

ORDINANCE 2020-1051

AN ORDINANCE AMENDING TITLE 9, OF THE MOUNT PLEASANT MUNICIPAL CODE BY ADDING A CHAPTER 7 REGARDING MOBILE FOOD VENDING AND BY SPECIFICALLY EXEMPTING MOBILE FOOD VENDING FROM TITLE 9, CHAPTER 2, SECTION 2-202.

WHEREAS, Board of Commissioners of the City of Mount Pleasant desires to regulate and permit mobile food vending to ensure the health, safety, and welfare of the citizens of Mount Pleasant;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MOUNT PLEASANT, TENNESSEE, AS FOLLOWS:

Section 1. That Title 9 is hereby modified by adding the following new Chapter 7, Mobile Food Vending:

CHAPTER 7

MOBILE FOOD VENDING

SECTION

- 9-701. Purpose
- 9-702. Definitions
- 9-703. General
- 9-704. Location and hours of operation
- 9-705. Operating requirements
- 9-706. Mobile food service permits
- 9-707. Food truck rallies

9-701. Purpose. The article recognizes the unique physical and operational characteristics of mobile food vending and establishes standards for the typical range of activities and mitigates or prohibits practices that are contrary to the health, safety, and welfare of the public.

9-702. Definitions.

(1) Canteen Trucks. Vehicles that operate to provide food services to employees at a location where access to other good service is impractical (e.g., a construction site); from which the operator vends fruits, vegetables, pre-cooked foods such as hot dogs; pre-packaged foods, and pre-packaged drinks that require no preparation or assembly of foods or beverages except for the heating of pre-cooked foods; which operate at a single location for a period of no longer than 1.5 hours; and which do not advertise in any form to the general public except by virtue of signage on the vehicle. Canteen Trucks that operate other than as defined herein are Food Trucks and must comply with all Food Truck regulations.

(2) Food Trucks. Vehicles from which the operator cooks, prepares, or assembles food items (including products sold by Canteen Trucks and Ice Cream Trucks) with the intent to sell such items to the general public and which may market their products to the public via advertising, including social media.

(3) Food Truck Rallies. Coordinated and advertised gatherings of more than four (4) Food Trucks in one location on a date certain with the intent to serve the public.

(4) Ice Cream Trucks. Vehicles from which the operator vends only pre-packaged frozen dairy or frozen water-based food products, soft serve, or hand-dipped frozen dairy products or frozen water-based food products, and pre-packaged beverages.

(5) Location. Any single property parcel and all other parcels that is contiguous or cumulatively contiguous to that owned or controlled by a single or affiliated entities.

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(6) Mobile Food Service Permit. A permit issued by the City for the operation of Food Trucks, special events, City co-sponsored events, or an approval Food Truck Rally.

(7) Mobile Food Service Vehicle. A Food Truck, a Canteen Truck, or an Ice Cream Truck and includes any other portable unit that is attached to a motorized vehicle and that is intended for use or in service to the operations of the Mobile Food Service Vehicle.

(8) Operate. To promote or sell food, beverages, and other permitted items from the Mobile Food Service Vehicle and includes all tenses of the work.

(9) Operator. Any person owning, operating, or permitted to operate a Mobile Food Service Vehicle and collectively refers to all such persons.

(10) Vehicle. As used in this article, means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

9-703. General.

(1) It is a violation to operate a Mobile Food Service Vehicle at any Location except in compliance with the requirements of this article.

(2) Mobile Food Service Vehicle Operators must comply with all state and local business tax regulation.

9-704. Location and Hours of Operation.

(1) Food Trucks:

A. Right-of-Way. Food Trucks may operate consistent with this section from the right-of-way only at the locations listed on the City's website as rights-of-way upon which Food Trucks can operate.

B. Public Property. Food Trucks may operate on City property, including City parks, only at the times and location listed on the City's website as public property upon which Food Trucks may operate.

