

ORDINANCE REGULATING THE LOCATION AND OPERATION OF OUTDOOR SALES AND PREPARATION FOOD; PROVIDING FOR PENALTIES FOR THE VIOLATION HEREOF; AND FORE RELATED PURPOSES

WHEREAS, the laws of the State of Mississippi, including but not limited to Sections 17-1-1 *et seq* of the Mississippi Code of 1972, as amended, empower the Mayor and the Board of Aldermen of Cleveland, Mississippi, with the legislative and governing authority to carry on municipal government in a manner not inconsistent with general laws and to regulate certain uses of land within the City of Cleveland, Mississippi, through planning and zoning and other regulations; and,

WHEREAS, the location and use of temporary, portable, or mobile structures or facilities of any sort are incompatible and inconsistent with, and detrimental to, surroundings of a permanent and stable character, tend to decrease surrounding property values, and are inappropriate to proper functioning of commercial and residential areas; and,

WHEREAS, the location and use of land for trailer courts, mobile home parks, and other portable or movable structures or facilities are regulated by the ordinances of this City for the aforesaid reasons and purposes; and,

WHEREAS, except those requiring outdoor display of merchandise by its nature, businesses are required to be enclosed in safe structures, and outdoor storage is otherwise required to be screened, obscured, or hidden; and,

WHEREAS, preparing and handling food in mobile or temporary locations increases the likelihood of contamination and increases the difficulty of health and sanitary inspections; and,

WHEREAS, the Mayor and the Board of Aldermen of Cleveland, Mississippi, find that this regulation would protect the public health, the public safety, and the public welfare of the citizens of Cleveland, Mississippi; and,

WHEREAS, said Mayor and Board have received the report of the City Planning Commission affirming the findings herein and recommending the regulations of outdoor sales and the outdoor preparation and sales of food; now, therefore,

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

SECTION 1. All businesses and commercial enterprises and activities which prepare or sell food of any sort, and the equipment and fixtures for such sale and preparation, shall be located within permanent structures, buildings, or facilities, which conform to the ordinances and building codes of the City of Cleveland, Mississippi and to all applicable health standards, and no such structure or facility of any sort shall be temporary or mobile.

SECTION 2. It is understood that the following are otherwise regulated or are not considered business or commercial activities within these regulations:

- A. Yard or garage sales otherwise regulated by order of this Board and not considered commercial enterprises or activities as so regulated.

- B. Not-for-profit festivals, or area-wide promotional activities or events, where safety and other precautions are taken by or with the supervision of the appropriate divisions of the City, but without assuming any liability therefore. Examples are Octoberfest, Crosstie Festival, and not-for-profit school, youth or charitable activities.
- C. Garden or orchard vegetables or produce, referred to as “home-grown” and being grown on premises owned or leased by the seller, and such produce may be sold by said owner or lessee upon the premises where it has been grown and from stands or facilities which shall be removed when not in use for sales.
- D. Vehicles traveling on the public streets with frozen desserts, as so regulated.

SECTION 3. ENFORCEMENT AND PENALTIES FOR VIOLATION

A. **Penalties.** Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply herewith or with any of the requirements thereof, or who shall use, place, or erect any temporary or mobile structure or facility in violation hereof or of any detailed statement or plan submitted and approved hereunder shall be deemed guilty of a misdemeanor and shall be liable to a fine of not more than One Hundred Dollars (\$100.00) and each day such violation shall be permitted to exist may constitute a separate offense. The owner or owners of any building or structure or facility or premises or part thereof where anything in violation of this Ordinance shall be placed or shall exist, and any architect, builder, contractor, individual person or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall be deemed guilty of a separate offense and upon conviction shall be fined as herein provided.

B. **Enforcement.** In case any building or structure or facility is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure, facility or land is used in violation of this Ordinance, the Building Inspector, in addition to other remedies, shall not issue any building permit or occupancy permit, and may institute any appropriate action or proceedings in the name of The City of Cleveland, Mississippi, to prevent such unlawful erection, construction, reconstruction, alterations, repair, conversion, maintenance or use, to restrain, correct or abate such violation to prevent the occupancy of said building, structure, facility, or premises or to prevent any illegal act, conduct, business or use in or about said premises.

SECTION 4. This Board has heard and considered the reports of the Planning Commission and finds and determines that the City of Cleveland is fortunate to experience rapid business growth and the regulations herein are necessary that such growth be orderly and productive, and that an emergency exists under the provisions of Section 21-13-11 of the Mississippi Code of 1972, and all Aldermen are present and voting Aye herefor, therefore this ordinance shall take effect and be in force immediately upon its passage and adoption.

WHEREUPON, the Mayor declared said ordinance duly, legally, and unanimously adopted, and he signed the same in open session at this meeting on this October 2, 2001.