

ORDINANCE NO. \_\_\_\_677\_\_\_\_

**MOBILE FOOD VENDING**

**AN ORDINANCE OF THE MAYOR AND BOARD OF  
ALDERMEN OF THE CITY OF KOSCIUSKO, MISSISSIPPI,  
TO ESTABLISH CONDITIONS OF SALE IN REGARD TO  
MOBILE FOOD PREPARATION AND SALES**

**BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN  
OF THE CITY OF KOSCIUSKO:**

**WHEREAS, the Mayor and Board of Aldermen of the City of Kosciusko  
have determined that it would be beneficial to the citizens of Kosciusko and the  
community to allow for mobile food vendors; and**

**WHEREAS, the Mayor and Board of Aldermen find as fact that mobile  
food vendors and the selling of products and food is a complimentary and favorable  
resource and the citizens of the City of Kosciusko would benefit from having such  
services readily available to them; and**

**WHEREAS, the Mayor and Board of Aldermen, in furtherance of their  
desire to support economic development, foster opportunities for small businesses and  
encourage Mobile Food Vending; and**

**WHEREAS, the Mayor and Board of Aldermen desire to protect public  
health and safety by ensuring Mobile Food Vendors follow clear, narrowly tailored  
regulations that reduce demonstrable health and safety risks;**

**NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND  
BOARD OF ALDERMEN OF THE CITY OF KOSCIUSKO, MISSISSIPPI AS  
FOLLOWS:**

**SECTION 1. DEFINITIONS**

**The following words and phrases in this section shall have the meanings given, except  
where the context clearly indicates a different meaning:**

**APPLICANT:           A person applying to the City of Kosciusko to operate as a Mobile  
Food Vendor.**

**CUSTOMER:** Any person to whom a Mobile Food Vendor sells food or beverage from a Food Vending Vehicle, and any person who stops to contemplate conduction business with a Mobile Food Vendor.

**FOOD FACILITY PERMIT:** A permit issued by the Mississippi Department of Health for Retail Food Facilities, including Mobile Food Units.

**MOBILE FOOD VENDOR:** Any person who dispenses food or beverages from a Food Vending Vehicle, tent, or any mobile station for immediate service and/or consumption, for the purpose of retail sale on the streets of the City of Kosciusko.

**PRIVATE PROPERTY:** Any real or personal property that is not Public property.

**PUBLIC PROPERTY:** Any property owned, leased to, or operated by the City of Kosciusko.

**SELL:** (a.) To transfer or exchange for value, to expose or offer for sale or exchange, or to procure, store, keep or have in one's possession; and (b.) To control for the purpose of selling.

## **SECTION 2. MOBILE FOOD VENDING LICENSING REQUIREMENTS**

No person may operate as a Mobile Food Vendor in the City of Kosciusko without first obtaining and maintaining a valid and current Mobile Food Vending license under this chapter and any other licenses or permits that may be required by other applicable state or county laws.

A separate Mobile Food Vending license shall be required for each Food Vending Station operated by a Mobile Food Vendor.

Any person that is found to be in violation of this Chapter may, in addition to any fines or other criminal or civil punishment that may lawfully be imposed, may also be subject to having their Mobile Food Vending License suspended or revoked.

## **SECTION 3. LICENSE APPLICATION AND GENERAL STANDARDS**

**A. APPLICATION REQUIREMENTS.** Before any person may engage in Mobile Food Vending in the City of Kosciusko, such person must first apply for and receive a license from the City of Kosciusko. All such applicants shall submit a written application to the City of Kosciusko Building/Zoning

**Department on a form provided by the City of Kosciusko for a Mobile Food Vending license. The applicant may submit one application for all vehicles which require a license but shall pay a separate licensing fee for each vehicle. Failure of an applicant to submit a complete application shall result in the denial of a license.**

