

Final approved

ORDINANCE NO. 975

AN ORDINANCE TO create rules, regulations, policies, and procedures for food trucks and other mobile food vendors along with special Merchant Events that Apply for use of Mobile Food Vendors

Be it Ordained by the City Council of the City of Picayune, Pearl River County, Mississippi, In Meeting Duly Assembled:

ARTICLE I. MOBILE FOOD VENDORS AND VEHICLES

Section 1: Applicability. For the purpose of this article, the following terms shall apply to all food trucks and mobile food vendors to be licensed to sell food and/or beverages in the City of Picayune, where permitted to do and all Merchant Special Events to Host Mobile Food Vendors.

Section 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 for 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 food truck or other mobile food vehicle on a consistent basis and for a period of more than four days each calendar year.

Mobile food vehicle means a "food truck" or other 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 as a substitute for a mobile food vehicle shall be prohibited. Mobile food vehicles must be moved to an off-site location at the close of each business day.

Section 3: Permits required.

(a) All mobile food vendors shall obtain and maintain a City of Picayune privilege license and a mobile food vending permit for each food truck and other mobile food vehicle in operation. All applications for new permits or renewal permits shall be filed with the City of Picayune Planning & Zoning Department twenty (20) days in advance of obtaining authorization to open as a mobile food vending establishment. Permits are valid for up to one year and can be renewed for additional one-year renewal periods, pending a review of the renewal application.

(b) The City of Picayune Planning & Zoning Department 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) the mobile food 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 City of Picayune Planning & Zoning Department. 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 mobile food vendor violates any term, condition, or provision of the permit, the City of Picayune 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 mobile food vendor may terminate or surrender the permit at will any time prior to the expiration of the permit by providing written notice to Planning & Zoning Department. Termination of the permit shall not operate to relieve the mobile food vendor of the obligation to release, hold harmless, and indemnify the City and its officers, agents, and employees.

Section 4: Application for permit for Mobile Food Vehicle and Merchant Special Event

(a) Permit applications shall be processed in the order received. Permit applications will be subject to review by the Planning & Zoning Department. The City staff reserves the right to consider prior performance issues in the consideration process. Permit applications shall contain the following information and documents:

(1) The name, mailing address, physical address, telephone number(s), and email address of the applicant(s). If the applicant is anything other than a natural person, then the applicant shall include copies of the entity's articles of incorporation, certificate of formation, and any similar relevant documents, including a list of the names and addresses of the entity's shareholders and members.

(2) Copy of the applicant's valid privilege license issued by the City of Picayune.

(3) Copy of the applicant's valid food vending permit for the mobile food vehicle issued by the Mississippi Department of Health along with Food Handlers Permit.

(4) Valid state tax ID number issued to the applicant by the Mississippi Department of Revenue designating the mobile food vehicle as a City of Picayune business.

(5) Copy of a valid certificate of fire inspection for the mobile food vehicle.

(6) Accurate description of the mobile food vehicle and photographs of all sides of the mobile food vehicle, the interior of the mobile food vehicle, and each associated accessory device and/or signage.

(7) Copy of a valid driver's license for all persons who will be operating the mobile food vehicle; copy of a valid vehicle registration receipt for the mobile food vehicle; and photographs of the "tag" or "license plate" for the mobile food vehicle.

Merchant (8) Merchant Special Event Permit - a site plan for all requested food service locations for the mobile food vehicle, including photos of the site and a detailed layout noting the food truck's orientation and service plan.

Merchant (9) Merchant Special Event Permit - a copy of all signed lease(s) and/or letter(s) of consent from private property owners, with valid contact information for the property owners, for each private site on which the mobile food vehicle will operate. Merchant must have a current City of Picayune Privilege License operating a brick and/or mortar facility.

(10) A list of the hours of operation of the mobile food vehicle and a list of all products to be sold from the mobile food vehicle.

(11) Proof of a valid commercial general liability insurance policy that provides liability coverage of \$500,000.00 per mobile food vehicle, with the City named as an additional insured, and proof of a valid automobile insurance policy that provides at least the state required minimum coverage for bodily injury and property damage.

Merchant (12) 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 the mobile food vehicle and the permitted space.

(13) Copies of all notices from any governmental entity or professional or business association or entity, related 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 responses and follow-up documents showing any results, findings, or actions.

(14) 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.

(15) Such other additional information required by law, rule, or ordinance, or that the City or the applicant reasonably deems appropriate to assist the City in determining whether the permit should be granted.

Section 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 one year and may be renewed for \$125.00 for each additional one-year period.

(b) Special event mobile food vending permit fees are \$25.00 per event, which covers the administrative cost of processing the application and regulating each mobile food vehicle. Each permit is valid for two consecutive days. (Annual permits may not be used to operate at special events).

Section 6: Location and operation.

(a) Mobile food vehicles shall be allowed to operate upon properties with the following zoning districts: C-1 (neighborhood commercial), C-2 (downtown commercial), C-3 (highway commercial), and MP (medical/office professional), subject to compliance with all the standards provided.

(b) The City may grant a merchant a special event mobile food vendor permit to allow the merchant to have one or more mobile food vendors operate during the merchant's city-permitted special event on the merchant's private property or the public streets or public parking spaces, subject to the terms and conditions of the merchant's special event permit requirements.

(c) A merchant special event permit does not allow vendors to sell food drink, or any other merchandise from "pop-up tents" or any similar, non-food-truck facilities. Pop-Up Tents are not allowed in the City of Picayune for any events other than Mayor and City Council approved closed street events with Security. (Example: Bi-Annual Street Festival. Such events require each participating Vendor to provide proof of Mississippi State Sales Tax paid from each Vendor of said event from Event Sponsor.)

(d) In accordance with Ordinances already in place for the City of Picayune, No Business holding a Privilege License may conduct a "Garage, Carport, Yard, Rummage or Flea Market in any Commercial District" All Permits for a "Garage, Yard, Rummage Sale or Flea Market are permitted for Residential only as reflected in Ordinance 561".

Section 7: General rules and regulations.

(a) The Planning & Zoning 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 police and fire departments shall have concurrent authority to oversee locations and set-up of mobile food vehicles.

(b) Mobile food vehicles shall conform to the following rules and regulations:

(1) At all times during operation, mobile food vehicles must be located on private property, zoned commercial property approved by the Planning & Zoning Department,

(2) Mobile food vehicles are not allowed to park on public streets or public parking spaces, other than for a closed street event approved by the City or as otherwise approved by the Planning & Zoning Department.

(3) Proof of permit must be displayed in plain view on the mobile food vehicle as well as on file with the Planning and Zoning Office.

(4) A mobile food vendor operating in any approved location may operate during the following hours:

Monday through Thursday between the hours of 6:00 a.m. and 10:00 p.m.

Friday and Saturday between the hours of 6:00 a.m. and 11:30 p.m.

Sunday between the hours of 12:00 noon and 8:00 p.m.

Cleanup and removal of the vehicle shall be completed within 30 minutes of closing.

(5) Mobile food vehicles must not be attached, tied, or connected in any way to trees, garbage receptacles, or utility poles.

(6) Mobile food vehicles may not locate within fifty (50) feet of any restaurant, measured from any point of the principal structure to the nearest point of the mobile food vehicle.

(8) Mobile food vehicles may not locate within any area, which would block the view of traffic, traffic signals, or traffic signs.

(9) Mobile food vehicles may not locate within twenty (20) feet of any fire hydrant.

(10) The operator(s) of the mobile food vehicle must be present at all times inside or within twenty (20) feet of the vehicle.

(11) Sales of goods from a mobile food vehicle are limited to food and non-alcoholic beverages only. Sales of alcoholic beverages are strictly prohibited.

(12) 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.

(13) 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.

(14) No flutter flags are allowed.

(15) 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 mobile food 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 mobile food vendor is responsible for all litter and trash within fifteen (15) feet of the mobile food vehicle at all times during the mobile food vendor's hours of operation.

(16) 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 mobile food vendor unit.

