

(Published at www.mcpcity.com beginning on _____, 2025.)

ORDINANCE NO. 3456

**AN ORDINANCE OF THE CITY OF MCPHERSON, KANSAS
ADDING TO CHAPTER 38, ARTICLE VI, SECTION 286 OF
THE CODE OF THE CITY OF MCPHERSON, KANSAS
REGARDING MOBILE FOOD VENDORS.**

WHEREAS, the City of McPherson has a growing demand for Mobile Food Vendors within the city limits;

WHEREAS, the City had previously enacted laws regulating transient merchant, itinerant merchant or itinerant vendor;

WHEREAS, the City has not established local laws regulating the permits, licenses, business practices, or penalties specifically addressing Mobile Food Vendors.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MCPHERSON, KANSAS:

Sec. 286. Mobile Food Vendor

Definitions. The following words and phrases when used in this section shall have the following definition.

City-approved event means any event sponsored by the city, any event such as a community celebration or festival approved by the governing body, or any event sanctioned by a permit issued by the city, including, but not limited to, a temporary use permit or outdoor community event.

Food and/or beverage means (1) articles used for food or drink for humans or other animals, (2) chewing gum, and/or (3) articles used for components of any such article, in accordance with the definition of food within K.S.A. 65-656.

Mobile food vending means to conduct, hold, carry on, pursue or operate a business of vending, peddling, hawking and/or selling any food and/or beverage from a mobile food unit.

Mobile food vendor means any person, corporation, association, or other entity, however organized, that offers any food or beverage for sale from a mobile food unit to conduct mobile food vending.

Mobile food unit or *unit* means any self-contained vehicle, trailer, cart, wagon, or other type of conveyance from which any food and/or beverage is offered for sale.

Person means an individual, corporation, partnership, company, agency, institution, or any other entity.

Vending without licensing with the city.

It is unlawful for any person to conduct mobile food vending within the corporate limits of the City of McPherson, Kansas, without obtaining a license in accordance with this chapter.

License application.

Any person desiring to license under this chapter shall complete an application provided by the office of the city clerk. The application shall require the following information:

- (1) Name and permanent address of the applicant and the business, showing proof of identification. If the applicant is not an individual, the names and permanent addresses of the officers of the corporation or the members of the partnership, firm, association or other entity, as the case may be;
- (2) The name of the owner and the type, make and registration number of the vehicle(s) to be used;
- (3) A statement as to whether or not the applicant has ever had a mobile vending license or other similar license revoked or suspended under the McPherson Municipal Code or the ordinances of the City of McPherson or any other city. Such a revocation or suspension may result in the city's refusal to process the requested license.
- (4) A statement that the applicant understands and agrees that license will not be used or represented in any way as an endorsement of the applicant by the City of McPherson, Kansas or by any department, officer, or elected or appointed official of the city.
- (5) Proof of a valid driver's license within the State of Kansas for operation of the class of vehicle identified in the application for the applicant and any agents or employees of the applicant who will be involved in driving the identified vehicle;
- (6) Proof of a valid Kansas sales tax number;
- (7) A brief description of the nature of the business and the food and/or beverage to be offered for sale;
- (8) A copy of an inspection report completed by the McPherson Fire Department that determines the Mobile Food Unit is in compliance with the requirements of this Chapter. Alternatively, the applicant may submit a current copy of an inspection report completed by the Central Kansas Fire Marshal Mobile Food Coalition or any similar regulatory inspection authority to which the City is a

party that determines the Mobile Food Unit is in compliance with the inspection requirements of that authority.

- (9) Proof that the applicant has secured commercial general liability insurance for the mobile vending operation to be maintained for the entire length of the license, written by an insurance carrier licensed to do business in Kansas, with minimum limits of \$500,000.00 combined, single limit for bodily and property damage, each occurrence and \$1,000,000.00 in the general aggregate. Evidence of compliance with these insurance requirements shall be in the form of a certificate of insurance that shall be submitted with the application. Such insurance certificate shall not be cancellable without prior written notice to the city; and
- (10) Signatures of applicant, individually and/or by its members and officers, and any agents or employees of the applicant who will be involved in the applied-for mobile food vending certifying that all of the information provided in the application is true and correct.

