Recommended By:  Councilor Johnathan Austin
Chairman, Public Safety Committee

Submitted by:  Thomas Bentley, III
Acting City Attorney

ORDINANCE NO.__________

AN ORDINANCE TO ESTABLISH REGULATIONS FOR MOBILE FOOD VEHICLES AND PUSHCARTS IN THE CITY OF BIRMINGHAM, ALABAMA

Whereas, Alabama municipalities are authorized to regulate the use of public streets for public health, safety, welfare and convenience; and,

Whereas, no person, firm, association, or corporation is authorized or permitted to use the streets, avenues, alleys, public right-of-way of any municipality for the operation of any private enterprise, without first obtaining the consent of the proper authorities of such municipality. (Ala. Const. Art. XII, § 220; Ala. Code, 1975, § 11-49-1 (a).); and,

Whereas, mobile food vehicles and pushcart vendors are using public parking spaces, loading zones and other parts of public rights-of-way without the approval of the City Council; and,

Whereas, mobile food vehicles and pushcart vendors are operating near and affecting the trade of established restaurants that have invested in property and pay gross revenue taxes in the City of Birmingham; and,

Whereas, mobile food vehicles, pushcarts or “food vehicles”, are a national trend and provide the useful service of convenient and varied dining options in business areas and in areas that lack businesses providing nutritional dietary options: and,

Whereas, the Council of the City of Birmingham finds it in the interest of the public health safety, welfare and convenience to authorize the operation of mobile food vehicles and pushcart vendors within the City of Birmingham, subject to regulations to protect the safe and convenient use of public rights-of-way, and to balance the rights and interests of these mobile businesses with those of established restaurant businesses.

BE IT ORDAINED by the City Council of the City of Birmingham, Alabama, that the Mobile food vehicle ordinance be enacted as follows:
Section 1 Purpose

The general purpose of these regulations is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of Birmingham by establishing reasonable guidelines and restrictions for mobile food vehicles and pushcart in relationship to established restaurant businesses and encourage the safe and convenient use of the city’s public right-of-way.

Section 2 Definitions

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

"Applicant" means any person or business who applies for a permit and/or a renewal under the provisions of this Article.

"BPD" means the Birmingham Police Department.

"Business licenses" is the licenses required of any business to operate within the City pursuant to the City license code.

"City Center" includes the territory and boundaries as generally described in the amended Urban Renewal and Urban Redevelopment Plan for Downtown Birmingham as established by the Birmingham City Council in Resolution No. 2166-9 also known as the “Master Plan”.

"Food Service Worker” means a person who works for or under the direction of, on behalf of, or as an agent or employee of a permittee.

"food zone” is an area designated by the Mobile Food Vendors Committee that has been approved for the specific operation of Mobile Food Vehicles and/or Pushcarts within the public right-of-way.

"Mobile food vehicle” means, except for pushcarts, a unit mounted on or pulled by a self-propelled vehicle where food including prepackaged foods, for individual portion service is prepared, or dispensed; is self-contained with its own drinking water tank and waste water tank; is designed to be readily movable; and is moved daily to return to its commissary.

"Operator” is the entity that is legally responsible for the operation of the mobile food vehicle such as the permittee, the permittee’s agent, or other PERSON; and possesses a valid permit to operate a mobile food vehicle.
“Operating Hours” is the designated time frame mobile food vehicles are authorized to operate within the city right-of-way.

“Pedestrian” is a person who is walking or otherwise traveling in the public right-of–way.

“PEP” means the Department of Planning, Engineering and Permits.

"Permit" means a written authorization, or permission to engage in or participate in the regulated activity of a mobile food vehicle and/or pushcart. Under the provisions of this Code section, a "permit" is not equivalent to a "license", and vice-versa.

“Permittee” is the entity, person, company or corporation which has been granted a permit by the Birmingham City Council to operate one or more mobile food vehicles upon the streets of the city.

“Person” means any natural individual, firm, partnership, association, or corporation. Whenever the word “person” is used in any section in this article prescribing a penalty or fine as applied to a partnership or association, the word shall include the partners or members thereof; such word as applied to corporations shall include the officers, agents, or employees thereof who are responsible for any violation of such section.

“Pushcart” means a non-self propelled mobile food unit that is lightweight enough, designed, and intended to be moved by one person. A pushcart can be used to prepare and serve only:

i. potentially non hazardous foods such as popcorn, lemonade, hot dogs or flavored ice;

or

ii. foods pre-wrapped at the commissary and maintained at the required temperatures per the County Health Department regulations.

