

ORDINANCE 2019-14

AN ORDINANCE TO CREATE TITLE 9, CHAPTER 11 OF THE FRANKLIN MUNICIPAL CODE ESTABLISHING REGULATIONS FOR OPERATING A MOBILE FOOD VENDING BUSINESS WITHIN THE CITY OF FRANKLIN, TENNESSEE.

WHEREAS, due to the increased popularity of the mobile food vending industry, the City of Franklin has received a growing number of requests from mobile food vendors to operate within the City limits; and

WHEREAS, the City had allowed mobile food vendors to operate as itinerant merchants in accordance with the requirements set forth in Title 9, Chapter 4 of the City of Franklin Municipal Code entitled Peddlers and Solicitors which did not sufficiently regulate this growing and popular industry; and

WHEREAS, City staff received direction from the City of Franklin Board of Mayor and Aldermen to further examine existing City regulations related to itinerant merchants and mobile food vendors; and

WHEREAS, City staff has researched a variety of mobile food vending ordinances and facilitated discussion with City leaders, residents, stakeholders, business owners including mobile food vendors to ensure a mobile food vending ordinance fulfills the community's expectations; and

WHEREAS, City staff has concluded mobile food vendors, when carefully incorporated into the fabric of a community, increases the vitality of public and private spaces, increases the number of local culinary options, offers an alternative for dining that otherwise require driving, and fosters opportunities for local entrepreneurship; and

WHEREAS, the Board of Mayor and Aldermen of the City of Franklin, Tennessee, through Resolutions 2018-61 and 2018-100 have authorized mobile food vendors to operate temporarily on private property—provided mobile food vendors obtain written permission from the private property owner where they operate and comply with all State regulation governing the operation of Mobile Food Vehicles—through June 30, 2019, or until the BOMA have adopted and mobile food ordinance, whichever occurs first.

NOW THEREFORE, BE IT RESOLVED, BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF FRANKLIN, TENNESSEE, AS FOLLOWS:

SECTION I: That Chapter 11 of the Code of Ordinances of the City of Franklin, Tennessee, is hereby amended by adding a new Article 9 to be entitled, Mobile Food Vending to read as follows:

ARTICLE 9, CHAPTER 11 - MOBILE FOOD VENDING

- Sec. 9-1101. Purpose
- Sec. 9-1102. Definitions
- Sec. 9-1103. Mobile Food Vehicles
- Sec. 9-1104. Permitting Requirements
- Sec. 9-1105. Operational Requirements
- Sec. 9-1106. Mobile Food Vending in City of Franklin Public Parks
- Sec. 9-1107. Compliance with Health Regulations
- Sec. 9-1108. Compliance with Fire and Public Safety Regulations
- Sec. 9-1109. Insurance
- Sec. 9-1110. Mechanism for Complaints – Permit Revocation
- Sec. 9-1111. Appeals

Sec. 9-1101. Purpose

It is the purpose of this Chapter to protect the public health, safety and general welfare of individuals and the community at large, to establish uniform regulations for the operation of Mobile Food Vehicles, and to enhance street level economic opportunities within the City.

Sec. 9-1102. Definitions

For the purpose of this Chapter, unless specifically defined below, words or phrases shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most effective application. Words in the singular shall include the plural, and words in the plural shall include the singular. Words used in the present tense shall include the future tense. The word "shall" connote mandatory and not discretionary; the word "may" be permissive. The following definitions shall apply in the interpretation of this chapter, whether capitalized or not, and in any regulations promulgated hereunder, unless specifically stated otherwise.

1. **Canteen Truck** means any vehicle that operates to provide food service to workers at locations where food is otherwise unavailable, from which vendors sell food that requires no on-site preparation or assembly, other than the heating of pre-cooked foods. Canteen Vehicles shall not require a Mobile Food Vending Permit.
2. **Catering** means the provision of food and drink at a private event or other gathering where no sales of food to the public occurs.
3. **Commissary** means a fixed, non-mobile establishment or any other place used for the storage of supplies, the preparation of food to be sold or served at or by a Mobile Food Vendor, or the cleaning and servicing of the Mobile Food Vehicle.
4. **Ice Cream Truck** means any operable vehicle from which an operator sells only pre-packaged frozen products, soft serve, or hand-dipped frozen products. Ice cream trucks shall not require a Mobile Food Vending Permit.
5. **Location-Specific Mobile Food Permit** means a permit that has been approved and issued by the City of Franklin to the owner of a private property for the purpose of allowing a single (one) Mobile Food Vehicle to be staged, on-site overnight regardless of duration. Private properties that have a valid Location-Specific Mobile Food Permit may have multiple Mobile Food Vehicles "In Operation" as defined during the day, but only one Mobile Food Vehicle is allowed to be staged or parked on-site overnight when not "in-operation."
6. **Mobile Food Owner or Vendor** means any person or entity selling food or drinks from a mobile vehicle, including, but not limited to a food truck, trailer, pushcart or ice cream truck.
7. **Mobile Food Vehicle** means an enclosed unit, truck, or trailer that is roadworthy, has a valid motor vehicle title and registration, and has a license that is properly displayed and from which food is prepared, cooked, assembled, or stored with the intent to sell such food to the public. This definition does not include pushcarts.
8. **Mobile Food Vehicle – "In Operation"** means a Mobile Food Vehicle that when arriving to an approved private property or site is either preparing to open for business, open for business, or in the process of preparing to leave a site, and shall return to an approved, state-inspected commissary or other City of Franklin permitted location.