**B. The application shall contain the following information:**

- 1. The name, mailing address, physical address, telephone number(s), and email address of the applicant.**
- 2. A current food service permit from the Mississippi Department of Health.**
- 3. A state tax number by the Mississippi Department of Revenue designating the applicant as a City of Kosciusko business, or if domiciled elsewhere, designating the City of Kosciusko as an additional permitted location for reporting of all sales tax collected for sales in the City of Kosciusko.**
- 4. A City of Kosciusko property owner consent form for each proposed location of operation on private property.**
- 5. Written proof of a valid general liability insurance policy that provides minimum liability coverage of \$50,000 per mobile vendor vehicle or mobile food station, with the City of Kosciusko named as an additional insured if mobile food vending is to take place on public property including road rights of way, and sidewalks.**
- 6. A written indemnity agreement that will hold harmless the City of Kosciusko and all of its directors, officers, employees, servants, contractors and assigns of and from any loss, liability or damage, including litigation costs and fees arising from any, bodily injury or property damage sustained by a person as a result of the negligent installation, use, or maintenance of a permitted space by a mobile food vendor.**
- 7. Such other additional information required by law, rule, or ordinance, or that the Building/Zoning or Fire departments of the City may in their**

discretion require from the permit applicant as they reasonably deem appropriate to assist the City in determining whether the permit should be granted.

**C. ISSUANCE OF LICENSE.** The City of Kosciusko City Hall shall issue a Mobile Food Vending license to the applicant upon receipt of a complete application. Licenses Shall be valid during one fiscal year, which is October 1 through September 30. The fee can be prorated for a partial year. **FOOD TRUCK PERMIT ISSUED BY THE CITY OF KOSCIUSKO SHOULD BE DISPLAYED IN WINDOW FOR EASY IDENTIFICATION BY CITY CODE ENFORCEMENT.**

**D. SUBSTITUTION OF LICENSED FOOD VENDING VEHICLES.** Licenses are not transferable. A license issued to an applicant shall not authorize any person other than the applicant to engage in the activities authorized by the license, except that the sale of a Food Vending Vehicle identified in a license application, when replaced by another Food Vending Vehicle on a one-for-one basis, will not invalidate the original license nor require a new license application.

**E. TRANSFER OF ASSETS.** If a Mobile Food Vendor transfers its Mobile Food Vending business assets, the recipient of the assets shall not lawfully operate the Food Vending business unless said person shall first apply for and obtain a new Mobile Food Vending license from the City of Kosciusko Building/Zoning Department and obtain a Food Facility Permit from the Mississippi State Department of Health before the operation begins.

**F. FEES.** The annual fee for each mobile food vending license is \$175.00 for citizens of Attala County or \$250.00 for non-citizens, payable to City of Kosciusko at City Hall.

**G. UNLAWFUL CONDUCT.** It is unlawful for any person to intentionally provide false information or to intentionally omit information on an application for a license under this Chapter.

**H. INSTRUCTIONS.** Instructions on applying for, obtaining, maintaining, and renewing a Mobile Food Vending license can be obtained at the City of Kosciusko City Hall.

**I. NON-PROFIT EXEMPTIONS.** Certified non-profit organizations with a 501(c )(3) status are exempt from these requirements after providing proof of status to Kosciusko City Hall.

#### **SECTION 4. MOBILE FOOD VENDING VEHICLE OPERATIONS**

**A. COMPLIANCE WITH ALL STATE AND LOCAL LAWS.** Mobile Food Vendors operating within the City of Kosciusko shall follow any applicable state and local laws, including, without limitation, all fire codes, zoning codes, occupational tax codes, and any other applicable state or local code provisions, whether referenced in this ordinance or not.

**B. LOCATION OF OPERATIONS.** A Mobile Food Vendor may only operate in the following locations and shall not operate anywhere other than as specifically permitted herein:

**1. PUBLIC PROPERTY.** Mobile Food Vending is only allowed on public property by Special Permit from the Mayor and Board of Aldermen, or for special events with permission from the event organizer.

**2. PRIVATE PROPERTY.** A mobile food vendor may operate on private property under the following circumstances.

**a.** Mobile food vendors shall not park closer than 200 feet to any restaurant operating at a permanent fixed location unless the mobile food vendor obtains written consent from such restaurant waiving distance requirements.

**b.** Mobile Food Vendors may operate only in commercial zoning districts C-1, C-2, C-3, I-1, and I-2 and shall not operate in any other zoning district.

