

Ordinance No. 2429

ORDINANCE AMENDING CHAPTER 12 LICENSES AND BUSINESS REGULATIONS BY ADDING ARTICLE XII -MOBILE FOOD VENDING TO THE CODE OF ORDINANCES OF THE CITY OF BILOXI, MISSISSIPPI

WHEREAS, there is a need for codification of rules regarding Mobile Food Vending in the City of Biloxi; and

WHEREAS, Chapter 12 Article XII will be dedicated to Mobile Food Vending.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BILOXI, MISSISSIPPI, THAT:

SECTION ONE: Chapter 12 – Licenses and Business Regulations" of the Biloxi City Code is hereby amended to include new and additional language within a new article, namely "Article XII. - Mobile Food Vending," as follows:

ARTICLE XII. - MOBILE FOOD VENDING

Sec. 12-12-1. - Applicability.

For the purpose of this article, the following terms shall apply to all mobile food vendors licensed to sell food and/or beverages in the City of Biloxi where permitted to do so.

Sec. 12-12-2. - Definitions.

The following words and phrases, whenever used herein, shall be construed as defined in this section:

Catering Event means an event where food and drinks are paid for by an organizing entity or individual that is invited to cater an event or occasion and does not make individual sales of food and drinks to customers. Catering Events are not subject to the Mobile Food Vendor Permit Requirements.

Mobile food vendor means any person who sells food and/or beverages from a motorized mobile food vehicle on a consistent basis and for a period of more than 4 days each calendar year.

Mobile food vehicle means a unit mounted on or pulled by a self-propelled vehicle that may or may not include a self-contained kitchen in which food is prepared, processed or stored and used to sell and dispense food or drinks to the consumer. The unit must be on wheels at all times. If the unit contains a self-contained kitchen and/or if food is prepared in the unit, it shall be self-contained with its own drinking water tank and wastewater tank. The use of boats on trailers shall be prohibited. Mobile Food Vehicles must be moved off site location at the close of business.

Sec. 12-12-3. - Permits required for Mobile Food Vending.

- (a) All mobile food vendors shall obtain and maintain a City of Biloxi Privilege License and a Mobile Food Vending Permit fee for each mobile food vehicle in operation. All applications for new permits or renewal permits shall be filed with the City of Biloxi Community Development Department 20 days in advance of obtaining authorization to open as a Mobile Food vending establishment. Permits are valid for up to 90 days and can be renewed for an additional 90 days pending a review of the renewal application.
- (b) The Development Review Committee (DRC) must approve the site, location, and appearance of Mobile Food Vehicles.
- (c) Permit holders may be required to remove private materials or accessories to allow utility access for emergency and maintenance operation or both.
- (d) This permit does not allow permit holders to operate during city-appointed special events without proper authorization from the special event organizers.
- (e) The permit shall be displayed on the mobile food vehicle at all times.
- (f) Permits are non-transferable.
- (g) A damaged or destroyed mobile food vehicle may be replaced if and only if approval for its replacement is obtained from the Community Development office. Any such replacement vehicle shall be of substantially the same type, size, and dimension and with the same general characteristics as the original.
- (h) Any permit granted pursuant to this article shall be nonexclusive. The city may grant any number of such permits as the city deems appropriate. The granting of a permit shall not limit or abridge any power or authority of the city and shall not limit the authority of the city to commence appropriate civil, criminal, or other enforcement actions. The city retains full authority to amend the ordinances, rules and regulations that apply to any permit.

- (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 Biloxi 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. The revocation may be sought as a remedy in a civil action. 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 Director of Community Development. Termination of the permit shall not operate to relieve the vendor of the obligation to release, hold harmless, and indemnify the city and its officers, agents, and employees.

Sec. 12-12-4. - Application for Permit.

- (a) Permit Applications shall be processed in the order received. Permit Applications will be subject to DRC review. City staff reserves the right to consider prior performance issues in the consideration process. Permit applications shall contain the following information:
 - i. 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 any similar relevant documents, including the names of the partners and their addresses, shall be included.
 - ii. A valid Privilege License.
 - iii. A food vending permit from the Mississippi Department of Health for the Mobile Food Vehicle.
 - iv. All mobile food vehicles shall be issued a state tax number by the Mississippi Department of Revenue designating them as a City of Biloxi business.
 - v. An accurate description of the Mobile Food Vehicle.
 - vi. Photographs of all sides of the mobile food vehicle and each associated accessory device and/or signage.
 - vii. A copy of a photo ID (e.g. driver's license, passport, or similar)
 - viii. A Site Plan including: photos of the site and a detailed layout noting truck orientation and service plan is required for each private site.
 - ix. A valid copy of Lease(s) or Letter(s) of consent from property owners for each private site.
 - x. A list of products to be sold.
 - xi. Proof of a valid insurance policy that provides minimum liability coverage of \$300,000.00 per mobile food vehicle, with the city named as an additional insured. Additionally, proof of a valid vehicular insurance policy shall be provided to the City.

