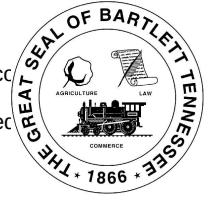


Board of Mayor and Aldermen

6400 Stage Road
Bartlett, TN 38134

Department: Planning and Economic Development

Prepared by:



DOC ID: 3437 B

ADOPTED

ORDINANCE (ID # 3437)

Ordinance 23-06, an ordinance to amend, Title 9, Chapter 2, Peddlers, etc. of the Bartlett Municipal Code by adding a Mobile Vending Ordinance to provide regulations for Mobile Food Vending as a permitted use.

WHEREAS, the food truck industry is a growing and vital economic industry that has increased in popularity; and

WHEREAS, the City desires to promote economic growth and vitality by way of small businesses; and

WHEREAS, the City desires to offer additional opportunities and options to businesses and the citizens of Bartlett; and

WHEREAS, the City of Bartlett Board of Mayor and Aldermen has been contacted by both citizens and business owners requesting mobile vending services within the city limits; and

WHEREAS, the City of Bartlett Board of Mayor and Aldermen desires to provide opportunities to Mobile Food Vendors to operate and serve the Bartlett community, while regulating the provision of such mobile vending services.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF BARTLETT, TENNESSEE:

Section 1. That Title 9, Chapter 2, of the Municipal Code of the City of Bartlett be amended to read as follows and that a new subsection 9-205(3) be added.

Section 9-202, Definitions, is amended after the initial paragraph, which shall remain and is incorporated by reference as though fully set forth herein, to read as follows:

(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) **"Goods, wares, or merchandise,"** as presently defined in Section 9-202 (1), shall continue to have the same definition, which definition is incorporated herein by reference as though fully set forth herein.
- (5) **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.
- (6) **Location-specific mobile food permit** means a permit that has been approved and issued by the City of Bartlett to the owner of a private property for the purpose of allowing mobile food vehicles to be staged, on-site overnight for a specified duration.
- (7) **Location-specific mobile food annual permit** means a permit that has been approved and issued by the City of Bartlett to the owner of private property for a mobile vendor to be located in commercial centers and lots, industrial properties, office developments, mixed-use centers, or civic and institutional properties within specified areas of the property as defined by a site plan at the time of the permit application. The permit may be good for one year upon issuance, and is renewable annually. The permit is revocable at any time by the City of Bartlett due to a violation of the permit, or other unforeseen circumstance.
- (8) **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.
- (9) **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.
- (10) **Mobile food vehicle - "In operation"** means a mobile food vehicle that, when arriving to an approved private site, is either preparing to open for business, open for business, or in the process of preparing to leave a site to return to an approved, state-inspected commissary or other City of Bartlett permitted location.
- (11) **Mobile food vending permit** means any permit granted by the City of Bartlett for the operation of a mobile food vehicle or pushcart. Canteen vehicles and ice cream vehicles shall not require a mobile food vending permit.
- (12) **"Mobile frozen desserts vendor,"** as presently defined in Section 9-202 (2), shall continue to have the same definition, which definition is incorporated herein by reference as though fully set forth herein.

- (13) **"Peddlers,"** as presently defined in Section 9-202 (3), shall continue to have the same definition, which definition is incorporated herein by reference as though fully set forth herein.
- (14) **"Person,"** as presently defined in Section 9-202 (4), shall continue to have the same definition, which definition is incorporated herein by reference as though fully set forth herein.
- (15) **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.
- (16) **"Public designated park,"** as presently defined in Section 9-202 (5), shall continue to have the same definition, which definition is incorporated herein by reference as though fully set forth herein.
- (17) **Public property** means real property owned by the City of Bartlett, or Shelby County, or the State of Tennessee, including public and private rights-of-way/streets designed for motor vehicles.
- (18) **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.
- (19) **Right-of-way** means an area owned or maintained by the City of Bartlett, Shelby 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.
- (20) **Sidewalk clear zone** means any portion of the right-of-way that is intended for pedestrian traffic along the sidewalk or a multi-use 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 feet in width, and compliant with the Americans with Disabilities Act for public sidewalk accessibility.
- (21) **Special event** (as defined in the City of Bartlett Municipal Code) means any public gathering, such as a block party, local special event, parade, festival, celebration, concert, carnival, fair, expo, trade show, or any similar occurrence to be conducted on public or private property within the City of Bartlett, Tennessee.
- (22) **Special event permit** means any permit approved by the City of Bartlett authorizing the holding of a special event.