C. Private Property. Food Trucks may operate on private property where there is a commercial, office, education, or industrial use, subject to the following conditions:

i. Permission. Food Trucks selling to the public from private property shall have the written permission of the property owner, which shall be made available to the City immediately upon request.

ii. Frequency. Food Trucks may operate no more than four (4) days per calendar week at a location on privately owned property.

iii. Maximum Number of Food Trucks. No more than two (2) mobile food trucks may operate at any location with coordinated advertising to the public unless a Special Event Permit has been secured.

iv. Existing Parking Spaces. Mobile food trucks may not require the use of more than twenty-five percent (25%) of existing parking spaces located on the property for which it has an agreement to operate.

(2) Canteen Trucks:

A. Right-of-Way. Canteen Trucks may operate from the right-of-way to cater to on-site employees of a single location for a limited period, not greater than one and a half (1.5) hours.

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B. Private Property. Canteen Trucks may operate from the right-of-way to cater to onsite employees of a clearly delineated single location for a limited period not greater than one and a half (1.5) hours.

C. Food Truck Rallies. A Canteen Truck may operate at a Food Truck Rally only after complying with all requirements applicable to a Food Truck.

D. Hours of Operation: Canteen Trucks may operate after 5:00 a.m. and before 9 p.m. in all areas.

(3) Ice Cream Trucks:

A. Right-of-Way. An Ice Cream Truck may not operate from the right-of-way at any one location for more than 15 minutes without relocating to another location not less than one-quarter mile from the previous location.

B. Private Property. Food Trucks may operate on private property where there is a commercial, office, education, or industrial use, subject to the following conditions:

i. Permission. An Ice Cream Truck may operate on private property with written permission of the property owner, which will be immediately available to the City upon request.

ii. Frequency. No Ice Cream Truck may operate on the same or adjoining private property more than two (2) days per week.

iii. Existing Parking Spaces. An Ice Cream Truck may not require use of more than twenty-five percent (25%) of existing parking spaces.

C. Hours of Operation. Ice Cream Trucks may operate after 11:00 a.m. and before sunset.

9.705. Operating Requirements.

(1) Vehicle Requirements:

A. Design and Construction. Mobile Food Service Vehicles must be specifically designed and constructed for the purpose of preparation and sale of the specific type of food being sold and may not operate in any manner that is not safe and is not compatible with the purpose for which the vehicle has been designed and constructed.

B. Licensing. Mobile Food Service Vehicles must be licensed in accordance with the rules and regulations of any local, state, and federal agency having jurisdiction over motor vehicles and all products sold therein must be properly licensed, permitted, and allowed by local, state, and federal laws or regulations.

(2) Right-of-Way:

A. Interference with Vehicular Travel. Mobile Food Service Vehicles may not operate, stop, stand, or park in any area of the right-of-way that is intended for use by vehicular travel or that in any way impedes the use of the right-of-way or that present an unsafe condition for patrons, pedestrians or other vehicles.

B. Public Alleys. Unless authorized in writing by the City, all Mobile Food Service Vehicles are prohibited from operating in public alleys.

C. Parking Direction. Mobile Food Service Vehicles shall park in the same direction as traffic, with no more than eighteen inches (18") between the curb face and

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edge of pavement and with the service window of the unit facing the curb occupying no more than three (3) parking spaces.

D. Time Restrictions. Food Trucks may operate or park for longer than the two (2) hour limit posted in designated areas; however, no Mobile Food Service Vehicle may remain in the right-of-way designated as a permitted Food Truck location non-operational and not open to the public for more than two (2) hours.

E. Parking Spaces. Mobile Food Service Vehicles may park in more than one parking space in the right-of-way occupying no more than three (3) spaces.

F. Angled Parking Prohibited. Mobile Food Service Vehicles are prohibited from operating in angled parking spaces in the public right-of-way.

(2) Business Access: No Mobile Food Service Vehicle may operate in a location that impedes the ingress to, egress from, or signage of other businesses or emergency areas, paths or facilities.