- xii. A written indemnity agreement that will hold harmless the city, its officers, and employees, for any loss or liability or damage, including costs, for bodily injury or property damage sustained by a person as a result of the negligent installation, use, or maintenance of a permitted space.
- xiii. Copies of all letters and other notices from any governmental, quasi-governmental, professional, or business association or entity, related directly or indirectly to alleged or actual improper conduct in the food service business, issued to applicant or any person who will have responsibility for operations of the mobile food vehicle for which a permit is requested. This shall include all related response and follow up documents showing any results, findings or actions.
- xiv. The dates, jurisdiction, court, and disposition of all misdemeanors and violations directly or indirectly related to food, food, permit operations, and/or business operations, related to the applicant or any principal of the applicant.
- xv. Such other additional information required by law, rule, or ordinance, or that any department of the city, Mayor, City Council, or the permit applicant reasonably deems appropriate to assist the city in determining whether the permit should be granted. The applicant shall be provided reasonable time to supplement the application.

Sec. 12-12-5. - Fees.

- (a) Mobile Food Vending permit fees are \$250.00 per vehicle, which covers the administrative cost of processing the application and regulating each mobile food vehicle. Each Permit is valid for 90 days and may be renewed for \$25.00 for an additional 90 days.
- (b) Special Event Mobile Food Vending permit fees are \$50.00 per vehicle, which covers the administrative cost of processing the application and regulating each mobile food vehicle. Each Permit is valid for two (2) consecutive days. (Annual Permits may be used to operate at Special Events).

Sec. 12-12-6. - Location and Operation.

- (a) Mobile food vehicles shall be allowed to operate upon properties within the following zoning districts: RB Regional Business, DT Downtown, WF Water Front, CB Community Business, and NB Neighborhood Business districts zones, subject to compliance with all of the standards provided.
- (b) The City of Biloxi may grant a Vendor Permit for city-organized special events subject to the terms and conditions of said event requirements.

Sec. 12-12-7. - General Rules and Regulations.

- (a) The Community Development Department shall have continuing authority to approve locations, grant conditions for approval, revoke prior approval of locations, make conditional revocations of approved locations, require adjustments by the mobile food vendor in setup or location to accommodate public safety and convenience, and to otherwise maintain full lawful control over all public ways of the city. The City of Biloxi Police and Fire Departments shall have concurrent authority to oversee locations and setup of mobile food vehicles. If an applicant is denied and wishes to appeal his grievance, he may request an order approving his application to the City Council at a regular scheduled meeting and said item will be considered "approved or denied."
- (b) Mobile food vehicles shall conform to the following rules and regulations:
- i. Mobile Food Vehicles must be located on private property or upon governmental property approved by the appropriate authority at all times during operation.
 - a. Proof of Permit must be displayed in plain view on the Mobile Food Vehicle as well as on file with the City Clerk's office.
 - ii. A Mobile Food Vendor operating in any location may operate Monday-Thursday between the hours of 6:00 a.m. and 10:00 p.m. and Friday-Saturday between the hours of 6:00 a.m. and 11:30 p.m. and Sunday between the hours of 10:00 a.m. and 8:00 p.m. Cleanup and removal of the vehicle shall be completed within 30 minutes of closing.
 - iii. Mobile food vehicles must not be attached to trees, garbage receptacles, or utility poles.
 - iv. Mobile food vehicles may not locate within 50 feet of any restaurant, measured from any point of the principal structure to the nearest point of the mobile food vehicle.
 - v. Mobile food vehicles may not locate within any area, which would block the view of traffic or traffic signals or traffic signs.
 - vi. Mobile food vehicles may not locate within twenty (20) feet of any fire hydrant.
 - vii. The operator(s) must be present at all times.
 - viii. Sales of goods are limited to food and beverage.
 - a. The sale of alcoholic beverages is prohibited, except for areas properly licensed to permit "Go Cup" sales, subject to the specific regulations of the "Go Cup" Ordinance.
 - viii. Mobile food vendors are responsible for all waste and trash removal. The containment area 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 onto sidewalks, streets, or other public places; nor shall it be disposed of in drains or sanitary sewers.