(23) “Transient vendor,” as presently defined in Section 9-202 (6), shall continue to have the same definition, which definition is incorporated herein by reference as though fully set forth herein.

(24) “Temporary premises,” as presently defined in Section 9-202 (7), shall continue to have the same definition, which definition is incorporated herein by reference as though fully set forth herein.

(25) 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.

Section 2. That Section 9-205, “Mobile frozen dessert vehicles,” be amended such that the caption reads as follows: “Mobile frozen dessert vehicles; Mobile food vendors,” and that the following subsection be amended to read:

(c) Vendors must carry the minimum amount of insurance as required by the City of Bartlett, Shelby County, and the State of Tennessee.

Section 3. That Section 9-205, “Mobile frozen dessert vehicles; Mobile food vendors,” be amended by adding the following subsection:

Section 9-205(3) Mobile food vending - when allowed :

- (1) It shall be a violation to engage in mobile food vending in the City of Bartlett, whether on public or private property, unless authorized by the City of Bartlett 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, including, but not limited to, a Bartlett and/or Shelby County business license and all applicable permits, licenses or certifications from the State of Tennessee, Shelby County Health Department; Bartlett Fire Department and/or Bartlett Code Enforcement Department; and
 - (c) The operation of a mobile food vehicle on private property within office developments, commercial centers and lots, mixed-use centers, and civic or institutional properties will require written permission from the property owner. When an existing restaurant is on the property, mobile food vendors will only be allowed with a Special Event Permit granted by the City of Bartlett. Parking on corners adjacent to street intersections within commercial centers and lots, on private or public property and/or within the right-of-way is prohibited unless permission is granted with a Special Event Permit;

- (d) On private property within office developments, commercial centers and lots, mixed-use centers, and civic or institutional properties that have location specific permits, only one mobile food vehicle is permitted at a time. The mobile food vendor will be allowed at the same location up to six times per year, and up to two consecutive days at a time.
- (e) On industrial properties that have location specific permits, up to three mobile food vendors are permitted at a time. The mobile food vendor will be allowed at the same location up to once per week, and up to two consecutive days at a time.
- (f) Operation as part of 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 with a Bartlett Special Event Permit.
- (g) The operation of mobile food vehicles within a public park is allowed when approved by the City of Bartlett Parks Director in conjunction with the mobile food vending permit application.
- (h) Having food prepared, served or sold from a mobile food vehicle or pushcart as designed for mobile food vending.

Section 9-205(4) Permitting requirements (Vendor Permit):

- (1) Mobile food vending permit. Prior to operating a mobile food vehicle or a pushcart as defined in this chapter, operators shall obtain a mobile food vending permit from the City of Bartlett. A mobile food vending permit shall only be granted after a mobile food vending permit application has been approved by the City of Bartlett Building Official, or their designee. The permitting process shall be required for each individual mobile food vehicle that is to operate within the City of Bartlett. Mobile food vending permits are nontransferable.
 - (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 on a solid asphalt or concrete surface.
 - 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 the City of Bartlett in conjunction with a special event are exempt from the mobile food vehicle permitting process, providing no additional sales be planned outside of the regularly

scheduled, permitted special event within the City of Bartlett's jurisdiction.

- (2) The vendor shall submit a completed City of Bartlett mobile food vending permit application. Applicants for a mobile food vending permit under this chapter must file the application with the Bartlett Code Enforcement Department containing the following information:
- (a) Name of applicant/vendor/business.
 - (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) A list of other cities or towns, if any, where, within the past 12 months, the applicant conducted business.
 - (h) Shelby County Health Certificates and other permits and/or licenses prior to the beginning of operation of business within the City of Bartlett jurisdictional limits.
 - (i) Must pass a Bartlett fire safety inspection, or obtain a State of Tennessee Fire Permit, and comply with the Fire Safety adopted code prior to the operation of business within the City of Bartlett's jurisdictional limits.
 - (j) The permitting fee will be waived for all mobile food vending business applicants with an active Bartlett Business License whose physical address is within the City of Bartlett or who operate a restaurant in the City of Bartlett.