9. **Mobile Food Vending Permit** means any permit granted by the City of Franklin for the operation of a mobile food vehicle or pushcart. Canteen Vehicles and Ice Cream Vehicles shall not require a Mobile Food Vending Permit.
10. **Private Property** means real property owned by an individual or individuals having exclusive rights to it and which is not owned by a public entity.
11. **Public Property** means real property owned by the City of Franklin or Williamson County, including public and private right-of-way/streets designed for motor vehicles.
12. **Pushcart** means any wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licensed and registered by the Tennessee Department of Transportation, and from which food is prepared, cooked, assembled or stored, with the intent to sell such food to the public. A Mobile Food Vending Permit is required, and pushcarts shall not operate within the street right-of-way where licensed motor vehicles operate.
13. **Right-of-Way** means an area owned or maintained by the city, county, the State of Tennessee, federal government, a public utility, a railroad, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, streets, pedestrian walkways, utilities, or railroads.
14. **Sidewalk Clear Zone** means any portion of the right of way that is intended for pedestrian traffic along the sidewalk or a multiuse path. The minimum width and location of the clear zone shall be determined by the paved area of any sidewalk within the right of way, however, in all instances it must be a minimum of 48' in width, and compliant with the Americans with Disabilities Act for public sidewalk accessibility.
15. **Special Event** (as defined in the City of Franklin Municipal Code) means any public gathering such as a block party, local special event, parade, festival, celebration, concert, carnival, fair, exhibits, trade shows or any similar occurrence to be conducted on public or private property within the City of Franklin, Tennessee. Special events occurring entirely within structures that have been approved by the city for occupancy by 500 or more people shall be exempt from the requirements of this Chapter 5 of the Code of Ordinances.
16. **Special Event Permit** means any permit approved by the City of Franklin authorizing the holding of a Special Event as defined here within.
17. **Unimproved Property** means any property that (does not have ingress and egress through a driveway of an approved material and, does not contain a building that may be occupied pursuant to applicable building codes.

Sec. 9-1103 Mobile Food Vending – When Allowed

- (1) It shall be a violation to engage in mobile food vending in the City of Franklin, whether on public or private property, unless authorized by the City of Franklin through:
 - (a) the issuance of a Mobile Food Vending Permit; and
 - (b) having obtained all necessary business licenses and any applicable permits, licenses or certifications from the State of Tennessee, Williamson County which includes the Williamson County Health Department; and

- (c) the operation of a mobile food vehicle on private property within Office, Commercial, Industrial, Mixed-Use and Civic and Institutional zoning districts as described in the City of Franklin Zoning Ordinance with written permission from the property owner.
- (d) operation as part of a private events/parties hosted by a Homeowner’s Association or similar neighborhood group within a residential neighborhood or subdivision or, as part of a private party at a single residence.
- (e) food prepared, served or sold from a mobile food vehicle or pushcart as designed for mobile food vending.

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 - (a) the issuance of a Mobile Food Vending Permit; and
 - (b) having obtained all necessary business licenses and any applicable permits, licenses or certifications from the State of Tennessee, Williamson County which includes the Williamson County Health Department; and
 - (c) the operation of a mobile food vehicle on private property within Office, Commercial, Industrial, Mixed-Use and Civic and Institutional zoning districts as described in the City of Franklin Zoning Ordinance with written permission from the property owner.
 Mobile Food Vendors may also operate as part of a private events/parties hosted by a Homeowner’s Association or similar neighborhood group within a residential neighborhood or subdivision or, as part of a private party at a single residence.
 - (d) the delivery of food shall be from a mobile food vehicle or pushcart as designed for mobile food vending.

