

ORDINANCE 4298

TO AMEND THE HARTSVILLE CITY CODE BY AMENDING CHAPTER 74 “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES”, ARTICLE I “IN GENERAL”, SECTION 74-1 “SALES FROM VEHICLES” AND CHAPTER 14 “BUSINESS”, ARTICLE IV “OUTDOOR CAFES”, DIVISION I “GENERALLY”, DIVISION 2 “RESERVED” AND BY ADDING DIVISION 2 “FOOD TRUCK AND ROADSIDE STREET VENDORS”, SECTIONS 14-114 THROUGH SECTION 14-122 AND BY RESERVING SECTIONS 14-123 THRU 14-170.

WHEREAS, the food truck industry is a growing and vital economic generator and there is increased popularity of food trucks; and,

WHEREAS, the City desires to promote economic development through encouraging and accommodating the popularity and growth of the food truck industry; and,

WHEREAS, the City has received requests from food truck operators to allow food trucks in the city; and,

WHEREAS, it is appropriate to establish reasonable regulations to govern mobile food vending in the City of Hartsville, in an effort to provide reasonable opportunity for mobile food vendors to operate within the city; and,

WHEREAS, the City further finds that such regulations are needed in order to protect the public health, safety, and welfare; and,

WHEREAS, during the June 20, 2017 Planning Commission Meeting, the Hartsville Planning Commission reviewed a proposed Food Truck Ordinance and made a recommendation to City Council to adopt the ordinance as spelled out below.

NOW THEREFORE BE IT ORDAINED, by the Mayor and Council of the City of Hartsville that Chapter 74, Article I, Section 74-1 is hereby amended and Chapter 14, Article IV, Division 1 and Division 2 Sections 14-114 through Sections 14-122 hereby added and shall read as follows:

Chapter 74 – Streets, Sidewalks and Other Public Places.

Article I. – In General.

Sec. 74-1. - Sales from vehicles.

It shall be unlawful to sell any commodities or services from any wagon, truck or other vehicle which is stopped or parked within the city limits, **with the exception of food truck and roadside street vendors as referenced in Chapter 14, Article IV, Division 2.** The sale of ice cream or snow cones by vendors shall be excluded. This provision shall not apply to vendors working for a city sponsored or endorsed event. These vendors must comply with the following requirements:

and

Chapter 14 – Businesses.

Article IV – Outdoor Cafes and Mobile Food Vendors.

Division 1. Outdoor Cafes.

Division 2. Food Trucks and Roadside Street Vendors.

Sections 14-114 thru 14-122.

Sec. 14-114. Definitions.

Mobile Food Vendor is defined as any person selling food from a mobile vehicle – this does not include a Food Trailer.

Mobile Food Vendor Vehicle is defined as a self-contained, motorized vehicle mounted food service unit that returns daily to its base of operations as approved by DHEC and is used for either the preparation or the sale of food products or for both.

Food Truck is defined as an enclosed motor vehicle equipped with facilities for preparing, cooking and selling various types of food products.

Food Trailer (Concession Style) is defined as an enclosed attached or detached trailer that is equipped with facilities for preparing, cooking and selling various types of food products.

Mobile Market Food Truck is defined as an enclosed motor vehicle equipped with facilities for the sale of locally grown fresh produce. The produce sold is in its original form and has not been altered or cooked in any other way inconsistent with it coming fresh from the fields and/or gardens in which it was grown.

Ice Cream Truck is defined as a motor vehicle containing a commercial freezer and from which a vendor sells frozen prepackaged food products such as ice cream, frozen yogurt, frozen custard, flavored frozen water and similar.

Sec 14-115. Requirements.

It shall be unlawful for any person to engage in business as a mobile food vendor within the city without first obtaining a City business license and mobile food vendor decal to do so. Upon being granted a business license and mobile food vendor decal the vendor must comply with the affirmative mandates and must not violate the prohibitions regarding sales, operations, locations, and restrictions contained in this division. The failure to do so may result in the revocation or suspension of the business license and decal.