(3) Pedestrians: A Mobile Food Service Vehicle may not reduce the clear pedestrian path of travel on the sidewalk to less than six feet (6'). This includes all components of the unit and any patron queue. All awnings or canopies of the unit shall be at least six feet, eight inches (6'8") above the sidewalk.

(4) Distance Between Units: A Mobile Food Service Vehicle may not operate within three (3) feet of any other Mobile Food Service Vehicle.

(5) Types of Cooking Apparatuses: Open flame cooking (other than with a gas range specifically constructed and designed within the Food Truck) either within or outside a Mobile Food Service Vehicle is prohibited; except where such activity is within the vehicle a heating apparatus that is used only for serving heated pre-cooked foods provided such apparatus is permitted by state and local regulations. Ice Cream Trucks can have no heating apparatus installed within the vehicle for the purpose of food service.

(6) Noise: Amplified music or other sounds from any Mobile Food Service Vehicles may not at any time unreasonably disturb nearby businesses, pedestrians, or vehicles.

(7) Commissary: If the operator has a fixed, non-mobile establishment or any other place that is used for the storage of supplies, the preparation of food to be sold or served at or by Mobile Food Service Vehicle, such a commissary location within the City cannot be located in any residential zoning district; unless such commissary complies with all applicable zoning regulations, building code requirements, and requirements of the Mount Pleasant Water & Sewer Department.

(8) Utilities: All Mobile Food Service Vehicles shall comply with the version of the electrical code currently adopted by the City and any power, water, or sewage required for the Mobile Food Service Vehicle shall be self-contained and shall not use utilities drawn from other sources.

(9) Fire Extinguishers Required: All Mobile Food Service Vehicles must be equipped with a 2-A:10-B:C fire extinguisher that is certified annually by a licensed company. Additionally, any Mobile Food Service Vehicle that produces grease laden vapors (e.g., those units with deep fat fryers or flat top griddles), must be equipped with a K-Class fire extinguisher that is certified annually by a licensed company.

(10) Support Methods: No Mobile Food Service Vehicle may use stakes, rods, or any method of support that must be drilled, driven, or otherwise fixed, into or onto asphalt, pavement, curbs, sidewalks, or buildings.

(11) Pedestrian Service Only: Mobile Food Service Vehicles operating in the right-of-way shall serve pedestrians only: drive-up, drive-thru, or drive-in service is prohibited.

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(12) Spill: To prevent discharges into the storm drain system and river, each unit shall comply with the Section 18-207, *Discharge Regulations*, of the City's municipal code, including, but not limited to, the Best Management Practices adopted by the City. In addition, each unit shall have a spill response plan and kit on board to contain and remediate any discharge from the unit. In the event of a spill, operators are required to call Mount Pleasant Fire and Rescue Department to assist with the clean-up of spills and to determine the need for more extensive response.

A. Spill Plan. Food Trucks must post, on the interior of the vehicle, instructions for containing spills, at a minimum such plan should include: (a) description of and typical quantities materials that may be spilled; (b) procedures for containing potentially spilled materials including properly disposal of spilled materials; (c) procedures for storage, use, handling, and transfer of materials to reduce potential for spilling; (d) emergency notification requirements.

B. Spill Kit. Food Trucks must have a response kit on the vehicle including (a) minimum 5-gallon storage and clean-up container capacity with lid; (b) minimum of 10 adsorbent pads and 2 adsorbent socks or equivalent; (c) disposable bag adequate to hold contents of spill kit and spilled materials; (d) 1 pair disposable gloves.

(13) Waste Collection: The area of a Mobile Food Service Vehicle operation must be kept neat and orderly at all times. Operation of a Mobile Food Service Vehicle in an area is deemed acceptance by the operator of the responsibility for cleanliness of the reasonable area surrounding the operations (not less than 20 feet from all parts of the Vehicle) regardless of the occurrence or source of any waste in the area. The operator must provide proper trash receptacles for public use that are sufficient and suitable to contain all trash generated by the Mobile Food Service Vehicle during the period of operation at a location. All trash within the area of operations regardless of the source must be removed and all garbage, trash, and trash receptacles must be removed when full and prior to departure of a Mobile Food Service Vehicle from a location.

(14) Signage: Mobile Food Service Vehicles are limited to signs mounted to the exterior of the mobile food establishment and one (1) sandwich board sign with dimensions no larger than six (6) square feet. All signs mounted on the unit shall be secured and mounted flat against the Unit and shall not project more than six inches (6") from the exterior of the unit. Sandwich board signs shall not obstruct or impede pedestrian or vehicular traffic. All signage and must at all times conform to community standards of decency.

(15) Alcohol Sales: Food Trucks may not sell alcoholic beverages, except as may be specifically allowed by state law and City ordinance. Canteen Trucks and Ice Cream Trucks are prohibited from selling alcoholic beverages.

(16) Insurance Requirements: Mobile Food Service Vehicles shall obtain, at a minimum, any motor vehicle insurance required by any local, state, or federal laws and regulations.

A. Food Trucks on City Property. Food Trucks operating on City property other than the right-of-way are required at all times to maintain insurance coverage in the form and amounts required by the City. In the event the required coverage is not properly maintained, the Operator's Mobile Food Service Permit will be immediately revoked. The failure of the Operator from obtaining a permit for a period of six (6) months from the date the City learns of the failure to provide the required notification change.

B. Others on City Property. Canteen Trucks and Ice Cream Trucks shall not operate on City property other than the right-of-way, except upon obtaining written permission from the City, and may be required to obtain insurance consistent with the type of operation permitted.

9.706. Mobile Food Service Permits

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(1) Applicable: No Mobile Food Service Vehicle may operate within the City without a Mobile Food Service Permit issued by the City. A Mobile Food Service Permit authorizes the holder only to engage in the vending of products from a Mobile Food Service Vehicle in compliance with City Code and as specified on the permit. The Mobile Food Service Permit must be prominently displayed when the Mobile Food Service Vehicle is in operation.

(2) Application: A Mobile Food Service Vehicle operator shall apply for a Mobile Food Service Permit by payment of a \$50.00 application fee and the following:

A. Complete an application form provided by the City, which shall include the following information:

i. Name and address of the owner of the vehicle;

ii. Name and address of the operator of the vehicle;

iii. Three (3) color photographs of the exterior (front, side, and back) and interior food service portion of the vehicle in the final condition and with all markings under which it will operate;

iv. A copy of the vehicle license and registration form reflecting the vehicle identification number (VIN) of the Mobile Food Service Vehicle;

v. A copy of the state or county health department license or permit applicable to mobile food providers;

vi. A copy of the Fire Inspector's inspection report;

vii. A copy of any alcoholic beverage licenses, if applicable;

viii. A copy of the operator's Tennessee business license issued by the City or the operator's home-based County; and

ix. A copy of insurance coverage.

B. Ongoing Obligation. Permittee has an on-going duty to provide the City with notice of any change to any of the information required by the City to obtain a Mobile Food Service Permit, including current photographs of the Mobile Food Service Vehicle in the event of any change in the appearance of or signage on the vehicle.

C. Permit Exceptions. This section does not apply to contractual arrangements between a Mobile Food Service Vehicle Operator and an individual, group, or the City for catering at a specific location, for a period of not more than four (4) hours, and that is not open to or serving the public.

(3) Issuance: A Mobile Food Service Permit shall be issued upon full completion and review of the application required by this section except that no Mobile Food Service Permit will be issued to:

A. An operator that operated within the prior six (6) months notwithstanding a Mobile Food Service Permit that is suspended or has been revoked; or

B. An operator, or any person affiliated with the operator for purposes of operating a Mobile Food Vehicle that is the subject of a suspended Mobile Food Service Permit or has held a Mobile Food Service Permit revoked with the prior twelve (12) months.

(4) Expiration: A Mobile Food Service Permit expires on the date twelve (12) months after

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issuance and may be renewed provided that all City requirements are met and the license has not been suspended or revoked.

