

ORDINANCE NO. 329-23-1C

AN ORDINANCE TO AMEND SECTION 9, CHAPTER 4 OF THE CITY OF TOWNSEND
MUNICIPAL CODE PERTAINING TO MOBILE FOOD VENDORS BY REPLACING
ORDINANCE NO. 320-22-11C

WHEREAS, Ordinance No. 320-22-1C provides for permitting and regulation of mobile food vendors, including food trucks, food trailers, and ice cream trucks;

NOW, THEREFORE, BE IT ORDAINED by the City of Townsend Board of Commissioners, that,

Section 1. Ordinance No. 320-22-1C is repealed in its entirety, and


Section 2. The following provisions as set forth in Exhibit A contained herein shall replace Ordinance No. 320-22-1C.

The provisions of this Ordinance shall be in effect upon final passage, the public welfare requiring it.

Adopted this 21st day of March, 2023


_____ - Mayor, City of Townsend


_____ - City Recorder, City of Townsend


_____ 3.23.23

As to form, City Attorney

Passed on First Reading: 2/21/2023

Passed on Second Reading: 3/21/2023

EXHIBIT A

Mobile Food Vendors

Section 1. DEFINITIONS

- a. **Mobile Food Vendor:** any person selling or distributing food and/or drink from a mobile vehicle, including food truck, food trailer, and ice cream truck.
- b. **Mobile Food Vendor Vehicle:** a vehicle that returns daily to its base of operations and is used either in the preparation, selling, cooking, or distribution of food and/or drink products.
- c. **Food Truck:** an enclosed motor vehicle equipped with facilities for preparing, cooking, selling, or distributing diverse types of food and/or drink products other than exclusively ice cream and related frozen products.
- d. **Food Trailer:** a detached trailer that is equipped with facilities for preparation, cooking, selling, or distributing diverse types of food and/or drink products.
- e. **Ice Cream Truck:** a motor vehicle containing a commercial freezer from which a vendor sells only frozen, pre-packaged food products such as ice cream, frozen yogurt, frozen custard, flavored frozen water, and similar frozen items.

Section 2. REQUIREMENTS

- a. **Licenses and Permits:** It shall be unlawful for any person to engage in business as a mobile food vendor within the City of Townsend without first obtaining a mobile food vendor license, with a decal evidencing such license. Any permits, licenses and certifications required by the Blount County Department of Health and/or State of Tennessee for operation of the business are also required. State of Tennessee vendor licenses will be required for businesses based outside of the State of Tennessee and/or for owners of businesses residing outside of the State of Tennessee. Upon being granted a mobile food vendor license, a mobile food vendor must comply with the rules and regulations herein.
- b. **Insurance:** At the time of the application for a mobile food vendor license, the mobile food vendor must provide proof of valid automobile liability insurance in the amount required by law for operation of the applicable mobile food vendor vehicle(s). Failure to maintain this insurance when acting as a mobile food vendor will result in immediate revocation of the mobile food vendor license.
- c. **Litter Receptacles:** Each licensed food must maintain for customer use, a litter receptacle of sufficient size to accept the litter being generated by the sales from the vendor's mobile food vehicle at the point of sales. The receptacle must be maintained in such a manner as to preclude an overflow

of refuse. Each mobile food vendor shall pick up litter which is associated with the vendor's sales in the vicinity of the vendor's mobile food vehicle prior to departing a sales location. A pattern of leaving excessive litter caused by product packaging shall be basis for suspension or revocation of the mobile food vendor license.

- d. **What Can Be Sold:** Mobile food vendors shall be limited to edibles and hot and cold beverages containing no alcohol. The sale of non-food or drink items from the mobile food vendor vehicle shall be limited to hats, t-shirts, and sweatshirts displaying the mobile food vendor logo and/or branding.
- e. **Seating and Tables:** Benches, tables, chairs, or other furniture which may be used for eating and/or sitting may be provided by or associated with a mobile food vendor vehicle to the extent that public safety is in no way jeopardized.
- f. **Fire Extinguishers and Fire Suppression Systems:** All mobile food vendor vehicles must be equipped with a fire extinguisher that is certified annually by a licensed company. Additionally, mobile food vendor vehicles that produce grease laden vapors (i.e., units with deep fat fryers or flat-top griddles) must have a fire suppression system certified biannually by a licensed company.
- g. **Placement:** Mobile food vendor vehicles shall not obstruct or impede pedestrian or vehicular traffic, access to driveways, and sight distance for drivers.
- h. **Pedestrian Only:** Mobile food vendor vehicles shall serve pedestrians only; drive-through or drive-in services are hereby prohibited.
- i. **Health Regulations:** All mobile food vendors and their mobile food vendor vehicles must follow all applicable health regulations for Blount County and the State of Tennessee relating to food safety and preparation,
- j. **Noises:** Other than ice cream trucks being able to play a song associated with its business at a reasonable level of sound, no mobile food vendor shall sound any device which produces an offensive or loud noise to attract customers, and mobile food vendors shall not use a public address system on the vehicle to broadcast and advertise products.
- k. **No parking in fire lanes:** No mobile food vendor shall park in fire lanes.
- l. **Signs:** Signs which are permanently affixed to the mobile food vendor vehicle shall extend no more than six (6) inches from the vehicle. Except as stated herein, all signs shall be attached or painted on the food vehicle. Electronic signs are prohibited as are signs that flash, reflect motion pictures, emit smoke, or vapor, or produce any rotation, motion, or movement. Each mobile food vendor vehicle is permitted one sandwich board type sign located within ten (10) feet of the applicable food truck or food trailer for advertisement purposes while the food truck or food trailer is open for business. Such sandwich board sign shall be no more than forty-eight (48) inches in height and contain no more than eight (8) square feet.