Sec. 9-1104 Permitting Requirements

- (1) Mobile Food Vending Permit. Prior to operating a Mobile Food Vehicle or a pushcart as defined in this article, operators shall obtain a Mobile Food Vending Permit from the City of Franklin. A Mobile Food Vending Permit shall only be granted after a Mobile Food Vending Permit Application has been approved by the City of Franklin Zoning Administrator, or their designee. The permitting process shall be required for each individual Mobile Food Vehicle that is to operate within the City of Franklin. Mobile Food Vending Permits are non-transferrable.
 - (a) No Mobile Food Vending Permit shall be required when vending is limited to a single mobile food vehicle on private property operating solely for private catering purposes and when the following provisions are met:
 - i. The mobile food truck is parked entirely on private property.
 - ii. Service is limited to the guests of the catered event only.
 - iii. No payment transactions shall occur for individual orders taken by the mobile food truck operator.
 - (b) Mobile Food Vehicles operating solely within a City of Franklin-permitted Special Event are exempt from the Mobile Food Vehicle permitting process, providing no additional sales are planned outside of the regularly-scheduled, permitted Special Event.

- (2) The vendor shall submit a Mobile Food Vending Permit application as approved in form by the City Attorney. Applicants for a Mobile Food Vending Permit under this Chapter must file with the Building and Neighborhood Services Department a written application containing the following:
 - (a) Name of applicant/vendor.
 - (b) A valid government issued ID, for the business owner or the owner of the mobile food vehicle
 - (c) Complete permanent home address and business address of the applicant.
 - (d) A brief description of the nature of the business and the goods to be sold.
 - (e) As applicable, the location and length of time for which the Mobile Food Vehicle will be staged on a privately-owned property that has a valid Location-Specific Mobile Food Permit.
 - (f) The vehicle registration number, make, model and description for any vehicle to be used including dimensions and color photographs (front, both sides, rear) of the mobile food unit or vehicle.
 - (g) Other cities or towns, if any, where within the past twelve (12) months the applicant conducted business immediately preceding the date of application.

- (2) Location-Specific Mobile Food Permit Applications
 - (a) Site plan

A site plan for the proposed location shall be submitted to the City of Franklin Building and Neighborhood Services Department by the property owner. The site plan shall show the location of the Mobile Food Vehicle, its relationship to other structures, proposed parking to serve the location, and any other pertinent details.
 - (b) Inspection and permit from the Fire Marshal

Mobile Food Vehicles shall be subject to an inspection by the City of Franklin Fire Marshal or their designee.
 - (c) Clearance to structures

There shall be a clearance of no less than 20 feet between any portion of a Mobile Food Vehicle and any structure built of combustible construction. There shall be a clearance of no less than 10 feet between any portion of a Mobile Food Vehicle and any structure built of non-combustible construction.
 - (d) Restroom accessibility

Mobile food vendors shall provide access to restroom facilities for employees when the mobile food vehicle is open for business three (3) hours or greater in duration.
 - (e) Floodplain compliance

No Location-Specific Mobile Food Permit shall be issued to the owner of a property which is located within the City of Franklin's Floodway Fringe Overlay District (FFO) or Floodway Overlay District (FWO) as defined by the Franklin Zoning Ordinance.

Mobile Food Vendors when not "In-Operation" as defined shall return to an approved, state-inspected commissary or other City of Franklin permitted location each day and all materials related to vending (tables, chairs, umbrellas, trash cans, etc.) shall also be removed and stored out of sight at the close of business each day. Construction of any steps, decks, etc. is prohibited.

- (3) As applicable, the vendor of a Mobile Food Vehicle and the owner of the private property seeking a Location-Specific Mobile Food Permit shall be subject to a Mobile Food Vending Application fee as determined and listed in Appendix A – Comprehensive Fees and Penalties.

- (4) Mobile Food Vending Permits and Location-Specific Mobile Food Permits shall expire December 31 of each year concurrently with the annual business license and shall be subject to annual renewal. Permits issued between January 1 and June 30 shall pay the full permit fee as provided in Appendix A –

Comprehensive Fees and Penalties. Permits issued between July 1 through December 31 shall pay a prorated permit fee of 50% of the fee listed in Appendix A – Comprehensive Fees and Penalties.

Sec. 9-1105 Operational Requirements

(1) General Requirements. Unless otherwise specifically approved by the Board of Mayor and Aldermen the following operational requirements shall apply to all Mobile Food Vendors and Location-Specific Mobile Food Permit holders:

(a) Mobile Food Vehicles may operate only on properties within Office, Commercial, Industrial, Mixed-Use and Civic and Institutional zoning districts as described in the City of Franklin Zoning Ordinance with written permission from the property owner.

