

ORDINANCE NO. 06-17

AN ORDINANCE OF THE MAYOR AND COUNCIL  
OF THE CITY OF ANDERSON PROVIDING FOR  
MOBILE VENDING AND THE REGULATIONS  
GOVERNING MOBILE VENDING.

WHEREAS, the primary purpose of the public streets and sidewalks is the use by vehicular and pedestrian traffic, and

WHEREAS, vending in public areas can promote the public interest by contributing to an active and attractive pedestrian environment, and

WHEREAS, reasonable regulation of mobile vending is necessary to protect the public health, safety and welfare, and

WHEREAS, the regulations contained in this ordinance do not prohibit free speech but merely regulate activities which are commercial in nature, and

WHEREAS, the granting of business licenses for the use of public streets and the making of charges therefore are authorized by S.C. Code 1976, § 5-7-30, and are subject to such conditions as the council may impose to protect the public interest, welfare and convenience.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF ANDERSON THAT:

1. Mobile vending regulations shall be established as follows:

Findings.

- (a) The primary purpose of the public streets and sidewalks is the use by vehicular and pedestrian traffic.
- (b) Vending in public areas promotes the public interest by contributing to an active and attractive pedestrian environment.
- (c) Reasonable regulation of mobile vending is necessary to protect the public health, safety and welfare.
- (d) The regulations contained in this division do not prohibit free speech but merely regulate activities which are commercial in nature.
- (e) The granting of business licenses for the use of public streets and the making of charges therefore are authorized by S.C. Code 1976, § 5-7-30, and are subject to such conditions as the council may impose to protect the public interest, welfare and convenience.

Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Cart* means any portable vending device, pushcart or other 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 department of motor vehicles, used for the displaying, storing or transporting of articles offered for sale by a vendor, and which when set up does not exceed four feet in depth, ten feet in length, and five feet in height, excluding canopy or cover, and is completely self-contained for plumbing and electrical purposes.

*Vending district* means the zone or area specifically designated for mobile vendors.

*Vendor* means any person engaged in the selling, or offering for sale, of food, beverages or merchandise from a cart.

Permitted merchandise.

No merchandise shall be sold by a vendor from a cart in a vending district except the merchandise approved for the specific location of the cart. Permitted merchandise shall be limited to edibles such as hot dogs, sausages, hamburgers, tacos, burritos, baked potatoes, bagels, pastries, candy, prepackaged sandwiches, chips, biscuits, popcorn, nuts, pretzels, ice products, ice cream, milk products, frozen yogurt, fruit, hot and cold beverages containing no alcohol, flowers, and items related to permitted merchandise.

Business licenses, cart permits and fees; transfer of business licenses and cart permits.

(a) It shall be unlawful to sell, or offer for sale, any food, beverage or merchandise within the city from a cart without first obtaining a business license and cart permit.

(b) Business License

A business operating under a current business license may engage in mobile vending under the same license in accordance with business license regulations. All business license issues are regulated by the City of Anderson Business License ordinance.

(c) Cart Permit

(1) An annual cart permit fee of \$100.00 per cart for the whole year or any part of the year shall be paid in advance.

(2) No cart permits will be issued before the vendor's securing a business license.

(3) The number of cart permits per owner is limited to two (2) .

(4) A copy of the cart permit must accompany the cart operator at all times.

(5) A cart permit may not be transferred in any manner. Sale of a majority of stock in a company by stockholders listed on the permit application or sale of a majority interest in a partnership as listed on the application shall be deemed a transfer of the licenses, which is prohibited.

(d) The provisions of this division shall not apply to festivals, community projects or public events which occur on a periodic basis and which are specifically approved by the city council or county council.

Application to business license division for cart permit.

The application to the business license division for a cart permit includes the following information:

- (1) The name, home and business address of the applicant, and the name and address of the owner/owners, if other than the applicant, of the cart to be used in the operation of the vending business.
- (2) A description of the type of food, beverage or merchandise to be sold.
- (3) A description and photograph or drawing of the cart proposed to be used.
- (4) The location and description of off-street cart storage facilities.
- (5) The method and routes for transporting carts to and from sidewalk locations and storage facilities.
- (6) The names, addresses and percentage of stock owned by shareholders in a corporate applicant, and the percentage interest of each partner in a partnership applicant.
- (7) Such other information as the applicant may choose or as may be requested by the Business License Administrator to demonstrate the applicant's financial ability.

Issuance of cart permits.