(5) Transferability: A Mobile Food Service Permit may not be transferred except as part of the sale of an interest in a business holding the license or a sale of substantially all of the assets of a business holding the license.

(6) Enforcement:

A. Temporary Permit. If an operator is found to be operating within the City and without a Mobile Food Service Permit, the operator will be cited and the City will issue a Temporary Permit that will allow the operator to operate for not more than one (1) hour after which time the Temporary Permit will be revoked. The operator will pay a fine of \$500.00 to offset the City's costs of compliance measures, inspections, and correction of any circumstance resulting from operator's failure to comply with this article.

B. Warnings. A City Building and Codes employee may provide one (1) warning to any operator for a violation of this section except that a citation shall be issued as set forth in this section.

C. Citation. A City Building and Codes employee must issue a citation to the mobile food service operator for the following:

i. A second violation of this section is found to have occurred after a warning has been issued within the previous six (6) months; or

ii. Any violation that constitutes ground for revocation of a mobile food service permit.

D. Suspension. A Mobile Food Service Permit shall be suspended until reinstatement upon issuance of a citation for the following reasons:

i. A second violation of this section is found to have occurred after a warning has been issued within the previous six (6) months;

ii. The required vehicle license, health permit, or business tax license for the Operator or the Mobile Food Service Vehicle has expired or been suspended, revoked, or otherwise terminated;

iii. The operator fails to obtain or maintain the insurance coverages required by this section.

E. Revocation. The City shall revoke a Mobile Food Service Permit after two (2) suspensions within a twelve (12) month period.

F. Reinstatement.

i. Suspension. An operator may reinstate a suspended Mobile Food Service Permit by payment of a fee of \$500.00 to offset the City's costs of compliance measures, necessary inspections, and the correction of any circumstances that lead to the suspension.

ii. Revocation. The City may allow an operator to reapply for a Mobile Food Service Permit after three (3) months from the date of revocation, on the condition that the operator corrects all circumstances that lead to the violations, and the operator pays a fee of \$500.00 to offset the City's correction of compliance measures, necessary inspections, and the correction of any circumstance that lead to the suspension.

(7) Notice: Upon denial, suspension or revocation of a Mobile Food Service Permit, the City shall give notice to the operator in writing. There shall be no refund of any other fee paid to the City.

(8) Appeal: Permit denials or citations may be appealed to the City Manager. The City Manager will base his/her decision upon written summation of the facts submitted by the Municipal Codes Department charged with Mobile Food Service Permit compliance and the permit holder. The City Manager's decision is final.

9-707. Food Truck Rallies. All Food Truck Rallies on public or private property require a Special Event Permit and follow the guidelines set forth below designating the appropriate locations for these events.

Section 2. That Title 9, Chapter 2, Section 2-202 is deleted and replaced with the following language:

The terms of this chapter shall not be applicable to mobile food vendors permitted pursuant to Title 9, Chapter 7, persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations, provided further, farmers selling produce within the City of Mount Pleasant shall likewise be exempt from the detailed permitting requirements set forth in § 9-203 except for registering as a vendor and payment of the applicable permit fee. (1984 Code, § 5-202, as amended by Ord. #2009-895, Aug. 2009)

Section 3. If any one or more of the provisions of this Ordinance, or any exhibit or attachment thereof, shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, or of any exhibit or attachment thereto, but this Ordinance, and the exhibits and attachments thereof, shall be construed the same as if such invalid, illegal, or unenforceable provision had never been contained herein, or therein, as the case may be.

Section 4. This Ordinance shall take effect upon final passage.

Approved and adopted this _____ day of _____, 2020.

WILLIAM F. WHITE, JR., MAYOR

ATTEST:

LORETTA GARNER, RECORDER

LEGAL FORM APPROVED:

KORI BLEDSOE JONES, ATTORNEY

PASSED ON FIRST READING: _____

PASSED ON SECOND READING: _____

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