Mobile Food Vehicles may also operate as part of a hosted by a Homeowner’s Association or similar neighborhood group within a residential neighborhood or subdivision, or as part of a private party at a single residence.

(b) Trash receptacle(s) and private waste disposal services shall be provided.

(c) Tables, chairs, temporary signage shall be stored, indoors when not open for business.

(d) Construction of any steps, decks, etc. is prohibited.

(e) No amplified music or PA system.

(f) Business Access. No Mobile Food Vehicle shall operate in a location or manner that impedes access to or from another business, or otherwise may interfere with access to emergency areas, paths, or facilities.

(g) Utility Connections. Permanent connections to water, sanitary sewer, gas, or electrical service is prohibited.

(h) Pedestrian Access.

- i. Mobile food vehicles and pushcarts shall not reduce the pedestrian clear path of travel on public or private sidewalks or multi-use paths to less than four (4’) feet.
- ii. Mobile food vehicles shall provide no less than six feet, eight inches (6’ 8”) of clearance under awnings and canopies.

(3) Operation on Private Property. Any mobile food vehicle operating on private property under a Mobile Food Vending Permit shall be subject to the following operations requirements:

(a) Compliance with all General Requirements listed above.

(b) Mobile food vendors must obtain written permission from the owner of the private property on which the mobile food vehicle will operate.

(c) Mobile food vehicles may not operate on unimproved properties unless a paved driveway entrance leading to the street right-of-way and, a gravel or asphalt/concrete paved surface that meets the requires of the City development regulations, sufficient in size to allow for the parking of the Mobile Food Vehicle(s) and other motor vehicles on the property.

(d) Mobile food vehicles operating on private property shall not be parked within ten (10) feet of a public right of way,

(e) Ice cream trucks may operate on private, residentially-zoned property for a special occasion (i.e. birthday, graduation, etc.) with written permission of the property owner.

(f) The sale of alcohol or alcoholic mixed beverages shall be prohibited.

(g) Signage.

(i) Permitted signage may include affixed signs on the exterior of the mobile food unit, and one menu or sandwich board style sign, not to exceed two and one-half (2.5’) feet in width by three and one-half feet (3.5’) in height and may be placed outside the accompanying mobile food vehicle only during hours of operation.

- (g) Moving of Mobile Food Vehicles when not open for business.
 - (i) When not staged on a privately-owned parcel that has a valid Location-Specific Mobile Food Permit, Mobile Food Vehicles shall be “In-Operation” as defined means a Mobile Food Vehicle that when arriving to an approved private property or site is either preparing to open for business, open for business, or in the process of preparing to leave a site, and shall return to an approved, state-inspected commissary or other City of Franklin permitted location.

(4) Operation on Public Property

- a. Compliance with all General Requirements listed above.
- b. Mobile food vendors operating within the public right-of-way or on public property shall be as approved by a Special Event Permit or the City Administrator, or their designee.
- c. Canteen trucks and ice cream trucks are not regulated by this ordinance provided they:
 - (i) are not stationary for more than ten (10) minutes.
 - (ii) not impeding the flow of traffic
 - (iii) and in the case of canteen trucks, are operating within active constructions sites.

Sec. 9-1106. Mobile Food Vending in City of Franklin Public Parks

- (1) Compliance with all General Requirements listed above.
- (2) At the discretion of the Parks Director, or their designee, the Parks Department shall advertise for and accept proposals from mobile food vendors desiring to vend in City of Franklin public parks. At minimum, any proposal shall include the following:
 - (i) Proof of any required licenses and permits.
 - (ii) A picture and written description of the mobile food vehicle proposed to be used.
 - (iii) A list or menu of proposed items for sale.
 - (iv) Operate only within the designated area at approved Park properties. Mobile Food Vehicle Owners and Vendors are prohibited from using a push cart or circulating throughout the premises of park properties in any manner.
 - (v) Vendors must supply a Certificate of Insurance with the City of Franklin named as an insured with a liability insurance as determined and listed in Appendix A – Comprehensive Fees and Penalties.
- (3) The Parks Department will set designated times and locations for mobile food vendors. Each potential vendor will be provided a list of designated times, as well as a map of available locations. Park locations will require a reservation with a limit of two (2) Mobile Food Vehicles per park. These spaces must be reserved in advance by contacting the Parks Department. At the discretion of the Parks Department Director or their designee, mobile food vendors will be required to rotate throughout the month to best serve the community.
- (4) Vendors shall not provide or allow any dining facilities, including but not limited to tables, chairs, booths, bar stools, benches, tents, and standup counters.
- (5) Mobile Food Vehicles and all associated equipment must be removed from the park at the end of each day. The Mobile Food Vehicles and any equipment are not permitted in the park overnight at any time.
- (6) Mobile Food Vehicles shall provide a trash receptacle for the collection of vendor waste material. Trash collected or generated by Mobile Food Vehicles shall not be placed or disposed of in a park or park facility trash receptacle. Vendors shall remove all trash and litter from park grounds within fifty (50) feet of their Mobile Food Vehicles. Recycling is encouraged and must also be removed from park property at the responsibility of the mobile food vendor.
- (7) Any power and electrical required for operations shall be self-contained and Vendors are prohibited from using utilities drawn from the park property unless specifically authorized in writing by the City of Franklin Parks Department.
- (8) A permit fee for the payment to the City of Franklin for the privilege of vending within a city park.