- (a) The cart permit shall be issued in accordance with other sections herein. Any permit issued pursuant to this division shall be subject to modification by ordinance at any time deemed necessary by the City Council for protection of public interests. Any cart permit shall be granted as a privilege and not as a matter of right. Vending at any location may be temporarily suspended or relocated by the Business License Administrator upon reasonable notice when private or public construction or activities of the city make it unsafe or impractical to allow vending.
- (b) In determining the acceptability of an application, the Business License Administrator may consider any factors presented in the application, at a public hearing, or in any staff report or investigation of matters related to the past record and ability of the applicant to perform conditions of this division and the permit agreement in a manner which serves the public interests.
- (c) The maximum number of mobile vendors in the vending district shall be six (6). Cart permits are issued on a first-come-first-served basis until such time as the number of applicants exceeds the maximum vendors allowed. In such a case, a lottery system will be used to fill the 6 slots.
- (d) If two or more equally acceptable applications for the same location are received, the earliest application, if approved, shall be awarded the license. If the license is denied pursuant to any section of this ordinance, the applicant shall be provided with a statement of the reasons therefore entered in writing on the application.

Evidence of compliance with health and fire regulations; insurance.

- (a) A certificate of inspection or compliance as required by applicable health regulations and evidence of compliance with the fire code shall be filed with the Business License Administrator before any sales are made from carts.
- (b) Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the owner and the city from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the owner, shall be filed with the Business License Administrator prior to vending operations and annually thereafter. Such policy shall be a general liability policy naming the vendor as insured and the City of Anderson and Anderson County as certificate holders and

additional insureds in the amounts not less than \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate combined single limit for bodily injury, personal injury and property damage. A valid certificate of insurance will be provided to the City and the County for as long as a business license is held. Any changes, terminations or cancellations of the insurance will be provided to the City of Anderson and Anderson County at least 30 days prior to such change, termination or cancellation.

Approved and prohibited locations.

- (a) The designated vending district for mobile vendors is the area in front of the Anderson County Courthouse known as the Courthouse Square at 100 South Main Street.
- (b) No cart location in a vending district shall be:
  - (1) At any location which does not provide a clear passageway for pedestrians of at least four feet in width.
  - (2) Within ten feet of an entranceway to any building.

Prohibited conduct.

No vendor shall:

- (1) Vend on any street or sidewalk where vending is otherwise prohibited.
- (2) Vend between 11:00 p.m. and 6:00 a.m. of the following day.
- (3) Leave any cart unattended.
- (4) Store, park or leave any cart overnight on any street or sidewalk.
- (5) Sell food or beverages for immediate consumption unless there is a litter receptacle which is available for patrons' use.
- (6) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor.
- (7) Allow any items relating to the operation of the vending business to be placed anywhere other than in, on or under the cart.
- (8) Set up, maintain or permit the use of any table, crate, carton, rack or other device to increase the selling or display capacity of his cart.
- (9) Solicit or conduct business with persons in motor vehicles.
- (10) Sell anything other than that for which a license to vend have been issued.
- (11) Sound or permit the sounding of any device which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public.
- (12) Vend without the insurance coverage specified in section 11-257.
- (13) Allow the stand or any other item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property, without the owner's permission.

Advertising.

Advertising shall be permitted on the cart only to identify the name of the product or the name of the vendor, and the posting of prices. No temporary signs are allowed.

Renewal of business license and cart permit.

- (a) All business license renewals are regulated by the City of Anderson Business License ordinance.
- (b) Cart permit renewal applications must be received no later than December 15 to be automatically considered for the new year. Failure to submit renewal application by

December 15 may result in loss of position in the vending district in which case first-come-first-served and/or lottery drawing will apply.

Denial, suspension or revocation of business license and cart permit.

- (a) Business license denials, suspensions and revocations are regulated by the City of Anderson Business License ordinance.
- (b) Any cart permit granted under this division may be denied, suspended or revoked by the Business License Administrator for any of the following reasons:
  - (1) Fraud or misrepresentation contained in the cart permit application.
  - (2) Fraud or misrepresentation made in the course of carrying on the business of vending.
  - (3) Conduct of the vendor in such manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals.
  - (4) Conduct which is contrary to the provisions of this division.
  - (5) Failure to use the license fully in accordance with its terms within 90 days after notice of the granting of the license, or within 15 days after notice of non-use, during the term of the license.
  - (6) Failure to qualify for a business license or determination that any condition in the herein sections exists.
  - (7) A determination that the applicant is not able or qualified, by reason of background, medical limitations, financial condition or conditions related to the vending business, to render acceptable service to the public pursuant to this division.

2. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed to the extent of the inconsistency or conflict.

3. This ordinance shall take effect immediately upon its adoption by the Mayor and Council of the City of Anderson.