At the time of application for a business license, the mobile food vendor must provide proof of general liability insurance for operation of the vehicle as a motor vehicle and the conduct of the business if the business is to be conducted on public streets or city owned property in amounts reasonably determined by the city in consultation with its risk manager. Failure to maintain this insurance will result in immediate revocation of the license.

Each licensed Mobile Food Vendor must maintain for patrons' use a litter receptacle of sufficient size to accept the litter being generated by the sales from the vendor's vehicle at the point of sales. The receptacle must be maintained in such a manner as to preclude an over flow of refuse. The city highly encourages recycling receptacles for recyclable material. Each vendor shall pick up litter, which is associated with the vendor's sales in the vicinity of the vendor's mobile food vehicle prior to departing a sales location. A pattern of leaving excessive litter caused by product packaging shall be a basis of suspension or revocation of the business license.

Mobile Food Vendors shall be limited to edibles and hot and cold beverages containing no alcohol. The selling of nonfood or drink items shall limited to merchandise displaying the Mobile Food Vendor company logo and/or branding. No items may be displayed outside of the vehicle.

The licensee must provide to the city, at time of application for a business license, proof of public liability insurance in the currently required amount by the state. Failure to maintain this insurance can result in immediate revocation of the license. All Mobile Food Vendors must be self-contained and not utilize any outside power source.

Mobile Food Vendor shall prominently display the original South Carolina DHEC (Department of Health Environmental Control) food inspection report that shows a posted grade, unless exempt.

Sec. 14-116. Streets and public property.

Food Trucks and Mobile Market Food Trucks are prohibited from operations on any street, sidewalk, alley, trail, or other right of way or on any city owned property, including plazas and parks, unless approved by the City.

Mobile Food Truck and Mobile Market Food Trucks that are part of a permitted special event from out of town or out of state will not be required to obtain the Mobile Food Vendor decal. They will be required to obtain the SC DHEC permit and pass the general maintenance requirements.

No Mobile Food Vendor shall sound any device, which produces an offensive or loud noise to attract customers, and vendors shall not use any public address system on the vehicle to broadcast or advertise products.

Sec. 14-117. Mobile food vendors on private property.

All Mobile Food Vendors shall be subject to the following regulations in their operation on private property.

1. No Mobile Food Vendor shall operate within 150 feet walking distance from the principal public entrance of a lawfully established eating establishment that is actively open for business serving customers unless the food truck vendor provides documentation that the restaurant owner supports a closer proximity. If a restaurant opens within the 150 foot zone after the Mobile Food Vendor has their annual decal, the Food Truck Vendor may remain in that location until the following annual permit is due at which time they would have to obtain written permission from the new restaurant owner. Written permission from the restaurant owner shall be renewed on an annual basis.
2. Mobile food vendors will be permitted to locate in the B-1, B-2, B-3, M-1, and M-2 zoning districts. A Mobile Food Vendor operating under this division shall submit to the city an application that must include:
 - a. The written permission from the private property owner for each location.
 - b. A list of all request sites to include the property owner and physical address.
3. No Mobile Food Vendor shall operate outside the hours of 6:00A.M. to midnight. However, a Mobile Food Vendor may apply for additional authorization to operate outside of these hours. At the end of each business day's operation, the vendor shall remove from the parcel, the Mobile Food Vendor vehicle and all materials associated with the business.
4. No Mobile Food Vendor shall sound any device, which produces an offensive or loud noise to attract customers, and vendors shall not use any public address system on the vehicle to broadcast or advertise products.

Sec. 14-118. Contents of application.

Applicants for a permit under this division shall file with the revenue administrator a sworn application in writing on a form to be furnished by the revenue administrator, which shall give the following information:

1. The name and a description of the applicant.
2. The applicant's permanent street address and mailing address.
3. A brief description of the nature of the business and goods to be sold.
4. Two color photographs of the applicant taken within 30 days immediately prior to the date of filing the application, photographs shall be two inches by two inches in size, showing the head and shoulders of the applicant in a clear and distinguishing manner.
5. A ten (10) year background check as to whether or not the applicant has been convicted of any criminal offense, other than a moving violation, and the punishment or penalty assessed therefor.
6. A ten (10) year Driving Record. Certified by the South Carolina Department of Transportation or the comparable agency of any state in which the applicant has lived in the last ten years.
7. A copy of the vehicle(s) registration.