“Restaurant” a brick and mortar establishment where meals are generally served and eaten on premises; prepares and serves food and drink to customers in return for money, either paid before the meal, after the meal, or with a running tab. Not applicable to restaurants that are delivery only.

“Vending” is the business of selling or causing to be sold any of the following items: food products, produce, prepared foods and beverages, prepackaged foods and non-alcoholic beverages from a mobile food vehicle and/or pushcart.

Section 3 Mobile Food Vendors Committee

1) There shall be established by this ordinance a Mobile Food Vendors Committee consisting of the Traffic Engineering Department, the Planning Engineering and Permits Department, the Police Department, the Economic Development Department and
Operation New Birmingham. Any person or company desiring a permit to operate a mobile food vehicle or pushcart within the Birmingham city limits must first submit an application to the Mobile Food Vendors Committee. The Mobile Food Vendors Committee shall meet at least bi-annually, unless a special meeting is called by any of the committee members.

2) The Mobile Food Vendors Committee shall review each application for mobile food vending permits and the suitability of the proposed location(s) for which the permit is sought. They shall then submit is recommendation to the City Council within twenty eight (28) days of the date of the application and shall be referred by the Council President to an appropriate council committee for review and recommendation to the full Council.

3) The council committee shall set a date and time for its review of the application and shall afford the applicant and interested parties reasonable and timely notice thereof. The applicant and such interested parties shall, in the course of the committee's review, be given the opportunity to offer testimony and evidence in support of their respective positions and may have counsel present to so represent them. At the conclusion of the committee's review, the committee shall vote to recommend its approval or disapproval of the application to the council. In the event the committee finds itself unable to recommend either approval or disapproval of the application, it shall so advise the council. The committee shall thereupon advise the applicant and other interested parties appearing before it of the committee's decision and shall further inform the applicant and such interested parties of the date of the council meeting at which the application will be on the council agenda for a public hearing at which all such parties will have the opportunity to be heard in person or by counsel. The public hearing before the council shall be set within twenty-one (21) days following the conclusion of the committee's investigation.

4) The Mobile Food Vendors Committee shall recommend the addition and/or modification of rules and regulations of this Article as appropriate to the Council.

5) Each application shall be delivered to each department represented within the Mobile Food Vendors Committee to review and provide its recommendation to the Council.

6) The Mobile Food Vendors Committee shall not recommend any location as a food zone which is adjacent to a bus stop, taxi stand, or handicap loading zone. City designated food zones outside of the City Center will be available through assignment only. The assignment of each location will be recommended by the Mobile Food Vendors Committee, with final approval from the full Council.

7) The Mobile Food Vendors Committee shall not accept application for a permit to operate at a location where a current permit has been issued or a complete application is pending.
8) The Birmingham City Council may limit the number of designated food zones within the City Center, to address the health, safety, comfort, convenience, prosperity and general welfare of the citizens of Birmingham.

**Section 4  Permit and License Required for Yearly Operation**

1) All mobile food vehicles and pushcarts must submit an application for a permit to the Planning, Engineering and Permits Department. The application will then be forwarded to the Mobile Food Vendors Committee for review and recommendation. The application shall receive its final approval for the issuance of a permit by the full Council.

2) The grant of a permit may be subject to a monthly rotation of the designated food zones within the City Center. Each food zone will be identified by a location number. Applicants will be allowed to select their initial food zone based on the available or approved food zones and the order in which their application is received. The number one (1) position will drop to the last position established, and then rotate up one food zone position each week until reaching the number one (1) position again. Food zones for mobile food vehicles and pushcarts will be on separate rotation schedules.

3) There shall be a one time initial cost to each applicant for establishing new food zones. Said cost to cover any alterations needed in preparing the food zones. Some examples included, but are not limited to the removal of parking meters, the pouring of concrete, and the cost of the signage. Cost to vary based on location.

4) The grant of a permit hereunder shall not be deemed to authorize the conducting of a mobile food vehicle and/or pushcart without the payment of the fee for a business license as may be required under the current business license code. The permittee must subsequently obtain a business license from the Director of Finance, or risk being charged a punitive fee for each day permittee is in violation of this section.

5) A City permit shall be obtained for each mobile food vehicle owned. Every permit issued under this ordinance shall be constantly and conspicuously displayed on the permitted vehicle.