- m. Electricity: Mobile food vendor vehicle shall not be attached to or use any temporary electrical pole and shall be ineligible for any permanent electrical service.

Section 3. SALES ON STREETS AND PUBLIC PROPERTY

- a. Food trucks and food trailers: Food trucks and food trailers are prohibited from selling or distributing food on any public street, sidewalk, alley, trail, or right-of-way or any City owned or controlled property, including, but not limited to, parks, unless approved by the City as part of a City-permitted special event. All mobile food vendors must comply with all rules, regulations, and requirements related to the City permitted special event, including, but not limited to, provisions as to where the mobile food vendors will be located, how long the mobile food vendors can be present at the location, how many and which food trucks can participate in the City permitted special event.
- b. Ice cream trucks: The hours of operation for ice cream trucks are between 10 AM and sunset as stated for the day for the Townsend area by the National Weather Service. Ice cream trucks may vend on public streets so long as they remain mobile and only make stops often (10) minutes or less.

Section 4. LOCATION

- a. Existing Restaurants: Other than an ice cream truck, no mobile food vendor shall operate within fifty (50) feet of a door intended for regular public use of a lawfully established eating establishment that is open for business (other than another mobile food vendor vehicle) unless the mobile food vendor provides documentation which is signed by the restaurant owner or operator that the restaurant owner or operator has no objection to a closer proximity.
- b. Location: Mobile food vendors will be permitted on private property in the City according to the terms and conditions herein. On commercially zoned property, mobile food vendors may only operate on private commercial property on which there is another existing, legal, and active business operation. No mobile food vendor shall be permitted to operate on a vacant lot or on private commercial property on which there is no existing legal business. No mobile food vendor on private property shall do business or operate within fifty (50) feet of any property line of any lot used for residential purposes. A mobile food vendor under this section must have written permission from a private property owner for setting up for each location. The mobile food vendor must provide a copy of such written permission upon demand to City officials. On residentially zoned property, mobile food vendors may only operate according to the additional requirements of Section 5 below.
- c. Hours of Operation and Number of Trucks: No mobile food vendor shall operate outside the hours of 8 AM to 1 1 PM. At the end of each business day's operation, the mobile food vendor shall remove from the property the mobile food vendor vehicle and all materials associated with

the business, unless participating in a City permitted special event that allows the overnight parking of mobile food vendor vehicles during the special event. Only one (1) mobile food vendor shall be allowed to operate on commercial or residential property per event unless a special event permit has been obtained.

Section 5. OPERATING IN RESIDENTIAL NEIGHBORHOODS.

A mobile food vendor may operate on private property within a residential neighborhood within the parameters of this section:

- a. The residential property owner or long-term lessee(s) is defined as persons with a lease with a term or one year or more of the lot where the mobile food vendor will operate. The residential property owner or long-term lessee(s) must complete and receive a Mobile Food Vendor Residential Event permit and pay a \$20 application fee prior to the event. A mobile food vendor may only operate in a residential zone according to the requirements of such permit and as stated in this Chapter.
- b. Only up to two (2) Residential Mobile Food Vendor Event Permits will be granted at the same address within a calendar year.
- c. It is the responsibility of the mobile food vendor to verify that the owner or long-term lessee of the property where service will take place has a valid permit. It is the responsibility of the residential property owner or long-term lessee to verify that the mobile food vendor has an active city-issued mobile food vendor permit.
- d. The allowed hours of operation are the same as set forth in Section 4 (c) of this ordinance. The duration of the event may not exceed three (3) consecutive hours.
- e. Any mobile food vendor vehicle or trailer must remain on the permitted private property during the duration of the event and must not be set up on or impair the use of the public right-of-way. The event cannot impede traffic or cause other public safety concerns.
- f. At no time shall a mobile food vendor use private residential events as their primary source of business.