(17) No speakers or other noise production devices are allowed.

(18) 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 as approved by the Planning and Zoning Department

(19) Mobile food vehicles must comply with all local, state, and federal rules regarding sanitation and protection of food from airborne contamination.

(20) Every mobile food vendor shall collect and remit to the City, County, and State the proper sales taxes and shall keep records utilizing generally accepted accounting practices for the purposes of compliance with all federal, state, and local tax laws, including payment of sales taxes required of food vendors.

(21) All approved mobile food vendors must be licensed businesses within the City of Picayune with regard to all operations pertinent to the mobile food vehicle operated within the City. (Privilege License for the City of Picayune)

(22) All mobile food vendors must be issued a state tax ID number by the Mississippi Department of Revenue designating the vendor and the mobile food vehicle as a City of Picayune business.

Section 8: Design standards.

(a) All mobile food vehicles must meet the following design standards:

(1) All mobile food vehicles must be self-contained. This requires that the mobile 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.

(2) The appearance of the mobile food vehicle must be attractive as determined by the Planning & Zoning Department and must be maintained accordingly while the permit is valid, and the mobile food vehicle is in operation in the City.

(3) Umbrellas or canopies, if any, must be attached to the vehicle and must not exceed nine (9) feet in height above grade. Maximum diameter of canopies and umbrellas shall be ten (10) feet, and each vehicle shall not have more than two umbrellas.

(4) Menu boards must be attached to mobile food vehicles and shall not exceed one (1) menu board per mobile food vehicle and no more than six (6) feet in size.

(5) One temporary free-standing signage is permitted but shall not exceed four feet in height.

(6) Exterior lighting must be hooded or shielded so that the light source is not directly visible to any residential property.

(7) Mobile food vendors may place a maximum of three (3) coolers within their containment area so long as the coolers are neatly stacked to avoid visual clutter.

(8) No accessory container shall be more than three (3) feet from the unit.

(9) Accessory containers must be made of hard substances such as hard plastic or metal and may not be made by expanded polystyrene plastic, paper, paperboard, or cardboard.

(10) Mobile food vehicles must be returned to its owner's property at night and may not be stored, parked, or left elsewhere overnight.

Section 9: Violations and penalties.

(a) All mobile food vending must be performed in compliance with this article. Failure to abide by said article 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 violation within one year of the first.

(b) Any offense shall be considered misdemeanor and any person violating this article is subject to being cited by any authorized law enforcement official in the City or with authority to do so in the City.

(c) A fourth violation within one year of the first of this article shall result in the permanent revocation of any city permit or license issued to the owner or operator of the mobile food vehicle.

(d) Each day on which an infraction of the article occurs shall be considered a separate and distinct violation.

ARTICLE II.

Section 1: Severability.

Should any section, clause, paragraph, provision, or part of this Ordinance for any reason be held invalid or unconstitutional by any Court of competent jurisdiction, this act shall not affect the validity or any other section, clause, paragraph, provision, or part of this ordinance. All provisions of this Ordinance shall be considered separate provision, and completely severable from all other portions.

Section 2: Conflicts.

Conflict in any case where a provision of this ordinance is found to be in conflict with the provision of any other ordinance or code of the City of Picayune, Mississippi, existing on the effective date of this Ordinance, the provisions of this Ordinance shall take precedence.

Section 3: Effective Date

This Ordinance shall become effective thirty (30) days after its adoption and publication by the Mayor and City Council of the City of Picayune, Pearl River County, Mississippi.

NOW, THEREFORE, the above Ordinance having been proposed, moved for approval, with Councilmember Turnage and seconded by Councilmember Bumpers, the following roll call vote was taken:

VOTING YEA: Councilmembers Breland, Turnage, Stevens, Ford and Bumpers

VOTING NAY: None

ABSENT AND NOT VOTING: Mayor Jim Luke

The motion having received the affirmative vote of the majority of the members present, the Mayor declared the motion carries and the ordinance passes, approved and adopted on this the _18th day of _April, 2023.

Jim Luke, Mayor

ATTEST:

City Clerk