**Section 5  Application for Permit**

1) A single permit application shall be issued on a first-come, first-served basis. Each application shall include the following:

   a) Each permittee of a mobile food vehicle and/or pushcart shall be required to provide a valid copy of all necessary licenses, permits or other written proof of compliance with the regulations of the Jefferson or Shelby County Health Department for each mobile
food vehicle and/or pushcart. This shall include a copy of the certificate or permit for each food handler and a copy of the plan of operation for each vehicle.

b) The applicant’s full name, signature, address and whether the applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners, together with their addresses.

i) The applicant must list the names of all Jefferson or Shelby County approved and certified food service workers that will operate the mobile food vehicle(s).

ii) The address of its commissary.

iii) A photograph of the permittee and/or food service worker applicant, e.g. driver’s license, passport or similar.

iv) Each applicant must attest that they are in compliance with the Hammon-Beason Alabama Taxpayer and Citizen Protection Act.

2) A permittee may submit a request for use of the public right-of-way in other locations not recommend by the Mobile Food Vendors Committee. Each submitted request will require a non-refundable location inspection fee of two hundred ($200.00) dollars. If the location is approved, the fee shall apply to the cost of the permit for the new location.

3) The applicant must specify their desire to operate in designated food zones within the city rights-of-way that are outside of the City Center.

4) The applicant must specify their desire to operate as an outdoor café at any location within the city rights-of-way.

5) A statement as to whether the application is for a new permit, renewal of an existing permit, a change in hours of operation, or the addition of a food zone location(s).

6) An accurate description of the mobile food vehicle and or pushcart, including the following data: The make, model and type of body; the number of cylinders; the vehicle identification number or any other identifying number as may be required by the Mobile Food Vendors Committee.

7) A statement that neither the applicant nor any of its food service workers has been convicted of any crime that involves any local, state or federal law or regulation concerns from the operation of a similar business.

8) A statement that neither the applicant nor any of its food service workers has been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten years.
9) Applicant shall notify the Birmingham Police Department within fifteen (15) days after any changes to application information.

10) A signed statement that the applicant shall hold harmless the City and its officers and employees, and shall indemnify the City, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit.

11) Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect vendor, property owners, and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than One Hundred Thousand Dollars ($100,000.00) per person and Three Hundred Thousand dollars ($300,000.00) per accident or occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice served upon the __________________________. A permit issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the __________________________. Proof of insurance must be shown on each mobile food vehicle in operation.

12) Permittee shall furnish such other additional information required by law, rule, ordinance, or that any department of the city, Mobile Food Vendors Committee, City Council, or information reasonably deemed appropriate to assist the city in determining whether the permit should be granted. The applicant shall be provided reasonable time to supplement the application.

Section 6 Application and permit fees.

Upon the filing of a completed application, the non-refundable application fee for all applicants seeking a mobile food vehicle or pushcart permit shall be $200.00. This application fee shall be submitted with the application and shall apply to the verification of new vending locations and the cost of the permit if approved.

Upon approval of an application for an operator's permit, the annual permit fee shall be $___________ for the permittee/operator of the mobile food vehicle or pushcart.

Any applicant that also wishes to operate within the City Center shall pay a yearly fee of $___________ per application. Permittee that wish to operate concurrent food zones shall pay the yearly fee for each location.

The annual fees set forth in this section shall bill on a calendar year from January 1 to December 31.
Any duplicate permit may be issued upon payment of a fee of $20.00 should a permit be lost or destroyed.

Any renewal permit must be applied for not later than five working days following the expiration date of an existing operator's permit, and for any such permit applied for after such expiration date there shall be a late fee of $5.00 in addition to the annual fees stated above.

**Section 7  General Rules and Regulations**

1) No person or business entity, including religious or charitable organization, shall operate a mobile food vehicle and/or pushcart upon the public right-of-way within the city without a permit recommended by the Mobile Food Vendor Committee and final approval of the full City Council.

2) It shall be the responsibility of the permittee to confirm if their area of operation on private property is properly zoned for that activity. They are then required to meet the zoning requirements of any other restaurant.

3) Hours of operation within the public right-of-way shall be limited Monday through Friday within the City Center as follows:

   Breakfast  7:00 a.m. - 9:00 a.m.
   Lunch      11:30 a.m. - 1:30 p.m.
   Supper     4:00 p.m. - 6:00 p.m.
   Late Night TBD - PRN

Late night hours food zones will be determined on a case by case basis. All locations are subject to the time requirements and exceptions as established by the Jefferson or Shelby County Health Department.

