

Chapter 30 - BUSINESSES

ARTICLE I. - IN GENERAL

Secs. 30-1—30-25. - Reserved.

ARTICLE II – TRANSIENT VENDORS

Sec 30-26 - Definition:

"Transient vendor" shall be construed to mean and include all persons, both principal or agents, who engage in a temporary or transient business in the city, selling goods, wares, or merchandise, and who for the purpose of carrying on such business hire, lease or occupy any room, building or structure for the exhibition or sale of such goods, wares and merchandise. The person so engaged shall not be relieved from the provisions of this chapter by reason of association temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of the business of or in the name of any local dealer, trader, merchant or auctioneer.

"Transient business" means any business conducted for the sale of merchandise or services that is carried on at a particular location for a period of less than six (6) months in each year, even though the owner of such business may conduct the business at another location for more than six (6) months in each year.

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

(Ord. No. 2021-06, 12-21-21)

Sec 30-27 – Exemptions:

The provisions of this chapter shall not apply to sales made by mobile food vendors, civic or non-profit organizations, to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares and merchandise by sample for future delivery, nor to hawkers on the streets, nor peddlers from vehicles, nor to judicial sales directed by law or under order of court, nor to the sales of the common necessities of life in open market, nor to agricultural products or products sold at farmer's markets.

(Ord. No. 2021-06, 12-21-21)

Sec 30-28 –License and Application:

No person shall engage in the business or trade of a transient vendor, either as principal or agent, without first applying for and securing a transient vendor license from the City of Starkville. Each applicant for a transient vendor license shall designate a registered agent on the license application. The registered agent must be a resident of the county or municipality for which the license is sought and shall be the agent on whom any process, notice or demand required or permitted by law to be served on the licensee may be served. The registered agent must agree in writing to act as the agent. The license applicant shall file a copy of the agreement with the license application.

(Ord. No. 2021-06, 12-21-21)

Sec 30-29 - Fee; bond:

The City Clerk is authorized to grant a transient vendor license upon the payment by such applicant into the city treasury the sum of one hundred dollars (\$100.00) and executing a bond to the city in the sum of two thousand dollars (\$2,000.00) or 5% of the wholesale value of the property to be sold, and with sufficient sureties, conditioned for a faithful observance of the ordinances of the city.

(Ord. No. 2021-06, 12-21-21)

Sec 30-30 - Term of License; renewal:

The Transient Vendor License shall be issued by the City Clerk's Office and is valid for ninety (90) days from the date of issuance. The license is not transferable and is valid only within the territorial limits of the issuing county

or municipality. A license may be renewed on payment of a Twenty-five Dollar (\$25.00) renewal fee and filing for renewal with the City Clerk before the expiration of the current license. A license may be renewed only one (1) time after which a licensee must once again purchase a new license pursuant to the provisions of Section 75-85-13, Mississippi Code of 1972.

(Ord. No. 2021-06, 12-21-21)

Sec 30-31 - Prohibitions:

It shall be unlawful for any transient vendor to enter upon any private premises when such premises are posted with a sign stating, "no Transient Vendors allowed" or "no solicitations allowed" or other words to that effect. It shall be unlawful for any transient vendor to sell, distribute, or solicit door to door in residential neighborhoods in the City of Starkville. Transient vendors shall not conduct business in any areas from the hours of 9:00 p.m. to 6:00 a.m. Transient vendors shall not leave their businesses parked and unattended while occupying any public space for a period longer than 60 minutes and shall not block or impede pedestrian or vehicular traffic on city right-of-way or on public roadways. Transient vendors may establish a temporary location within the boundaries and confines of a single public parking space provided they do not impede the use of the adjacent spaces by authorized users and do not utilize any handicap spaces for their operations. Transient vendors shall not remain stationary in a public parking space for longer than 12 hours within a 24-hour period and shall not be allowed to remain overnight in a public parking space. Transient vendors utilizing a public parking space must adhere to existing posted time limits associated with the parking space that they are occupying. Sales Events conducted by Transient Vendors shall be limited to forty-eight (48) hours at any given location with a ten (10) day waiting period before returning to the same location. Transient vendors must vacate a public space and shall not be allowed to continue operations in areas that are designated for special events as approved by the board of aldermen from the time of setup for the approved special event to the time of conclusion of the special event.

