

ORDINANCE NO. 2014-2

AN ORDINANCE OF THE CITY OF MILAN, TENNESSEE, AMENDING TITLE NINE OF THE MILAN MUNICIPAL CODE REGARDING TRANSIENT VENDORS AND MOBILE FOOD VENDORS

WHEREAS, the City of Milan Board of Mayor and Aldermen deems it is in the best interests of the citizens of the City of Milan that mobile food vendors be locally regulated as a matter of health and public safety, and

NOW, THEREFORE,

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

SECTION 1. Title 9 of the Milan Municipal Code, and any ordinances, resolutions, or other acts amendatory thereto, is amended by deleting Section 9-202 in its entirety and substituting instead the following:

9-202. Definitions. The terms "peddler," "canvasser," "solicitor," and "transient merchant," includes any person or business entity engaged in the temporary business of selling and/or delivering goods, wares or merchandise within the City of Milan, subject to the exemptions set forth in this Chapter.

SECTION 2. Title 9 of the Milan Municipal Code, and any ordinances, resolutions, or other acts amendatory thereto, is amended by deleting Section 9-203 in its entirety and substituting instead the following:

9-203. Exemptions. The terms of this Chapter shall not be applicable, unless a specific Section indicates otherwise, to persons selling at wholesale to dealers, sellers of farm products, bona fide merchants who merely deliver goods in the regular course of business, bona fide charitable, religious, patriotic or philanthropic organizations, or to mobile food vendors as defined in Section 9-219.

SECTION 3. Title 9, Chapter 2 of the Milan Municipal Code, and any ordinances, resolutions, or other acts amendatory thereto, is amended by adding the following, which shall be the 19th section of such Chapter:

9-219. Mobile food vendors. (1) This Section shall apply to mobile food vendors.

(2) It is unlawful for any person, firm, corporation, or association to engage in or carry on the business of mobile food vending in the City of Milan without first having secured a permit as required by this ordinance.

- (3) "Mobile food vendor" means a person or entity engaged in conveying, with or without charge, food or beverages from a movable cart, trailer or vehicle of any sort other than a mobile home or travel trailer, as those terms are defined by the City of Milan Zoning Ordinance; except, however, the provisions of this Chapter shall not apply to caterers, defined as persons or entities engaged in the business of transporting food and beverages by vehicle to residential or business establishments pursuant to a prearranged schedule.
- (4) "Commercial zone" means any property which is zoned B-1, B-2, B-3, M-1, R-P or any commercial zone subsequently adopted by the City of Milan.
- (5) Applications for a mobile food vendor permit shall be filed at the Office of the City Recorder on forms to be developed by the City Recorder. Such application shall contain the information required below along with the current fee. All applications for permits shall be investigated by such departments or officers of the City of Milan as the City Recorder or Mayor may direct.
- (6) The applicant must satisfy the following requirements before a mobile food vendor permit can be issued:
 - a. The applicant shall submit the name and home and business address of the applicant, and the name and home and business address of the owner, if other than the applicant, of the mobile food vendor business and any vehicles, trailers or other equipment to be used in such operation.
 - b. The applicant must submit a copy of written, notarized permission from the owner of the property on which the mobile food vendor will operate.
 - c. The applicant shall submit an accurate photograph of any vehicles, trailers or other equipment to be used in its operation.
 - d. For applicants proposing to locate on property owned by or in which the City of Milan has an easement or other legal interest, the applicant shall present a copy of the declarations page of a general liability insurance policy in the amount of at least \$1,000,000 naming the City of Milan as an additional insured for all time periods in which the mobile food vendor will operate on any such property.
 - e. The applicant must specify the time period such applicant seeks to operate as a mobile food vendor in the City of Milan.
 - f. Except as may be specifically set forth in this Section, the applicant must have all other licenses or permits required by the City, County or State including, but not limited to, business licenses and a Tennessee sales tax certificate of registration.

- (7) Each application for a mobile food vendor permit shall be accompanied by a nonrefundable application fee of fifty dollars (\$50.00).
- (8) All mobile food vendor permits issued by the City of Milan, unless otherwise specified herein, shall be effective for one year unless revoked.
- (9) Mobile food vendors seeking to operate on a limited-time basis shall be bound by the terms of this Section, except such vendors, upon approval of their application by the City, shall be entitled to no more than two (2) permits of fourteen (14) days each per year and such vendors shall not be required to have a City of Milan business license. The application fee of fifty dollars (\$50.00) shall apply to each permit. Any permit issued pursuant to this Section shall be valid for fourteen (14) days from the date of issuance unless the City Recorder indicates a different time period, not to exceed fourteen (14) days, on the permit.
- (10) The City shall review applications for mobile food vendor permits and shall notify applicants that their application has either been granted or denied. The City Recorder shall issue a mobile food vendor permit to mobile food vendors whose applications have been granted. Applications may be denied by the City for reasons including, but not limited to, failure to comply with the application requirements of this Section. Applicants who have been denied a mobile food vendor application may request a review of the City's decision by the Board of Mayor and Aldermen.
- (11) All persons or entities with a mobile food vendor permit issued by the City of Milan shall be subject to the following regulations:
 - a. A mobile food vendor is limited to one location unless specifically authorized by the City of Milan.
 - b. A mobile food vendor shall only operate within a commercial zone.
 - c. A mobile food vendor shall only operate on property with the express, written consent of the property owner. If the property owner notifies the City of Milan or the mobile food vendor that such consent is revoked, the permit shall be immediately revoked for such location and the mobile food vendor shall be allowed to make an application for a new location.
 - d. Mobile food vendors shall display, in a prominent and visible manner, the mobile food vendor permit issued by the City of Milan.
 - e. The size of a mobile food vendor's operation including vehicles, trailers or other equipment shall not exceed three hundred twenty (320) square feet.

- f. The location of the mobile food vendor shall be clean and orderly at all times, and the mobile food vendor shall provide a refuse container for use by the public.
 - g. Mobile food vendors shall not use drive-through windows to conduct business, unless such drive-through window service generates no more than 10% of the mobile food vendor's average monthly gross revenue.
 - h. Mobile food vendors shall not hinder the use of any mailbox, fire hydrant or traffic control device.
 - i. Mobile food vendors shall not make loud noises or use mechanical audio equipment.
 - j. Mobile food vendors shall comply with all applicable State and local health laws and regulations regarding the preparation, handling and presentation of food.
 - k. Mobile food vendors are prohibited from operating from mobile homes or travel trailers, as those terms are defined by the City of Milan Zoning Ordinance.
- (12) The City of Milan shall have the power to revoke or deny any permit or permit application for reasons including, but not limited to, the following:
- a. Cancellation or revocation of the mobile food vendor's State or local license or permit.
 - b. Failure of the mobile food vendor to comply with the Milan Municipal Code.

SECTION 4. If any section, phrase, sentence or portion of this Ordinance is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. This Ordinance shall become effective immediately upon its passage on a second reading by the Board of Mayor and Aldermen.

Passed 1st reading: FEBRUARY 11, 2014

Passed 2nd reading: NOVEMBER 11, 2014

Chris Cude
Mayor

Ann Boyce
City Recorder