4) The City Council may be established additional food zone locations, on a case by case basis, in order to accommodate mobile food vehicles and/or pushcarts that desire to service after hour venues.

5) It shall be unlawful to leave any approved mobile food vehicle unattended on a public right-of-way, nor remain on a public right-of-way outside of these allowed hours of operation. The City of Birmingham may require additional restrictions to abate nuisances.

6) All mobile food vehicle and/or pushcart vendors operating within the public right-of-way of the City Center shall adhere to the designated time and day requirements and shall be
allotted thirty (30) minutes set-up and thirty (30) minutes breakdown time before and after stated operating hours.

7) No mobile food vehicle or pushcart vending within the city rights-of-way shall occur less than 230 feet of any restaurant currently open for service during the restaurants normal hours of operation. No mobile food vehicle or pushcart shall be permitted to operate less than 230 feet of another mobile food vehicle or pushcart. The Traffic Engineering Department may, however, increase the size of the food vehicle/pushcart zone if it is determined that additional food vehicles or pushcarts can be accommodated without negatively impacting existing businesses less than 230 feet away. Increasing the size of a food vehicle/pushcart zone does not prevent Traffic Engineering from exercising the authority to regulate uses of the public right-of-way and reduce the size of the food vehicle/pushcart zone at a later date.

8) Mobile food vehicle and/or pushcart vendor shall not operate within five hundred (500) feet of any fair, stadium, carnival, circus, festival, special event, civic event, or other like sponsored event that is licensed by the City, unless they are authorized by the sponsor to be participants in such event.

9) It shall be unlawful for any vendor to operate a mobile food vehicle and/or pushcart in or within two hundred (200) feet of a Birmingham school without first obtaining written authorization from the Mobile Food Vendors Committee.

10) The permit shall be subject to additional limitations on hours and days of operation that the City determines are appropriate to prevent conflict with special events. Examples of special events included, but are not limited to, parades, sponsored marathons and blocked streets to allow licensed events.

11) No mobile food vehicle and/or pushcart shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles or similar devices to attract customers. A mobile food vehicle and/or pushcart may use battery-operated lights with appropriate protective shields for the purpose of illuminating merchandise.

12) Mobile food vehicles and pushcarts shall be responsible for providing and maintain their own trash bin receptacles. Each mobile food vehicle that wish to use external signage, seating, or any other equipment not contained within the vehicle on the public sidewalks must receive a recommendation from the City Mobile Food Vendors Committee and final approval from the full City Council.

13) No mobile food vehicle and/or pushcart operating within the city shall cause congestion that impedes pedestrian or vehicle traffic or interfere with the city or public’s use of any public rights-of-ways. This shall include but is not limited to activity of customer
queues, accessory units, or signage that in any way invades or impairs access to adjacent parking, pedestrian or vehicle traffic.

14) No mobile food vehicle and/or pushcart shall make or solicit any sales to occupants of vehicles or engage in any activities which impede vehicular traffic.

15) Any power required for the mobile food vehicle and/or pushcart located on a public way shall be self-contained. The mobile food vehicle and pushcart shall not draw its power from the public right of way. No power cable or equipment shall be extended at grade or overhead across any public street, alley or sidewalk.

16) Permittee shall contain all refuse, trash, and litter within the mobile food vehicle or a small moveable trash can maintained by the permittee, and located adjacent to the mobile food vehicle and/or pushcart in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The permittee/operator of the mobile food vehicle and/or pushcart shall be responsible for properly disposing of such refuse, trash, and litter as would any business, and shall not place it in any public trash container, or in any private container without proper permission.

17) Pushcarts must be on a paved or concrete surface. The location must be on the street side of the sidewalk and the sidewalk must be at least 10.5 feet wide. This should allow for an 18 inch setback of the pushcart from the curb.

18) The proposed mobile food vehicle and/or pushcart vending activity shall operate in all applicable laws including but not limited to the Americans with Disabilities Act.

19) If an existing mobile Food Zone is no longer in compliance with the requirements set forth in this ordinance due to changing conditions, the Mobile Food Vendors Committee shall make a determination if it will be feasible to issue a new permit when the existing permit expires.

20) Mobile food vending shall only occur from the side of a food vehicle that is parked abutting and parallel to the curb.

21) Pushcarts shall have overhead protection, such as an umbrella, to cover the food area.

22) The mobile food vehicle shall not have drive-through service.

