

ORDINANCE NO. 2401
MOBILE FOOD VENDING ORDINANCE

ORDINANCE OF THE MAYOR AND BOARD OF ALDERMEN OF THE TOWN OF MANTEE,
WEBSTER COUNTY, MISSISSIPPI,

WHEREAS, from time to time, the Board of Aldermen of Mantee, Mississippi, must review and add ordinances to adequately reflect the needs of its citizens; and

WHEREAS, the Board of Aldermen of Mantee, Mississippi, has listened to the concerns of its citizenry in order to address ways to create a more business friendly environment for current and future mobile food vendors in the Town of Mantee, while safeguarding public health, safety, and welfare.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF MANTEE, MISSISSIPPI, that the Code of Ordinances of Mantee, Mississippi shall be amended to include the following ordinance:

Section 1 - Applicability

This ordinance shall apply to all mobile food vendors licensed to sell food and/or beverages in the Town of Mantee where permitted to do so and hereby may be referred to as the Mobile Food Vending Ordinance.

Section 2 - Definitions

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

(a) Mobile food vendor

means any person who sells food and/or beverages from a mobile pushcart or a motorized mobile food preparation vehicle on a consistent basis and for a period of more than 15 days each calendar year.

(b) 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 below.

(c) Mobile pushcart

means portable vending device, pushcart or other wheeled vehicle or device which may be moved without assistance of a motor and which is not required to be licensed and registered by the Department of Transportation, used for displaying, storing or transporting of food offered for sale by a vendor. Said cart may be up to four feet in width, six feet in length, excluding auxiliary

items such as handles or fenders, or otherwise the cart shall not occupy space greater than a total of 24 square feet.

(d) One-Day "Special Event" Food Vendor Permits

means a mobile food vendor vehicle wishing to operate within the municipality's corporate limits for one-day special occasions ie: fireworks, parades, festivals, etc. If participating in a Special Event for the Town of Mantee, the rules and regulations of that event apply, including sales locations, operation times, and potentially additional vendor fees.

Section 3 - Privilege License and Permit Requirement

Section 3.1 - General

All mobile food vendors shall obtain and maintain a Town of Mantee Transient Vendor Privilege License for each mobile pushcart and/or mobile food preparation vehicle in operation. All applications for permit renewal shall be filed annually with the Town of Mantee Clerk. No person shall operate or permit a mobile food vehicle or pushcart owned or controlled by such person to be operated as a mobile food vehicle or pushcart on the streets of the Town of Mantee except as authorized by a duly issued and currently valid Privilege License and mobile food vending permit obtained pursuant to this section. **The license issued under this section shall be prominently displayed on the mobile food vehicle, pushcart, and/or ice cream truck whenever it is being used for vending in the Town of Mantee.**

Section 3.2 - Terms

The Privilege License or any rights or privileges thereunder, may not be assigned or transferred. Acceptance of a license by the permittee shall constitute an agreement by such permittee that he or she has no property right in the permit, and that such permittee shall appear and defend, and indemnify and hold the Town of Mantee, its officers, and employees harmless from and against any and all claims, loss, damage, or expense for any injury to or death of any person or persons, or for damage to property resulting from, relating to, or arising out of any activity, act, or omission of such permittee, or any of the permittee's employees, agents, representatives, or customers on the Town of Mantee streets. The Mayor and Board of Aldermen of the Town of Mantee and its elected and appointed officials and employees assume no responsibility for or regarding any goods sold or activities by any permittee or any of the permittee's employees, agents, representatives, contractors, or customers.

Section 3.2.1 - A damaged or destroyed mobile pushcart or mobile food preparation vehicle may be replaced if and only if approval for its replacement is obtained from the town Clerk's office. Any such replacement pushcart or vehicle shall be of substantially the same type, size, and dimension and with the same general characteristics as the original. Such replacement may be disallowed if the original vendor permit would not have approved the use of the replacement pushcart or food preparation vehicle.

