, including the following:

1. The name, mailing address, physical address, telephone number(s), and email address of the applicant(s). If any

applicant is anything other than a natural person, then all documents related to the creation and maintenance of the entity such as articles of incorporation and similar relevant documents shall be included.

2. A statement describing the kind of business to be conducted, the length of time for which the applicant desires to transact business, and the proposed location of the business.

3. The name and permanent address of the applicant's registered agent or office, which must be within the state.

4. A signed acknowledgement of acceptance by the registered agent, including acknowledgement of the requirement to keep their address updated.

5. Proof that the applicant has acquired all other required city, county and state permits and licenses. Such proof shall include state sales tax numbers for sales tax and city special taxes.

6. If a mobile food vendor, a current food service permit from the Mississippi Department of Health.

7. All mobile pushcarts and mobile vendors shall be issued a State tax number by the Mississippi Department of Revenue designating them as a City of New Albany business, or if domiciled elsewhere, designating the City of New Albany as an additional permitted location for reporting of all sales tax collected for sales in the City of New Albany.

8. If a mobile food vendor, an approval from the city fire inspector as required under the applicable International Fire Code adopted by the City. Mobile food preparation vehicles shall have at least one fire extinguisher approved by the New Albany Fire Department and shall abide by all Fire Department Rules and Regulations. A copy of current Fire Department Rules and Regulations will be kept in the Office of the Code Enforcement Officer and shall be provided prior to issuance of a permit or upon request. Also prior to issuance of a permit, the Chief of the New Albany Fire Department or his designee shall inspect all food trucks for which a permit is sought to ensure compliance with these rules and regulations. The Fire Department Chief, or his designee, shall have five (5) business days to make such inspection or to make arrangements with the registrant for an alternate time of

inspection if an agreed time for the inspection cannot be arranged occur within such five (5) day period.

9. A City of New Albany Property Owner Consent form for each proposed location of operation on private property.

10. Proof of a valid general liability insurance policy that provides minimum liability coverage of two hundred fifty thousand dollars (\$250,000.00), with the city named as an additional insured if mobile vending is to take place on public property and rights-of-way, including sidewalks.

11. If operating a mobile vehicle required to be licensed and registered by the Mississippi Department of Transportation, proof of a valid vehicular insurance policy shall be provided to the city.

12. If the applicant is an association or corporation, the applicant must also include the names and addresses of the members of the association or the officers of the corporation. If the applicant is a corporation, the application must state the date of incorporation and the state in which it was incorporated. If the applicant is a corporation organized under the laws of another state, the applicant must state the date on which the corporation qualified to transact business as a foreign corporation in this state.

13. A disclosure of criminal convictions of the Applicant described in paragraph (b).

14. Such other additional information required by law, rule, or ordinance, or that any department of the city or city council or the permit applicant reasonably deems appropriate to assist the city in determining whether the permit should be granted.

(b) Applicants who have been previously convicted of a felony or of any food related misdemeanor within ten (10) years are hereby prohibited from obtaining a license due to the threat of public safety and welfare, except upon approval by the New Albany Board of Aldermen.

(c) Mobile permits cost two hundred fifty dollars (\$250.00) per vehicle or cart which covers the administrative cost of processing the application and regulating each mobile pushcart or mobile vending vehicle.

(d) Mobile vendor permits are valid for one (1) year.

(e) The City of New Albany Code Enforcement Officer shall review the application for mobile vendor permits to determine whether the application is complete and should be granted.

(f) The municipal clerk shall issue a mobile vendor license under this article only if all requirements of the article have been met. The license is not transferable and is valid only within the corporate limits of the city.

(g) Mobile vendor permits are non-transferable.

(h) Mobile vendor permits do not allow permit holders to operate during city sponsored special events within five hundred (500) feet of such event without authorization from the event organizers.

(i) The city may revoke and terminate the permit in the event the vendor violates any term, condition, or provision of the permit, the City of New Albany Code of Ordinances and/or zoning ordinances, state and/or federal law, or if the business license issued by the city for the permitted activity is revoked. The procedures for revoking or terminating a permit shall be the same as revoking or terminating a business license. If the registered agent cannot be served at the designated address, service may be made by certified mailing to the official address in the permit application. The vendor may terminate or surrender the permit at will any time prior to the expiration of the permit by providing written notice to city clerk.

Ord. 22-6 Mobile vendor operations

(a) Mobile vendors shall not conduct sales of any of their products or services except during the hours of 6:00 a.m. to 12:00 a.m.

(b) Mobile vendors shall not conduct sales of any of their products or services except on private property zoned for commercial or industrial use in accordance with the city zoning ordinance or upon public property with permission from the governmental entity having control of such public property.

(c) Mobile vendors shall not park in any area that blocks view of traffic, traffic signals or traffic signs nor in any area which would obstruct the free and safe passage of vehicles or pedestrians.

(d) Mobile vendors shall not park within ten (10) feet of a fire hydrant, within fifty (50) feet of a gas pump, fuel island, fuel tank fill port or venting equipment, or within twenty (20) feet of a building or structure. The mobile vending vehicle or mobile pushcart must be attended at all times.

(e) Mobile pushcarts and mobile vendor vehicles must not be locked or attached to trees, garbage receptacles, or street furniture.

(f) Mobile vendors, vehicles or pushcarts may not set up any structures, canopies, tables, chairs or signage not attached to the mobile vending vehicle or pushcart which would obstruct the free and safe passage of pedestrians or in any location that impedes the ingress or egress of other businesses, building entrances or emergency exits or creates a public nuisance.

(g) Mobile food vendors are responsible for all waste and trash removal. A containment area of fifteen (15) feet must be kept clear of grease, trash, paper, cups or cans associated with the operation. No liquid waste or grease is to be disposed of in tree pits or onto sidewalks, streets, or other public places; nor shall it be disposed of in drains or sanitary sewers.

(h) The mobile vendor pushcart or vehicle must have self-contained utilities and shall not use the city's utilities or private utilities.

(i) No speakers, noise production devices or sound amplifications are allowed. Generators must adhere to the city noise ordinance.

(j) In addition to the state seven (7) percent sales tax, all mobile vendors must pay the special additional two (2) percent special tourism tax required of all prepared food providers in the City of New Albany.

(k) The mobile vending permit, city privilege license and Mississippi Department of Health food service permit shall be displayed on the mobile pushcart or mobile food preparation vehicle at all times.

Ord. 22-7 Violations

All mobile food vending must be performed in compliance with said article. Failure to abide by said article shall result in the following:

1. A fine not exceeding one hundred and fifty dollars (\$150.00) for a first violation.
2. A fine not exceeding two hundred and fifty dollars (\$250.00) for a second violation within one (1) year of any prior violation.
3. A fine not exceeding five hundred dollars (\$500.00) for a third or more violation within one (1) year of the first.

Any offense shall be considered a misdemeanor and is subject to being cited by a code enforcement officer or by any authorized law enforcement official in the City of New Albany or with authority to do so in the City of New Albany.

Violation of this article may result in the suspension or revocation of any city permit or license issued to the owner or operator of the

mobile pushcart, mobile food preparation vehicle, or mobile vendor vehicle.

Each day on which an infraction of the article occurs shall be considered a separate and distinct violation.

All fines collected shall go to the City of New Albany's general fund.