(Ord. No. 2021-06, 12-21-21)

Sec 30-32 - Posting of Vendor Information:

While transacting the business, a transient vendor shall post in a prominent place, so that they may clearly be seen by purchasers of the merchandise or services which are being offered, the state sales tax number, transient vendor license number, and a statement that the vendor is required to give purchasers receipts that include sales tax. The postings required in this section shall be written in bold, legible letters and numbers. The transient vendor shall keep a running total of all sales

(Ord. No. 2021-06, 12-21-21)

Sec 30-33 - Revocation and Appeal:

Any license issued under the provisions of this division may be revoked for the violation by the permittee of any applicable provision of this Code, state law or city ordinance. Upon such revocation, such license shall immediately be surrendered to the city clerk, and failure to do so shall be a misdemeanor. Any person aggrieved by the action of the city clerk in the denial of an application for a transient vendor's license or in the decision with reference to the revocation of a transient vendor's license as provided in this division shall have the right of appeal through the City's Administrative Appeal Process.

(Ord. No. 2021-06, 12-21-21)

Sec 30-34 Penalties for violation

Any person who knowingly or intentionally operates a transient business without a valid license as provided by this chapter or who knowingly or intentionally advertises, offers for sale, or sells any merchandise or services in violation of this chapter shall, upon conviction, be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than Five Hundred Dollars (\$500.00) or be imprisoned in the county jail not more than six (6) months, or be both fined and imprisoned.

(Ord. No. 2021-06, 12-21-21)

Secs. 30-35—30-50. - Reserved.

(Ord. No. 2021-06, 12-21-21)

ARTICLE III - MOBILE FOOD VENDOR

Sec 30-51 - Intent:

In the interest of encouraging mobile food vendors who add to the vibrancy and desirability of Starkville, MS while providing a framework under which such businesses operate, this ordinance is established.

(Ord. No. 2021-06, 12-21-21)

Sec 30-52 - Definitions:

For purposes of this chapter, the following words or phrases shall have the following meanings:

- A. "Mobile food vendor" shall mean any person engaged in the business of mobile food vending; if more than one individual is operating a single stand, cart, trailer, truck, or other means of conveyance, then vendor shall mean all individuals operating such single stand, cart or other means of conveyance.
- B. "Mobile vending unit" means any self-propelled, motorized device or vehicle by which any person or property may be propelled or moved upon a street or highway, or which may be drawn or towed by a self-propelled, motorized vehicle, from which food or food products are sold, offered for sale, displayed, bartered, exchanged or otherwise given.
- C. "Mobile vending cart" shall mean a pushcart or non-self-propelled portable stand moved exclusively by human power designed to be readily moveable from which food or beverages are sold from a public sidewalk and not a public street, highway or public parking space.
- D. "Public right-of-way" means any city street, alley, road, sidewalk, or other passageway whereby pedestrians or vehicles traverse.
- E. "Victuals" means food of any kind that is prepared, packaged or in a form that is suitable for immediate ingestion or consumption by human beings.

(Ord. No. 2021-06, 12-21-21)

Sec 30-53 - License and Permit Requirements:

- A. It shall be unlawful for any person to sell, or offer for sale, food of any type from a mobile vending unit or mobile vending cart without a permit first having been granted under this section. This permit does not allow permit holders to operate during city appointed special events without proper authorization from the special event organizers.
- B. All mobile food vendors shall obtain and maintain a City of Starkville Privilege License and a Mobile Food Vending Permit for each mobile vending unit/vehicle or mobile vending cart in operation.
- C. An application for a ~~license~~ or a permit hereunder shall be submitted to the City Clerk or designee setting forth all information required hereunder and in compliance with this article. All applications shall be filed annually with the City of Starkville and are valid for one (1) calendar year from the date of issuance.
- D. The following information shall be provided with each application for a Mobile Food Vendor permit:
 1. A copy of the mobile vending unit's valid registration with the Department of Motor Vehicles. It is required that all motorized mobile vending units (food truck or truck & trailer) be registered.
 2. A copy of the automobile insurance policy for the mobile food unit, providing coverage for any accident that may occur while in operation.
 3. A copy of the commercial general liability insurance coverage policy. Liability coverage of at least \$500,000 is required, providing coverage for any accident that may occur while operating on the public rights-of-ways. This coverage shall be valid at the time of application and throughout the duration of the mobile food vendor permit. The City of Starkville shall be named as an additional insured party on the insurance policy.

4. All approvals, inspections, and certificates required by the Mississippi State Department of Health. For information or questions please call: 601-576-7689
5. Applicants must operate under a central kitchen that is approved by the Mississippi Department of Health for food service. A mobile vending unit may be certified by the Mississippi Department of Health as a central kitchen and such certification must be provided.
6. If the mobile vending unit or mobile vending cart will be operating on private property, please include documentation and signatures from the property owner(s) indicating consent for the use of their property.
- E. Prior to receiving a permit, a fire inspection is required. The City of Starkville fire inspector will inspect all mobile vending units after applications are submitted. For questions regarding fire requirements please call: 662-323-1845.
- F. The cost for a mobile food vendor permit shall be two hundred fifty dollars (\$250.00) per mobile vending unit/ motorized vehicle per year, and one hundred dollars (\$100) per mobile vending cart per year. Permits shall be renewed annually from the date of issuance.
- G. A permit sticker shall be issued and displayed on the mobile vending unit or mobile vending cart at all times. Replacement permits for an active license shall be provided for a twenty (\$20) dollar fee.
- H. Permits are non-transferable and non-exclusive.
- I. The city may revoke and terminate any permit in the event the vendor violates any term, condition, or provision of the permit, the City of Starkville Code of Ordinances and/or Unified Development Code, state and/or federal law, or if the business license issued by the City for the permitted activity is revoked. The vendor may terminate or surrender the permit at will any time prior to the expiration of the permit by providing written notice to the City Clerk.
- J. All approved mobile food vendors must pay the three (3) percent sales tax required by all food providers in the City of Starkville, along with all other tax and licensing fees required by the State of Mississippi.
- K. All mobile food vendors shall affirm, in writing, that the individual or organization will forever indemnify and hold harmless the City of Starkville and all of its agents, employees and representatives from and against all claims, damages, losses, suits and actions, including attorney's fees, arising or resulting from operation of a mobile vending unit or mobile vending cart.

(Ord. No. 2021-06, 12-21-21)

Sec 30-54 - Rules and regulations for all mobile vending units and mobile vending carts:

In addition to all other applicable laws pertaining to permits, all mobile food vendors operating pursuant to this division shall also be subject to the following provisions:

- A. All motorized mobile vending units shall be registered with a Department of Motor Vehicles. Any driver of a mobile vending unit/vehicle shall possess a valid Driver's License.
- B. It shall be unlawful for any mobile food vendor to operate a mobile vending unit or mobile vending cart that is in a defective, unsafe or unsanitary condition in violation of any applicable law or regulation.
- C. All mobile food vendors shall comply with all applicable parking, traffic and vehicle safety laws, regulations and restrictions. Mobile vending units may operate from metered locations in approved zones provided they pay the requisite fees and follow any time limitations associated with the location. Mobile vending carts are permitted only on sidewalks.
- D. Mobile vending units and mobile vending carts must not be locked or attached to trees, garbage receptacles, street furniture or any other fixture within the public right-of-way.
- E. No mobile vending unit may occupy more than two (2) parking spaces on a City street.
- F. No mobile food vendor shall operate within thirty (30) feet of any intersection and no part of the mobile food vending unit shall block visibility of adjacent intersections or on-street signage.