Section 6. PERMIT

Applicants for a permit under this section shall file with the City Recorder a sworn application in writing on a form to be furnished by the City Recorder. Submission of false or misleading information will result in revocation of the permit and a ban on receiving future permits. The application shall provide the following:

- a. The name and contact information of the applicant.

- b. The applicant's permanent street address, mailing address, and email address.
- c. The applicant's telephone numbers, including a cell phone number, if available.
- d. A brief description of the nature of the business and of the goods to be sold or distributed.
- e. A copy of the vehicle registration for any mobile food vendor vehicle and proof of automobile insurance for the mobile food vendor vehicle.
- f. A copy of the business license, proof of State of Tennessee sales tax registration, and any health department license or certification required by Blount County or the State of Tennessee.
- g. State of Tennessee vendor licenses will be required for businesses based outside of the State of Tennessee and/or for owners of businesses residing outside of the State of Tennessee.
- h. Color photograph(s) of the mobile food vendor vehicle's interior and exterior.
- i. Permission to obtain a background check of owner(s) of mobile food vendor vehicles. The City reserves the right to reject an applicant if he or she (or in the case of LLC corporation, its owner(s)), (1) is a registered sex offender; (2) has been convicted of a felony in the past ten (10) years; (3) has a chronic history or an unreasonable number and kind of moving vehicle violations as determined by the Chief of Police; or (4) presents an unreasonable public health and safety risk based on past criminal history as determined by the Chief of Police.

The applicant/owner must also acknowledge and affirm his, her, or its duty as hereby required by this code to perform background checks on each of his employees or agents operating the mobile food vendor vehicle permitted herein. The applicant/owner must acknowledge and affirm that he, she, or it will not allow an employee or agent to work in the City as a mobile food vendor if such employee or agent is registered as a sex offender or he or she has been convicted of a felony within the past ten (10) years.

- j. Payment of an application fee of \$100.00 for an annual permit which will be valid from the date of purchase until December 31 of that year. Annual fees will not be prorated. Applicant/owner may elect to purchase a single-event permit for \$50.00, which would be valid for only one event lasting no more than four consecutive days within the city limits. No refunds will be issued.
- k. Such other relevant information as may be requested by the City after review of submission of the material to assure full review of the information needed to assess the impact of the proposed operation on the health, safety, and well-being of the public.

Section 7. PERMIT RENEWAL

A permit issued under this section shall be valid for the remainder of the calendar year from the date of issuance and shall be renewed on an annual basis prior to January 1st of each year upon proper application and payment of the permit fee, of an additional \$100.00 per year. A permit shall be valid for only one mobile food vendor vehicle. Each operator and/or applicant shall file an additional application and pay an additional permit fee for each additional mobile food vendor vehicle. No refunds will be issued for renewed permits and no renewed permits for a partial year will be issued.

Section 8. PERMIT AND DECAL

Each applicant/owner, upon being issued a permit under this section, shall also be issued a decal which the mobile food vendor must display on the right front windshield's lower corner on each mobile food vendor vehicle or at such other location on the vehicle approved by the City in writing.

Section 9. GENERAL REQUIREMENTS OF MOBILE FOOD VENDOR VEHICLES

All exterior bodywork and mechanical equipment of a mobile food vendor vehicle shall be maintained in good condition, free of excessive wear, tear, or damage. All exterior paint work shall be maintained in good condition, free of substantial scratches, chips, rust, dents, and abrasions. All windshield and window glass of mobile vendor vehicles shall be maintained and free of cracks, scratches, pitting, abrasions, and other conditions that may cause a hazard or reduce clarity of vision.

Section 10. INSPECTIONS

- a. Department of Health Primary: Nothing in this section shall be construed as limiting or replacing the role of the Tennessee Department of Health which has the primary task of inspecting mobile food vendor vehicles.
- b. Entry: The City Police, and other officials as necessary, shall have the right, to enter any mobile food vendor vehicle for the purpose of ascertaining whether any provisions of this section are being violated, and for general inspection purposes.
- c. Shut Down: Any mobile food vendor vehicle which is found, after any City inspection, to be unsafe or not compliant with this section may, be directed to be out of operation until the deficiency is corrected.

Section 11. PENALTIES

Violations of this Chapter are subject to the general penalty clause for the City of Townsend. The City may also suspend or revoke a permit and decal issued hereunder for violation of this Chapter.