Fee.

All applications for mobile food vending licenses shall be accompanied by a non-refundable fee as fixed in the City of McPherson fee resolution.

License.

If the facts stated in the application are satisfactory and the requirements of this chapter are met, the city clerk may issue a mobile food vending license to the applicant. The issuance of a license shall not constitute approval of the business or activity or otherwise prohibit enforcement of this chapter or any other applicable laws, city code provisions, rules or regulations. Vendor shall possess all applicable health and safety licenses, food handling licenses or the like as required by local, state, and federal laws, rules, or regulations.

Operating conditions.

All mobile food vending licenses shall be subject to compliance with the following conditions:

- (1) *Location.* Mobile food vendors may vend on property within the city subject to the following: Mobile food vendors may vend on property in the following zoning classifications:
 - b. Mobile food vendors may not be located on property where the unit or a line of customers would (1) hinder the flow of traffic on any street, (2) hinder the flow of bicycles within any bike lane or route, (3) hinder the flow of pedestrians along any sidewalks, (4) block or reduce to less than five feet in width any accessible route to persons with disabilities, (5) block, hinder, or obstruct the vehicular flow within any parking lot, or (6) block or obstruct access to any driveway or access point to any property;

- c. No more than three mobile food units may locate on any zoning lot at any given time except as part of a city approved event;
- d. Mobile food vendors shall not locate on any city or public property without first securing approval from the city administrator and/or city commission;
- e. Mobile food vendors shall not locate within 500 feet of an otherwise approved city event;
- f. Every unit shall be stationary while vending; and
- g. Whenever any vehicle is used for mobile food vending upon a street, alley, sidewalk or other public right-of-way within the city, the transaction shall occur on the right side of any such vehicle with the right wheels of the vehicle located next to the curb and the unit shall not locate within 100 feet of any public street intersection.

(2) *Written permission of property owner.* All mobile food vendors operating on private property shall acquire and maintain the written permission of the property owner for the use of and location of the unit on said property. Written permission of the property owner shall be kept in the unit and produced upon request by the chief of police or designee or other public officer charged by the city manager with enforcement of this chapter.

(3) *Hours of operation.* Mobile food vendors are prohibited from offering for sale any food or beverage outside the hours of 6:00 a.m. to 11:00 p.m. Mobile food vendors are prohibited at all times from selling or offering for sale alcoholic beverages, cereal malt beverages, or tobacco products without first being properly licensed pursuant to any applicable federal, state or local laws.

(4) *Fire and Building/Construction Safety.* All Mobile Food Units shall comply with the following requirements and are subject to inspections pursuant to Section ____ of this Code and amendments thereto:

- a. Compressed gas or liquid propane shall be limited to a maximum quantity of two hundred (200) pounds for designed or manufactured Mobile Food Units. Compressed gas or liquid propane shall be limited to a maximum quantity of one hundred (100) pounds in aggregate while in use for all other Mobile Food Units. Compressed gas or liquid propane cylinders must be secured from movement and must be protected from impact and vibration damage. Compressed gas or liquid propane piping, including valves and fitting, shall be adequately protected from tampering and impact and vibration damage. A listed alarm for compressed gas or liquid propane shall be installed in the Mobile Food Unit within the vicinity of the compressed gas or liquid propane system components.
- b. Gas cooking appliances in Mobile Food Units shall be secured in place and connected to fuel-supply piping with an ANSI-listed appliance connector in accordance with the manufacturer's installation instructions of the Mobile Food Unit appliances and the connector.

- c. Mobile Food Units which produce grease laden vapors shall have a Type I hood system for commercial cooking operation with a fire suppression system in the hood that is inspected biannually and properly tagged. Mobile Food Units which use other warming apparatus or produce steam shall have a Type II hood system. The hood systems must be cleaned frequently and adequately to minimize grease buildup and other contaminants. No hood system is required for those Mobile Food Units which do not perform cooking or use heat-producing devices.
- d. One minimum size 2A-10BC class fire extinguisher is required for each Mobile Food Unit and shall be serviced annually. For Mobile Food Units which produce grease laden vapors, one Class K portable fire extinguisher is required and shall be serviced annually.
- e. Mobile Food Units shall not contain exposed wiring or splices and shall use approved covers for all outlet boxes. Extension cords and flexible cords shall be grounded, be directly connected to a permanently installed power source, have the proper ampacity for use, be free from damage or deterioration, and not be a substitute for permanent wiring.

(5) *Lights.* In accordance with the city zoning regulations, no flashing lights or attention attracting devices are permitted on or in association with the use of the mobile food unit. No direct light from a mobile food unit may be shined on adjacent property or cause a glare or distraction for vehicles, bicycles, or pedestrians.

(6) *Signs.* Signage mounted on a mobile food unit shall not exceed the dimensions of the unit. A maximum of one detached "A" frame sign may be permitted with a maximum area of eight square feet and a maximum height of four feet. "A" frame signs must be located within 15 feet of the associated unit and may not interfere with vehicle access, pedestrian movement, or handicap-accessible routes to and around the unit.

(7) *Trash and site cleanup.* All mobile food vendors shall ensure that a trash receptacle shall be provided with each mobile food unit. Such receptacle must be attached to the unit or located within 15 feet of the unit and cannot interfere with vehicle access, pedestrian movement or handicap-accessible routes to and around the unit. Immediately upon the cessation of vending, the mobile food vendor shall remove and properly dispose of all trash and litter accumulated at the vending site.

(8) *Licenses and permits.* All mobile food vendors shall acquire and maintain all required licenses and permits applicable to the use and operation of mobile food units from all applicable jurisdictions. Evidence of such licenses and/or permits shall be kept in the unit and produced upon request by the chief of police or designee or other public officer charged by the city administrator with enforcement of this chapter.

(9) *Electricity.* Should mobile food vendors necessitate the use of City electricity, vendors shall be charged a fee for electricity use, as fixed in the City fee resolution.

Term and transferability.

Licenses issued under this chapter are available for periods of one year. Such licenses may not be transferred.

Parking to dispense products in public rights-of-way.

It is unlawful for the operator of any mobile food unit to stop, stand or park such vehicle in any street, alley, or sidewalk or other public right-of-way for the purpose of mobile food vending, so as to obstruct the free flow of vehicular traffic; except that an operator may temporarily stop, stand or park such vehicle with its right wheels next to the curb for a period of time not to exceed five minutes at any one location, other than upon or along an arterial or collector street for the purpose of mobile food vending.

Sound devices.

The production of amplified music or chimes from a mobile food unit is allowed between the hours of 10:00 a.m. and 8:30 p.m. provided that the sound from the amplified music or chimes is inaudible at any distance greater than 300 feet from the vehicle.

Exemption.

The provisions of this chapter shall not apply to the following activities:

- (1) The sale of farm or garden products or fruits grown by the seller or his or her employer;
- (2) Vendors selling as part of a city-approved event or recognized farmers market; and
- (3) Individuals providing catering services to a private event and not open for the sale of food and/or beverage to the general public.

Posting.

Any person licensed under this chapter must keep their permit posted in a conspicuous place inside the vehicle used for mobile food vending. Such license must be current and may be used only by the licensed person.

Penalty for violation.

Violation of any provision of this Article as to which there is not otherwise a prescribed penalty shall be punishable by a fine not to exceed \$750.00. The minimum fine for the violation of any provision shall be \$200. Such penalties shall be in addition to and not in substitution of any other prescribed consequences of such violation, such as

suspension or revocation of a license issued under this Article, or the rendering of a Person as being ineligible for a license under this Article.

Repealer.

Sections of Ordinance No. 2806 conflicting with the provisions of this Ordinance are hereby repealed.

Effective Date.

This ordinance shall take effect and be in force on and after January 1, 2026, after its adoption and publication of the full text of the ordinance on the city's website in compliance with K.S.A. 12-3007(b).

ADOPTED by the governing body this 30th day of December 2025.

CITY OF MCPHERSON, KANSAS



Thomas A. Brown

Thomas A. Brown, Mayor

Leah Kawanguzi, City Clerk