23) The decibels levels for any generator(s) used may not exceed "65dBA". The operator must provide the manufacturer's specs on decibels range generated by his particular generator.
24) Any new business that opens or moves near an existing mobile food vehicle or pushcart food zone shall be deemed to have accepted the proximity of the existing mobile food vehicle and/or pushcart in operation. Traffic Engineering and P.E.P. shall maintain the authority to regulate uses of the public right-of-way and reduce the size and/or location of the food vehicle/pushcart zone at a later date.

**Section 8 Temporary food zone Permit**

The purpose of a temporary food zone permit is to allow mobile food vendors the opportunity to serve specific events, when the timing and place of said activity does not conflict with the City's desire to protect the safe and convenient use of public rights-of-way, and its desire to balance the rights and interests of mobile businesses with those of established restaurant businesses. This permit is primarily use to either extend the hours of operation of an existing food zone or to grant permission to operate in locations within the right-of-way that have not been designated as food zones.

Any applicant that wishes to operate in non-designated locations for consecutive and extended periods of time must submit an application to the Mobile Food Vendors Committee requesting a new food zone to be established.

The temporary food zone vending permit may be issued under the following requirements:

1) The applicant must first possess a current mobile food vendor or pushcart permit.

2) An application must be submitted to the city Traffic Engineer a minimum of three (3) working days prior to the event.

3) A fee of twenty-five dollars ($25.00), to cover the expenses incident to processing, shall be paid by the person applying for the permit, at the time of the filing of the application.

4) The permit shall be effective for no more than one day during a calendar year.

5) The temporary food zone vending permit shall only be issued by the P.E.P. for an event abutting a curb space in the city right-of-way. It shall not apply to operation on private property.

6) The permittee shall obtain and display the temporary food zone vending permit at the vending site in a manner established by the Mobile Food Vendors Committee and approved by the full City Council.

7) Temporary food zone permit shall be subject to all of the Rules and Regulations of the primary permit issued.
8) If vending activity within the temporary food zone is expected to exceed two hours, the permittee shall provide to the City a copy of the information submitted to the County Health Department indicating its access to a restroom facility.

9) The Mobile Food Vendors Committee, as deemed appropriate, may recommend approving or denying the issuance of a temporary food zone vending permit based on the same criteria used to establish all food zones.

10) If the proposed Temporary Curb Space or food vehicle zone vending will occur within 200 feet of a park, the Director of the Parks and Recreation may recommend to Traffic Engineering whether the vending site should be approved or denied based on the following considerations:

   a) Public safety or access within the park;

   b) Conflicts with existing businesses and concessionaires, permitted events, or other special activities occurring in the park; or

**Section 9   Food service workers**

1) The permittee of a mobile food vehicle and/or pushcart shall:

   a) Allow only food service workers and persons as authorized by its respective County Health Department to be present or operate in the mobile food vehicle and or pushcart; and

   b) Ensure that all food service workers in the mobile food vehicle or operating the pushcart have current food handler’s certificate and/or permit from its respective County of operation.

**Section 10   Permits May Not Be Assigned or Transferred Without Approval**

Permits issued under this ordinance may not be assigned. The City is hereby authorized to transfer any permit from one person to another or from one place to another within its governing jurisdiction or both upon submission of such application for transfer to the Finance Department and approval of same by the Council of the City of Birmingham. No transfer shall be made to a person who would not have been eligible to receive the permit originally nor for the transaction of business at a place for which the permit could not originally have been issued lawfully.

**Section 11   Written Application for Transfer of Permit Required**
Every applicant desiring a transfer of a permit shall file a written application with the Mobile Food Vendors Committee prior to the date ownership of the business is legally transferred or conferred to another legal entity.

No permit shall be transferred except with the consent of the council or other governing body of the municipality, and no permit shall be transferred to reflect a physical change of address of the taxpayer within the municipality more than once during a permit year and never from one taxpayer to another. Provided that a mere change in the name or ownership of a taxpayer that is a corporation, partnership, limited liability company or other form of legal entity now or hereafter recognized by the laws of Alabama shall not constitute a transfer for purposes of this ordinance, unless the change requires the taxpayer to obtain a new federal employer identification number or City of Birmingham identification number or,

Nothing is this section shall prohibit the city from requiring a new business permit application and approvals for an alcoholic beverage permit.