Section 3.2.2 - Any permit granted pursuant to this article shall be nonexclusive. The Town 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 Town and shall not limit the authority of the Town to commence appropriate civil, criminal, or other enforcement actions. The Town retains full authority to amend the ordinances, rules, and regulations that apply to any permit.

Section 3.3.3 - The Town may revoke and terminate the permit in the event the vendor violates any term, condition, or provision of the permit, the Town of Mantee Code of Ordinances and/or zoning ordinances, state and/or federal law, or if the business license issued by the Town 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 Town Clerk. 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.

Section 3.3.4 - No public vending permit shall convey any interest in the real property under the jurisdiction of the Town of Mantee which is identified in any permit or contract, and such permit shall only convey the right to use the property for the purposes allowed in this article.

Section 3.3.5 - Permit holders may be required to remove private materials or accessories to allow street, sidewalk, or utility access for emergency and maintenance operation or both.

Section 3.3.6 - This permit does not allow permit-holders to operate within 300 feet of any public space during town-appointed special events without proper written authorization from the special event organizers. This written authorization shall be posted while operating during the special event. If the special event includes vendors paying a vendor fee, the permit holder will be required to pay the vendor fee before operating within 300 feet of any public space during town-appointed special events.

Section 3.3 - Application for Permit

The application shall be reviewed by the Town Clerk to determine whether the application is complete or whether the permit should be granted. Permit applications shall contain 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 shall be included. The applications shall also include a list of other counties and municipalities where licensed to operate with relevant permit or license numbers; a description of the kind of product provided; and a description, drawing, or photo of the vehicle or cart to be used.

Section 3.4 - Fees

Mobile food vending fees to operate in the Town of Mantee are \$25 per year, to be provided when the application and required materials are submitted. Special Event Food Vending Fees will vary depending on the event and are not covered by this Mobile food vending fee.

Section 3.5 - Additional Requirements

The following items must be attached to the Application for Permit and will be retained in the City Clerk's office with application for permit:

1. A Mississippi Department of Agriculture and Commerce License as a permitted applicant for mobile food vending and sanitation required by Miss. Code Ann. 69-1-18.
2. A State tax number (TIN) from the Mississippi Department of Revenue designating the applicant/business as a Town of Mantee business. A copy of the Sales Tax License must be given to the Town Clerk.
3. Proof of a valid insurance policy. The permittee must maintain at all times during the entire term of the permit at least a current public liability insurance policy in an amount of not less than \$300,000.
4. 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.
5. Identification. The Vehicle or Cart must be clearly identifiable as a mobile vending vehicle and labeled with the business name and must have a commercial chassis appearance such as a step van. Converted privately owned vehicles or vehicles with a non commercial appearance shall be subject to review and possible denial of permit. Please provide a photo of the vehicle or cart, with the identification visible in the photo, with your application.
6. A Town of Mantee Property Owner Consent Form for each proposed location of operation on private property. Not required if the mobile food vendor will operate on public property.
7. Such other additional information required by law, rule, or ordinance, or that any department of the Town or Board of Alderman, or the permit applicant reasonably deems appropriate to assist the Town in determining whether the permit should be granted. The applicant shall be provided reasonable time to supplement the application.

Section 3.6 - Failure to Comply

If any permittee chooses not to or fails to meet the terms to every additional requirement listed above, he or she will be unqualified for the granting of a Town of Mantee Permit. The Town clerk's office and local law enforcement shall have continuing authority to 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 Town.

If an applicant is denied and wishes to appeal his or her grievance, he or she may request an order approving his application to the Board of Alderman at a regular scheduled meeting and said item will be considered "approved or disapproved."

Section 4 - Regulations Applicable to Mobile Food Vending and Sales

Section 4.1 - Permitted Sales Locations

The only permitted location on public property and ways for sales from mobile food vending in the Town of Mantee is the First Street public parking lot located north of the Town of Mantee Depot.