- c. **Mobile Food Vendors shall have written permission (form can be obtained from City Hall) from the record title property owner.**

### **C. OPERATIONAL STANDARDS.**

- 1. Mobile Food Vendor vehicles must have self-contained utilities and shall not use the city's utilities, or private utilities. Generators and/or food station must be grounded.**
- 2. No speakers, noise production devices, or sound amplifications are allowed. Generators must adhere to the city's noise ordinance.**
- 3. Mobile Food Vendors shall park at least thirty-five feet from the right of way, which is the standard zoning setback.**
- 4. Mobile Food Vendors shall not park in any area which would block the view of traffic, traffic signals, or traffic signs, or park in any area which would obstruct the free and safe passage of vehicles or pedestrians.**
- 5. Mobile Food Vendors shall not be located within ten feet of any fire hydrant.**
- 6. Mobile Food Vendors shall not park in any location that impedes the ingress or egress of other businesses, building entrances, or emergency exits.**
- 7. Mobile Food Vendors shall provide a clearly marked waste receptacle and request its use by customers.**
- 8. Mobile Food Vendors shall pick up, remove, and properly dispose of all refuse, or other obvious trash generated/associated with the operation and must pick up all trash within twenty-five feet of the vendor's operating area at the conclusion of service.**
- 9. Mobile Food Vendors may participate in Special Events (private and public) only with the permission of the event organizer. Most special events are designed as a fundraiser for the organizer and require a fee paid by vendors interested in participating.**

**10. Mobile Food Vendors shall collect and remit all required sales taxes on food and beverages.**

## **SECTION 5. LICENSE DENIAL, SUSPENSION, REVOCATION AND APPEALS**

**A. The Building Inspector may deny, suspend or revoke a license issued under this Chapter for the following reasons:**

- 1. Fraud, misrepresentation or a false statement contained in the application for a license;**
- 2. Fraud, misrepresentation or a false statement made in connection with the selling of food;**
- 3. Any facts or conditions that would justify the denial of the original application;**
- 4. Three or more violations of this Chapter over a period of twelve months;**  
**or**
- 5. Failure to maintain a State Food Permit from the Mississippi State Department of Health.**

**B. Any person who has been notified regarding the denial of their Mobile Food Vending application or the suspension or revocation of their Mobile Food Vending license may appeal to the Planning Commission within ten (10) working days after their receipt of said notice. Other than as described in Subdivision C of this section, no license shall be suspended or revoked prior to a hearing if a Mobile Food Vendor requests a hearing within the required ten (10) working day period. Request for a hearing shall be made in writing and delivered and received by person upon the City of Kosciusko Building Official. Requests for a hearing shall be denied as untimely if not perfected as specified above. Upon receipt of a timely request for a hearing, the Planning Commission shall hold a hearing at the next available scheduled meeting date and issue findings of the facts, conclusions of law covering the merits of its decision. Appeals may be had from the Planning Commission to the Mayor and Board of Aldermen within ten (10) working days from the date of its decision. Appeals**

from the Mayor and Board of Aldermen may be had as allowed by State statutory law.

- C. When circumstances demonstrate that continued operation by a Mobile Food Vendor poses an imminent threat to the health and safety of the public, the Building Inspector, or any authorized law enforcement official may immediately suspend or revoke a Mobile Food Vending license. The Mobile Food Vendor may request a hearing before the Planning Commission regarding the suspension or revocation with fourteen calendar days of receiving the notice of suspension or revocation. Upon receipt of a request for a hearing, the Planning Commission shall hold a hearing at the next available scheduled meeting date and issue findings of the facts, conclusions of law and a decision.
- D. It is unlawful for a Mobile Food Vendor whose license has been suspended or revoked by the City of Kosciusko to operate or provide any Mobile Food Vending services within the City Limits. Whenever a Mobile Food Vending license is suspended or revoked, the applicant shall immediately cease all Mobile Food Vending operations.

## **SECTION 6. VIOLATIONS AND PENALTIES**

All Mobile Food Vending must be performed in compliance with this ordinance.

Failure to abide by said ordinance shall result in the following:

1. A fine not to exceed \$150 for the first violation;
2. A fine not to exceed \$250 for the second violation within one year of any prior violation; or
3. A fine not to exceed \$500 for three or more violations within one year of the first.

Any offense shall be considered a misdemeanor and is subject to being cited by a Building Inspector or by any authorized law enforcement official in the City of Kosciusko or anyone with authority to do so in the City of Kosciusko.

Violation of this article may result in the suspension or revocation of any city permit or license issued to the owner or operator of the Mobile Food Vendor preparation vehicle.



**Each day on which an infraction of the ordinance occurs shall be considered a separate and distinct violation.**

**All fines collected shall go to the Municipal Court and to other State agencies as may be required by law.**

**SECTION 7. EFFECTIVE DATE**

**This Ordinance shall be effective thirty (30) days from and after the date of its adoption.**

**(SEAL)**

**ATTEST:**

**\_\_\_\_\_  
MICHELLE QUESNOT, CITY CLERK**

**\_\_\_\_\_  
TIM KYLE, MAYOR**