Section 9-205(5) Location-specific food permit applications (Property Owners Permit):

- (1) *Site plan.* The property owner or their agent shall submit a site plan for the proposed location to the City of Bartlett Code Enforcement Department. 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.
- (2) *Inspection and permit from the Bartlett Fire Marshal.* Mobile food vehicles shall be subject to an inspection by the City of Bartlett Fire Marshal or their designee, unless a State of Tennessee Fire Permit for Mobile Food Vending has been obtained.
- (3) *Clearance to structures.* There shall be a clearance between any portion of a

mobile food vehicle and any structures as required by the City of Bartlett Fire Code.

- (4) *Restroom accessibility.* Mobile food vendors shall provide access to restroom facilities for employees when the mobile food vehicle is open for business three hours or greater in duration.
- (5) Public safety compliance.
 - (a) Mobile food vendors staged on property that has a valid location-specific mobile food permit acknowledge and agree that the City has the right to require the movement of their mobile food vending vehicle/trailer and any other associated structures/furnishings should the City determine that its presence is a threat to public safety.
 - (b) All temporary signs, tables, chairs, steps, decks, and other accessory items associated with mobile food vehicles staged on property that has a valid location-specific mobile food permit shall be removed and/or stored out of sight when not open for business.
- (6) As applicable, the vendor of a mobile food vehicle and the owner or their agent of the private property seeking a location-specific mobile food permit shall be subject to a mobile food vending application fee.
- (7) On private property in commercial centers and lots, in office developments, that have location specific permits, only one mobile food vehicle is permitted at a time. The mobile food vendor will be allowed at the same location up to six times per year, and up to two consecutive days at a time.
- (8) Each commercial center or commercial lot will be allowed to locate mobile food vendor(s) up to twelve days per year. No single mobile food vendor will be allowed on the same property more than six times per year, and can only reside two consecutive days at a time.
- (9) Each industrial property will be allowed to locate mobile food vendor(s) once per week. No single mobile food vendor will be allowed on the same property more than once per week, and can only reside two consecutive days at a time.
- (10) Mobile food vending permits and location-specific mobile food permits shall expire in one year concurrently with the annual business license and shall be subject to annual renewal.

Section 9-205(6) 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 developments, commercial centers and lots, industrial properties, mixed-use centers, and civic or institutional properties with written permission from the property owner or their agent and any other requirements as described in this ordinance. Mobile food vehicles may also operate as part of a special event permit, an event 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) Removal of garbage and waste resulting from the mobile vendor and its customers is the responsibility of the mobile food operator. Dumping of waste on roadsides, open ditches, and private/public dumpster areas is strictly prohibited. The mobile food vendor applicant shall provide a plan for waste/garbage disposal at the time of the mobile permit application.
 - (c) Except for mobile food vehicles staged on property that has a valid location-specific mobile food permit, all temporary signs, tables, chairs, umbrellas, trash cans, steps, decks, and other accessory items shall be removed and stored out of sight when not open for business.
 - (d) No amplified music or PA system.
 - (e) Business access. No mobile food vehicle shall operate in a location or manner that impedes access to or from another business, or which otherwise may interfere with access to emergency areas, paths, or facilities.
 - (f) Utility connections. Permanent connections to water, sanitary sewer, gas, or electrical service is prohibited.
 - (g) Mobile Food Vehicles shall be parked on dust-free asphalt, concrete surfaces, or other acceptable dust free surfaces, except for canteen trucks on construction sites. Canteen trucks on construction sites may not park on grass or dirt surfaces, but may park on a solid temporary gravel surfaces if the surface is designed to bear the load.
 - (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 feet.
 - ii. Mobile food vehicles shall provide no less than six feet, eight inches of clearance under awnings and canopies.
- (2) 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 or their