- (9) At the discretion of the Parks Director, or their designee, the Parks Department shall reserve all rights to revoke a mobile food vending permit within City of Franklin parks should an operator or mobile food unit fail to comply with standards of this section including, but not limited to the following reasons:
- (10)The licensed vendor or operator engaged in conduct of character that was misleading, deceptive or fraudulent
- (11)The licensed vendor or operator engaged in untruthful or deceptive advertising
- (12)The licensed vendor or operator engaged in conduct detriment to the health of park patrons, including but not limited to intimidation, or verbal, physical and/or sexual assault.
- (13)The licensed vendor or operator failed to maintain or acquire any permits required by this ordinance.

Sec. 9-1107. Compliance with Health Regulations

- (1) Valid health inspection certifications acquired in accordance of the State of Tennessee shall serve as certification of inspection for operation in the City of Franklin.

Sec. 9-1108. Compliance with Fire and Public Safety Regulations

- (1) Any mobile food vendor operating a mobile food vehicle in the City of Franklin shall comply with requirements of the International Fire Code as adopted by the City of Franklin, any other regulatory fire code as adopted by the City of Franklin, and any additional rules and regulations adopted by the City of Franklin Fire Department for the operation of mobile food vehicles. Prior to the issuance of a Mobile Food Vending Permit, mobile food vehicles shall be subject to inspection by the City of Franklin Fire Marshal.

Sec. 9-1109. Insurance

- (1) A Mobile Food Vehicle owner shall maintain liability insurance policy in the amounts specified in Appendix A – Comprehensive Fees and Penalties to obtain a Mobile Food Vending Permit. Proof of current liability insurance, issued by an insurance company licensed to do business in Tennessee, protecting the mobile food vehicle vendor, the public and the city from all claims for damage to property and bodily injury, including death, which may arise from operation under or about the permit. The insurance shall also name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advanced written notice to the city. Failure to maintain the required insurance coverage is grounds for vending license revocation.

Sec. 9-1110. Mechanism for Complaints – Suspension or Revocation

- (1) Should the City of Franklin observe a Mobile Food Vendor in violation of this Ordinance, the Zoning Administrator, or their designee, may seek resolution through the issuance of a Notice of Violation to parties involved in the operation of the mobile food vending unit, including, but not limited to the operator or owner of the unit, as well as the property owner where the violation occurred. The Zoning Administrator also has the discretion to suspend or revoke a Mobile Food Vending Permit when a Mobile Food Vendor and/or Owner are found in violation of this ordinance.

Sec. 9-1111. Appeals.

- (1) Mobile Food Owners and Vendors who have received a Notice of Violation or, have had their Mobile Food Vending Permit suspended or revoked, may file a Request for Appeal with the Building and Neighborhood Services Department Director requesting an appearance before the City of Franklin Board of Mayor and Aldermen to request re-instatement of their Mobile Food Vending Permit. Such a request shall provide a thorough justification of the request. Requests for Appeals shall be scheduled within forty-five (45) days of receipt beginning with a Board of Mayor and Aldermen Worksession followed by consideration during a formal Board of Mayor and Aldermen Voting Meeting.

SECTION II: BE IT FINALLY ORDAINED by the Board of Mayor and Aldermen of the City of Franklin that this ordinance shall take effect from and after its passage on second and final reading, the health, safety, and welfare of the citizens of Franklin requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE:

BY: _____
ERIC S. STUCKEY
City Recorder/Administrator

BY: _____
DR. KEN MOORE
Mayor

Approved as to form:

Shauna R. Billingsley
City Attorney

PASSED FIRST READING _____

PASSED SECOND READING _____