- G. No mobile food vendor shall operate within three (3) feet of any public or private driveway, wheelchair ramp or bicycle ramp.
- H. No mobile food vendor shall operate within twenty (20) feet of a bus stop.
- I. No mobile food vendor shall operate within ten (10) feet of a fire hydrant.
- J. No mobile vending unit or mobile vending cart shall operate within fifty (50) feet of the front door of a restaurant unless written permission is given by all restaurants affected.
- K. All mobile vending units and mobile vending carts must have self-contained utilities and shall not use the city's utilities or private utilities without express written permission from the City or the property owner.
- L. No mobile food vendor shall sell goods, wares or other items of merchandise other than victuals or marketing items related to the mobile food vendor.
- M. Mobile food vendors shall utilize accessory storage/coolers provided they are composed of hard plastic or metal. Storage containers made of paper, cardboard, or styrofoam are prohibited.
- N. Each mobile food vendor shall be allowed a maximum of one (1) sidewalk sign within ten (10) feet of the mobile vending unit or mobile vending cart. No mobile food vendor shall place any chairs, stools, tables or other fixtures, furniture or other obstructions on any portion of the Public Street, sidewalk, or right-of-way. Sidewalk signs shall meet the size and location requirements per the Unified Development Code.
- O. The mobile food vendor is responsible for the proper disposal of waste and trash associated with the operation. City trash receptacles are not to be used for this purpose. Vendors must provide their own trash receptacle on-site for patrons. Vendors must remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. The mobile food vendor must keep all areas within a fifty (50) foot radius of the mobile vending unit clean of grease, trash, paper, cups or cans associated with the mobile vending operation.
- P. No mobile food vendor shall dispose of liquid waste or grease in tree pits, storm drains, onto the sidewalks, streets, or other public spaces. Under no circumstances shall grease be released or disposed of into the City's sanitary sewer or stormwater system. All waste must be disposed of in accordance with all applicable local, state, and federal laws.
- Q. Mobile food vendors shall operate only Thursday - Saturday between the hours of 6:00 a.m. and 2:00 a.m., and on Sunday through Wednesday between the hours of 6:00 a.m. and 12 a.m. All external equipment and accessories must be removed and stored at the end of each day. No mobile vending unit shall be stored, parked or left overnight on City property.
- R. All generators associated with a mobile vending unit or mobile vending cart shall provide sound buffering for each generator. At no time shall any generator operate at sixty-five (65) decibels or above measured at twenty-five (25) feet from the generator.
- S. It shall be unlawful for any mobile food vendor to operate a mobile vending unit or mobile vending cart in any manner that impedes the flow of vehicular or pedestrian traffic on any public right-of-way.
- T. No mobile food vendor shall operate a mobile vending unit or mobile vending cart in any manner that impedes the ingress or egress of a building or structure during its operating hours.
- U. No audio amplification system may be used while stationary nor shall any permanent signage be installed as part of a mobile food vendor's operation.
- V. No mobile food vendor shall use any flashing or blinking lights or strobe lights; all exterior lights shall contain opaque hood shields to direct the illumination downward.
- W. No advertising shall be permitted on any mobile vending unit or mobile vending cart, except to post prices and to identify the name of the product or name of the lawful mobile food vendor.

(Ord. No. 2021-06, 12-21-21)

Sec 30-55 - Violations & Fines:

- A. All mobile food vendors must be in compliance with said ordinance. Failure to abide by said ordinance shall result in the following:
 - 1. A fine not exceeding \$150.00 for a first violation.
 - 2. A fine not exceeding \$250.00 for a second violation within one year of any prior violation.

3. A fine not exceeding \$500.00 for a third or more violation within one year of the first.
- B. Any offense shall be considered a misdemeanor and is subject to being cited by any authorized law enforcement official in the City of Starkville or with authority to do so in the City of Starkville.
- C. 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 vending unit or mobile vending cart.
- D. Each day on which an infraction of the ordinance occurs shall be considered a separate and distinct violation. All fines collected shall go to the city's general fund.

(Ord. No. 2021-06, 12-21-21)