**Section 12 Permits Immediately Terminated in the Event of Bankruptcy or Insolvency**

In the event that any person to whom a permit shall have been issued under the terms of this ordinance shall become insolvent, make an assignment for the benefit of creditors, be adjudicated a bankrupt by either voluntary or involuntary action, the permit of such person shall immediately terminate and be canceled without any action on the part of the City Council, and there shall be no refund made, or credit given, for the unused portion of the permit fee for the remainder of the permit year for which said permit was granted.

**Section 13 Enforcement**

Any person vending without a duly issued permit and personal identification or found in violation of any of the regulatory provisions of this chapter shall be guilty of an infraction. Any person found guilty of an infraction, of which person has been given notice, shall not be punished by imprisonment but may be fined.

1) *Enforcement.* The provisions of this section or any rules and regulations may be enforced jointly by the Birmingham Police Department and the Department or Traffic Engineering.

2) *Fine for Violation.* Any permit holder operating a mobile food vehicle and/or pushcart in violation of any provision of this ordinance may be subject to a fine of three hundred ($300.00) dollars per violation. Each day of violation shall constitute a separate and distinct offense.

3) *Revocation, Suspension, Modification.* A permit may be revoked, suspended, modified, or not renewed by the City Council for failure to comply with the provisions of the Mobile Food Vendors Committee.
4) Any permit holder found in violation of any section of this ordinance may be issued a ticket for violation and the mobile food vehicle and/or pushcart may be impounded.

5) Any mobile food vehicle and/or pushcart being operated without a valid permit issued by the City Council shall be deemed a public safety hazard and may be ticketed and impounded.

6) No mobile food vehicle and/or pushcart shall be parked on the street overnight, or left unattended and unsecured at any time. Any mobile food vehicle and/or pushcart which is found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

7) A mobile food vehicle and/or pushcart operating within the City Center at an unauthorized location or beyond the hours for which the operation has been permitted shall be deemed operating without a permit in violation of this section and may be subject to enforcement.

Section 14 Denial, Revocation, Suspension or Permit

An application or approved permit may be denied, revoked, suspended, or not renewed for any of the following reasons:

1) The permittee or any of its principals fails to satisfy any qualification or requirement imposed by this chapter, or other local, state or federal laws or regulations that pertain to the particular license; or

2) The permittee or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license, permit or work card when such applicant or principal knew or reasonably should have known that one was required; or

3) The permittee or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, permit or work card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of the applicant or principal to conduct such a business; or

4) The permittee or any of its principals has been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business; or

5) The permittee or any of its principals has been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten years; or

6) The motor food vehicle on which the business is proposed to be conducted does not satisfy all local, state or federal laws or regulations which relate to the activity that is to be licensed after a notice and opportunity to cure; or
7) The licensee or any of its principals is in default on any payments owed to the city; or

8) The application contains material omissions or false, fraudulent, or deceptive statements; or

9) The motor food vehicle is operated in such a manner as constituting a public nuisance per the Birmingham City Code or state statutes; or

10) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this Ordinance pertaining to public health or safety.

11) The permittee or his agents or employees interfere with an inspection of the mobile food vehicle or pushcart by a Health Department inspector; or

12) There are repeated violations of the applicable portions of this article; or

13) There are repeated violations of federal or state food laws or laws regulating mobile food vehicles or pushcarts; or

14) The Jefferson County Health Department denies, revokes or suspends the license of the mobile food vehicle or pushcart; or

15) There is a violation of any section of this Ordinance.

The provisions of this section are not exclusive. This section shall not preclude the enforcement of any other provisions of this Ordinance or state and federal laws and regulations. The Jefferson County Health Department may impose additional requirements to protect against health hazards related to the operation of a mobile food vehicle and/or pushcart.

Section 15      Appeal from the Denial of Permit Application

Any person aggrieved by any decision in the enforcement of this subdivision, may appeal there from to the Council of the City of Birmingham by filing with the City Clerk, within five days of such decision, a letter addressed to the Council, protesting such decision, and contemporaneously delivering a copy of such protest to the Director of Finance and thereafter appearing and prosecuting such protest at the regular meeting of the Council next following the filing of such protest. Failure to thus appeal shall constitute acceptance of such decision and assent to the correctness thereof.

Where a matter has been properly appealed to the Birmingham City Council and resulted in the denial of approval of a permit application, the applicant may appeal to the circuit court.
Proceedings in the circuit court to review the denial of approval of a permit application shall be commenced within fourteen (14) days of the action by the Birmingham City Council. The circuit court shall hear the appeal according to its own rules and procedures within thirty (30) days thereafter.

Section 16    Severability

If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.