8. Color photographs of the vehicle(s) interior and exterior in sufficient number to provide permitting officials to be familiar with all the exterior and interior views of the mobile food vendor vehicle. Such other relevant information as may be reasonably required by city after a review of the submission of the above material in order to assure a full review of information needed to assess the impact of the proposed operation on the health, safety, and well-being of the public.
9. It shall be unlawful for any person to provide any false or misleading information in connection with his application for a permit required by this subdivision or to withhold relevant information otherwise required.

Sec. 14-119. Mobile Food Vendor city decal permit fee and display.

Each applicant upon being issued a permit under this division shall also be issued a decal, which the vendor must display on the front right windshield's lower corner, or at such other location as the city in writing shall approve. There shall be due at the time of application a \$300.00 fee for the permit and decal. When the annual permit expires on December 31 of any given year, the fee shall also be due upon the applicant submitting a renewal application. The initial city decal permit fee shall be prorated for the number of months remaining in the calendar year if obtained after January 31.

a. Contents of decal permit.

Each city decal permit issued under this division shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of the permittee, the class of permit issued and the kind of goods to be sold thereunder, the date of issuance, and the length of time the permit shall be operative, as well as the permit number and other identifying description of any vehicle used in such business. The permit and decal are issued to a specific vendor for a specific vehicle. No vendor may transfer a permit or decal to another vendor. No vendor shall transfer a permit or decal to another vehicle owned or controlled by the same vendor. In the event the vendor acquires during a calendar year, a replacement vehicle to serve the same purpose as the vehicle for which the city issued a permit and decal, then a replacement permit and decal shall be issued at a nominal fee and the original permit and decal shall become null and void, and must be returned to the city prior to the issuance of replacements. The initial decals shall be prorated if issued after January of each calendar year.

b. Records.

The business license & permitting specialist shall keep a permanent record of all permits issued under this subdivision. Every permit issued under the provisions of this division shall expire December 31 each year.

Sec. 14-120. General maintenance requirements.

- a. All exterior bodywork and mechanical equipment of any mobile food truck vendor shall be maintained in good and clean condition and free of excessive wear or damage.
- b. All exterior paintwork shall be maintained in good condition, free of substantial scratches, chips, rust, dents and abrasions.
- c. All windshield and window glass shall be maintained free from cracks, scratches, pitting, abrasions or any other conditions that may cause a hazard or reduce clarity of vision below the level specified by the manufacturer.
- d. Any other type of damage or possible public hazard deemed appropriate by the city inspector.

Sec. 14-121. Inspections.

- a. Nothing in this division shall be construed as limiting or replacing the role of South Carolina DHEC (Department of Health and Environmental Control), which has the primary task of inspecting mobile food vendors.
- b. The city inspector or their agents shall have the right, at any time, after displaying proper identification, to enter into or upon any mobile food vendor vehicle, for the purpose of ascertaining whether or not any of the provisions of this division are being violated.

- c. Any Mobile Food Vendor vehicle which is found, after any city inspection, to be unsafe or in any not compliant with this division may be directed to be out of operation until the cited deficiency is corrected, and before again being place in service shall be delivered to the inspector at a designated point for re-inspection. Every Mobile Food Vendor must institute a system of regular weekly inspections of all the vendor's Mobile Food Vendor vehicle(s) and equipment and must keep all equipment in proper repair and sanitary conditions at all times.

Sec. 14-122. Penalties, suspension, and revocation.

Violations of this division shall be subject to the City Code's general penalties clause. The City may also issue a stop order of or may suspend or revoke the permit and business license.

Sec. 14-123 – 14-170. Reserved.

ORDAINED IN MEETING DULY ADVERTISED AND ASSEMBLED on the ____ day of _____, 2017 and to become effective immediately upon final reading.

Carl M. (Mel) Pennington IV, Mayor

ATTEST: _____
Sherron L. Skipper, City Clerk

First Reading: July 11, 2017
Public Hearing:
Final Reading: