

AN ORDINANCE PROVIDING FOR AND REGULATING THE SALE OF ICE CREAM PRODUCTS ON PUBLIC STREETS, PROVIDING PENALTIES FOR THE VIOLATION HEREOF; AND AMENDING AND REPEALING ORDINANCES AND PROVISIONS IN CONFLICT THEREWITH

WHEREAS, the ordinances of this City regulate and restrict sales of certain goods, products, and merchandise on the public streets, and provisions should be made for the permission and regulation of certain sales as hereinafter ordained, the Mayor and Board of Aldermen of The City of Cleveland, Mississippi, has authority pursuant to Section 21-17-5, 21-19-15, and 21-19-17 of the Mississippi Code of 1972, to enact this ordinance; now, therefore,

BE IT ORDAINED BY THE MAYOR AND BOARD OF ALDERMEN OF THE CITY OF CLEVELAND, MISSISSIPPI, as follows:

SECTION 1. DEFINITIONS.

The term “ice cream” as used herein shall mean any ice cream or any frozen ice product intended for immediate consumption.

SECTION 2. REQUIREMENTS.

(1) Any person who shall engage in the sale of ice cream on the public streets of this City shall obtain the proper municipal privilege or other applicable licenses, shall comply with all regulations of the State or County health departments applicable thereto, shall maintain the permanent site of all vehicles used in such distribution and sales within the City, and shall maintain personal and property damage liability insurance of \$250,000.00, or more, on each motor vehicle used for such sales, and shall furnish certificate of such insurance with the application for the City licenses aforesaid’ lapse or failure to maintain such insurance shall immediately terminate any licenses or permits theretofore issued. The owner or operator shall immediately notify the City Clerk when the insurance coverage ceases for any reason’ it is understood that the owner’s or operator’s failure to notify the Clerk that the insurance coverage is not in effect is a separation violation of this ordinance.

SECTION 3. PARKING AND VEHICLE MAINTENANCE.

No vehicle used in such distribution shall be parked without its driver or operator, or overnight, upon or within the right-of-way of any public street, alley, sidewalk or walkway. The owner or operator of any such vehicle in mechanical condition meeting all safety, pollution and noise requirements, and in physical appearance fully painted without rust or damaged surfaces.

SECTION 4. LOCATION OF SALES.

No such sales, or stopping or parking therefore, shall take place:

- (1) within any school zone indicated by the City’s or State’s uniform traffic signals, or within 300 feet of any school campus, excluding from such measurement any street right-of-way where no such zone is indicated; or,
- (2) within any street abutting or in any area not zoned residential by the Official Zoning Ordinance of this City; or,
- (3) within 50 feet of any intersection; or,
- (4) within or upon any street without sufficient width of the lane within which such vehicle shall stop or park to leave available not less than ten feet of the width of the roadway lane for free movement of vehicular traffic; or,
- (5) within any four lane street or roadway; or,
- (6) without the intermittent flashing of standard hazard lights at the front and rear of the vehicle in use when stopped or moving slowly in the roadway.
- (7) In any manner that constitutes a hazard or danger to any other vehicle, passenger, person, or person whatsoever.

SECTION 6. CONFLICTS.

All provisions of any other ordinances in conflict herewith, particularly but not limited to those ordinances dated on October 1, 1929, of record at Page 97 of Ordinance Book Number One, and on July 16, 1963, of record at page 23 of Ordinance Book Number Three, and the Traffic ordinance adopted and dated March 31, 1967, of record at page

58 of Ordinance Book Number Three, and amendments thereunto, are repealed and amended to the extent of such conflict.

SECTION 7. VIOLATION AND PENALTY.

Violation or failure by any person to comply with any of the provisions herein is unlawful and shall constitute a misdemeanor, punishable as provided by law within the City.

SECTION 8. CONSTRUCTION AND SEVERABILITY.

Severability is intended through and within the provisions of this ordinance. If any provision, including *inter alia* any exception, part, phrase, or term or the application thereof to any person or circumstances, is held invalid, the application to other persons or circumstances shall not be affected thereby and the validity of the ordinance in any and all other respects shall not be affected thereby. The Board of Aldermen does not intent a result that is absurd, impossible to execute, or unreasonable. It is intended that this ordinance be held inapplicable in such cases, if any, where its application would be unconstitutional. A constitutional construction is intended and shall be given. Said Board does not intent to violate the Constitution of the United States of America.

SECTION 9. EFFECTIVE DATE.

This Board has considered the report of the Chief Administrative Officer of the need of the requirements set forth herein; upon such report, the Board finds that the adoption of this ordinance is necessary for the immediate and temporary preservation of the public peace, health, and safety and for the good causes set forth herein; therefore, all members of the governing body being present and voting unanimously herefor, this ordinance shall be and is effective from and after its passage and adoption on this date, all as provided by Section 21-13-11 of the Mississippi Code of 1972.

SECTION 10. ORDINANCE CUMULATIVE.

This ordinance shall be cumulative and in addition to any other laws in force and effect.

ORDAINED, ADOPTED AND APPROVED this September 7, 1999.

/s/ Martin T. King, Jr.,
MARTIN T. KING, JR.,
MAYOR

(SEAL)
Attest:

/s/ Lynn C. Butrum,
LYNN C. BUTRUM,
City Clerk

It is hereby certified that the foregoing ordinance was offered and introduced in writing and its adoption was moved by Alderman Work, and seconded by Alderman Story, and the vote was taken on final passage by both "Yeas" and "Nays" as follows: Alderman David Work voted "Yea." Alderman W. Ross Story voted "Yea." Alderman Norman Burke, Jr., voted "Yea." Alderman Hugh Ellis Walker voted "Yea." Alderman Willard R. Samuels voted "Yea." Alderman Paul Janoush voted "Yea." Alderman Theodore R. "Ted" Campbell voted "Yea."

WHEREUPON, the Mayor declared said ordinance duly, legally, and unanimously adopted, and he signed the same in open session at this meeting on this 7th day of September, 1999.

/s/ Martin T. King, Jr.,
MARTIN T. KING, JR.,
MAYOR

(SEAL)
Attest and Certified:
/s/ Lynn C. Butrum
LYNN C. BUTRUM
City Clerk
January 13C