Sales may also occur on private property when the applicant provides a signed Town of Mantee Property Owner Consent Form for that location.

Special exceptions may be made for Special Events in the Town of Mantee; if the mobile food vendor pays any applicable fees for the special event, then the rules and regulations of that special event will apply.

Regardless of location, mobile pushcarts and mobile food preparation vehicles may not locate within any area which would block the view of traffic or traffic signals or traffic signs within ten feet of any fire hydrant.

Section 4.2 - Permitted Hours of Operation

Mobile food vendor sales are permitted every day beginning as early as 6 AM and must cease by 9 PM. The mobile food vendor area should be cleaned and removal of the vendor by no later than 9:30 PM. If private property, the owner of said property may permit less time. The Town of Mantee may authorize special exception of additional hours in the case of Special Events.

Section 4.3 - Operation

The following additional rules of operation shall also be adhered to:

Section 4.3.1 - Mobile pushcarts and mobile food preparation vehicles must not be locked or attached to trees, garbage receptacles, or street furniture or left parked on the street overnight or left unattended and unsecured at any time food is in the vehicle. Any mobile food vehicle found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

Section 4.3.2 - The operators must be present at all times.

Section 4.3.3 - Sales of goods are limited to food and beverage allowed by Town of Mantee laws.

Section 4.3.4 - 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 in tree pits or onto sidewalks, streets, or other public places; nor shall it be disposed of in drains or sanitary sewers.

a. During the hours of operation, the permit holder shall provide a trash receptacle for use by customers located adjacent to the mobile pushcart or mobile food preparation vehicle in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic.

b. The mobile food vendor shall contain all refuse, trash and litter within the mobile food preparation vehicle.

c. 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.

d. The vendor is responsible for all litter and trash within 15 feet of the mobile pushcart or mobile food preparation vehicle at any time the vendor is selling or offering to sell any merchandise or service.

Section 4.3.5 - 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.

Section 4.3.6 - The mobile pushcar, or mobile food preparation vehicle must have self-contained utilities and shall not use the city's utilities or private utilities (unless expressly stated in application from property owner) that are not self-contained and integral to the vendor unit.

Section 4.3.7 - 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.

Section 4.3.8 - 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. All vendors must pay all tax and licensing fees as required by the State of Mississippi.

Section 4.3.9 - Mobile food vendors must keep their area neat, safe, and free from clutter. For example, no accessory container shall be more than three feet from the unit.

Section 4.3.10 - Safety Zone. Mobile vendors are subject to all local and state vehicle and traffic laws, ordinances, and regulations applicable to other vehicles.

Section 4.3.11 The permittee, and any employee, agent, or representative thereof, shall insure that persons waiting to make purchases at the mobile vendor line up in a single file on

the side away from the traveled part of the street (curbside) and in such a fashion as to create the least obstruction to pedestrian traffic.

BE IT FURTHER RESOLVED, that this Ordinance will be in full force and effect from and after the date of its passage. Good cause exists to allow this ordinance to become effective immediately. Such products should be allowed to be sold immediately for the benefit of the individual selling the products and for the benefit of the purchasing public.

The above and foregoing Ordinance, after having been first reduced to writing was introduced by Alderman Jeff Johnson seconded by Alderman Bill Gilliland and was adopted on Dec 4, 2023 by the following roll call vote:

	Aye	Nay	Absent
Alderman Andrew Bigham	<u>X</u>	_____	_____
Alderman Bill Gilliland	<u>X</u>	_____	_____
Alderman Jeff Johnson	<u>X</u>	_____	_____
Alderman Jill Roberson	<u>X</u>	_____	_____
Alderman Jimmy Stevens	<u>X</u>	_____	_____

Thereupon, the Mayor declared said Ordinance approved, passed and adopted, on this the 4 day of Dec, 2023.

Mary Margaret Williams
MAYOR MARY MARGARET WILLIAMS

ATTEST: Courtney Scerbak
COURTNEY SCERBAK, TOWN CLERK