- ix. The mobile food vendor shall not provide stands, shelves, bins, equipment, signs, covers, or any kind of accessory or feature unless the same was accurately described and included in the application, and was fairly included in the picture or other graphics required as part of the application.
- x. No flutter flags are allowed.
- xi. During the hours of operation, the permit holder shall provide a trash receptacle for use by customers located adjacent to the mobile food vehicle in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic.

 - a. The mobile food vendor shall contain all refuse, trash and litter within the mobile food vehicle.
 - b. The vendor shall be responsible for the proper disposal of such refuse, trash, and litter, and shall place it in the public trash container, or in any private container with proper permission.
 - c. The vendor is responsible for all litter and trash within 15 feet of the mobile food vehicle at any time the vendor is selling or offering to sell any merchandise or service.
- xii. The mobile food vehicle must have self-contained utilities and shall not use the city's utilities or private utilities that are not self-contained and integral to the vendor unit.

 - a. If the mobile food vehicle utilizes a generator, it shall be in compliance with the City of Biloxi noise ordinance.
- xiii. No speakers or other noise production devices are allowed.
- xiv. No mobile food vendor shall sell or attempt to sell any item to the occupant of any motor vehicle, unless it is parked in a lawful parking space.
- xv. Mobile food vehicles must comply with all local, state, and federal rules regarding sanitation and protection of food from airborne contamination.
- xvi. Every mobile food vendor shall keep records utilizing generally accepted accounting practices for the purposes of compliance with all federal, state and local tax laws.
- xvii. All approved mobile food vehicles must be licensed businesses within the City of Biloxi with all operations pertinent to the vehicle operated within the City of Biloxi.
- xviii. All mobile food vehicles must be issued a State tax number by the Mississippi Department of Revenue designating them as a City of Biloxi business.

Sec. 12-12-8. - Design standards.

- (a) All mobile food vehicles must meet the following design standards:
- i. All mobile food vehicles must be self-contained. This requires that the food vehicle is not connected or attached to any building or structure, and does not receive power from any building by means of wires, hoses, or other connections.
 - ii. The appearance of the mobile food vehicle must be attractive as determined by the Development Review Committee and must be maintained accordingly while the Permit is valid and the Mobile Food vehicle is in operation in the City of Biloxi.
 - iii. Umbrellas or canopies, if any, must be attached to the vehicle and must not exceed nine feet in height above grade. Maximum diameter of canopies and umbrellas shall not exceed six feet and shall not interfere with pedestrian movement. No mobile food vehicle shall have more than two umbrellas.
 - iv. All signage on mobile food vehicles shall comply with the City of Biloxi Sign Ordinance. Temporary free standing signage is permitted, but shall not exceed four feet in height.
 - v. Exterior lighting must be hooded or shielded so that the light source is not directly visible to a residential use.
 - vi. Mobile food vendors may place a maximum of three coolers within their containment area so long as the coolers are neatly stacked to avoid visual clutter.
 - vii. No accessory container shall be more than three feet from the unit.
 - viii. Accessory containers must be made of hard substances such as hard plastic or a metal and may not be made by expanded polystyrene plastic, paper, paperboard, or cardboard.
 - ix. Mobile food vehicles may not be stored, parked or left overnight.

Sec. 12-12-9. - Violations and penalties.

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

- (a) A fine not exceeding \$300.00 for a first violation.
- (b) A fine not exceeding \$500.00 for a second violation within one year of any prior violation.
- (c) A fine not exceeding \$1,000.00 for a third or more violation within one year of the first.

Any offense shall be considered a misdemeanor and any person violating this Article is subject to being cited by any authorized law enforcement official in the City of Biloxi or with authority to do so in the City of Biloxi.

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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 food vehicle.

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

SECTION TWO: This Ordinance shall become effective as soon thereafter as is signed, certified and as is otherwise provided by the law.

The foregoing Ordinance having first been reduced to writing, was read by the Clerk and moved by Councilmember Lawrence, seconded by Councilmember Tisdale, and was adopted by the following vote:

YEAS:	Lawrence	Tisdale	NAYS:	None
	Gines	Glavan		
	Newman	Barrett		
	Deming			

The President then declared the Ordinance adopted, as amended, this the 20th day of October, 2020.



ATTEST:

Keri Campbell
 DEPUTY CLERK OF THE COUNCIL

APPROVED:

[Signature]
 PRESIDENT OF THE COUNCIL

Submitted to and approved by the Mayor, this the 20th day of October, 2020.

APPROVED:

[Signature]
 MAYOR