- agent of the private property on which the mobile food vehicle will operate.
- (c) Mobile food vehicles may not operate on unimproved properties unless there is a paved driveway entrance leading to the street right-of-way and a gravel or asphalt/concrete paved surface, or an alternate surface that meets the requirements of the City's 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 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 or their agent.
 - (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 feet in width by three and one-half feet in height and may be placed outside the accompanying mobile food vehicle only during hours of operation. The exterior sign may be located up to ten feet away from the accompanying mobile food vehicle.
 - (h) 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", which 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 Bartlett permitted location.
- (3) 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 approved as part of a Special Event Permit by the City Building Official, or his designee, or the Board of Mayor and Aldermen.
 - (c) Canteen trucks and ice cream trucks are not regulated by this chapter provided they:
 - i. Are not stationary for more than ten minutes.
 - ii. Not impeding the flow of traffic.
 - iii. Are canteen trucks operating within active construction sites or providing meals on private property on large industrial zoned sites.

Section 9-205(7) Mobile food vending in City of Bartlett public parks .

- (1) Compliance with all general requirements listed above.
- (2) At the discretion of the Parks Director, or their designee, the Parks Department **may coordinate mobile food vending days and accept proposals from mobile food vendors desiring to vend in City of Bartlett public parks.** At a minimum, any proposal shall include the following:
 - (a) Proof of any required licenses and permits;
 - (b) A picture and written description of the mobile food vehicle proposed to be used;
 - (c) A list or menu of proposed items for sale;
 - (d) Operate only within an approved designated area of the park. Mobile food vehicle owners and vendors are prohibited from using a pushcart, or circulating throughout the premises of park properties in any manner;
 - (e) Vendors must supply a certificate of insurance with the City of Bartlett named as an additional insured with commercial liability insurance in an amount established by the City.
- (3) The Parks Department will set designated times, locations, and mobile food vendor capacity levels by park or event. Each potential vendor will be provided a list of specified times and a map of available sites. Reservations are required, and spaces must be reserved in advance through the City of Bartlett Parks Department. To best serve the community, and at the discretion of the Parks Director or their designee, mobile food vendors may be required to rotate throughout the month.
- (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 unless approved by the Parks Director or their designee.
- (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 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 use required for operations shall be self-contained. Vendors are prohibited from using utilities drawn from the park property unless specifically authorized in writing by the City of Bartlett Parks Department.
- (8) A permit fee for the privilege of vending within the City limits payable to the City of Bartlett is required.
- (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 Bartlett parks should an operator or mobile food unit fail to comply with standards of this section including, but not limited to the following reasons:

- (a) The licensed vendor or operator engaged in conduct of character that was misleading, deceptive or fraudulent.
- (b) The licensed vendor or operator engaged in untruthful or deceptive advertising.
- (c) 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.
- (d) The licensed vendor or operator failed to maintain or acquire any permits required by this chapter.

Section 9-205(8) Compliance with health regulations .

Valid health inspection certifications acquired in accordance of the State of Tennessee from the Shelby County Health Department shall serve as certification of inspection for operation in the City of Bartlett

Section 9-205(9) Insurance.

A mobile food vehicle owner shall maintain a commercial liability insurance policy in the amounts specified by the City of Bartlett to obtain a mobile food vending permit. Proof of current commercial 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

Section 9-205(10) Mechanism for complaints-Suspension or revocation.

Should the City of Bartlett observe a mobile food vendor in violation of this chapter, the Building Official, 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 Building Official 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 chapter.

Section 4. Severability

Should any provision of this Ordinance be rendered unconstitutional or null and void by a Court of Law, legislative act or otherwise, all other provisions of this Ordinance shall remain in full force and effect.

Section 5. Effective Date. BE IT FURTHER ORDAINED that this Ordinance shall take effect upon its passage on third and final reading, the public welfare requiring it.

First Reading: October 24, 2023

Second Reading: November 14, 2023

Third Reading: November 28, 2023

Harold Brad King, Register to the
Board of Mayor and Aldermen

David Parsons, Mayor

Penny Medlock, City Clerk

RESULT:	APPROVED ON THIRD AND FINAL RE [UNANIMOUS]
MOVER:	David Reaves, Alderman
SECONDER:	Robert Griffin, Alderman
AYES:	King, Griffin, Reaves, Williams, Young, Quinn