

ORDINANCE NO. 2017-8

AN ORDINANCE TO AMEND CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF CENTER POINT, ALABAMA TO ADD AN ARTICLE V TO ESTABLISH A NAICS CODE, OPERATING STANDARDS AND DEFINITIONS FOR MOBILE FOOD VEHICLES OPERATING WITHIN THE CITY OF CENTER POINT, ALABAMA AND TO PROVIDE FOR PENALTIES FOR VIOLATION THEREOF

WHEREAS, the City Council of the City of Center Point (the "City") previously adopted and approved Ordinance Number 2007-14 the "Business License Code of the City of Center Point, Alabama" (the "Business License Code"); and

WHEREAS, pursuant to Section 11-45-1 of the Code of Alabama 1975, the City is authorized to adopt ordinances and resolutions not inconsistent with the laws of the state to carry into effect or discharge the powers and duties conferred by the applicable provisions of that title and any other applicable provisions of law and to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort, and convenience of the inhabitants of the City, and may enforce obedience to such ordinances; and

WHEREAS, Chapter 10 of the Code of Ordinances of the City of Center Point, Alabama sets forth the requirements for operation of commercial businesses within the City; and

WHEREAS, the Mayor and City Council have determined that establishing standards for the operation of Mobile Food Vehicles will promote the public health, safety and welfare of the inhabitants of the City by creating Article V in Chapter 10 of the Code of Ordinances of the City of Center Point, Alabama to establish standards for the operation of Mobile Food Vehicles in the limits of the City as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CENTER POINT, ALABAMA, as follows:

Section 1 Amendment. Article V of Chapter 10 of the Code of Ordinances of the City of Center Point, Alabama, is hereby created to read as follows:

ARTICLE V. ESTABLISHING STANDARDS AND DEFINITIONS FOR MOBILE FOOD VEHICLES

Section 1 Definitions.

Mobile Food Vehicle shall mean a food establishment that is motorized or non-motorized and located upon a vehicle, pulled by a vehicle, or which may be pushed or pulled by an individual, where food or beverage is cooked, prepared and/or served for individual portion service, such as a mobile food kitchen. This includes a truck, cart, wagon and the like. This ordinance shall not apply to ice cream trucks that move from place to place and are stationary in the same location for no more than 30 minutes at a time.

Mobile Food Vendor shall mean the owner or operator of a Mobile Food Vehicle.

Business License shall mean the license or licenses required of any business to operate within the City pursuant to the Business License Code.

Permit shall mean the permit for a Mobile Food Vehicle which is required for the operation of a Mobile Food Vehicle pursuant to this ordinance.

Restaurant shall mean a brick and mortar establishment where meals are generally served and eaten on premises or which prepares and serves food and/or drink to customers for consumption on or off the premises.

Special Event shall mean any City-sanctioned event (whether by proclamation or otherwise) or any pre-approved church event, school event, parade, privately-owned business event open to the general public for the purpose of entertainment, education or celebration and that benefits the citizens of the City of Center Point and any event the City Council may deem a special event.

Section 2 Business License Required; License Fees; Compliance with Laws.

a. All Mobile Food Vendors shall obtain an annual Business License issued by the City prior to commencing any food sales in the City. Said Business License shall be assigned the NAICS code 722330 and shall be subject to Schedule B as detailed in Sections 10-46 and 10-47 of the Business License Code. Said Business License shall be provided for both the Mobile Food Vehicle as well as the commissary from which the food is obtained. A separate license shall be required for each special event as described below, when an annual license is not purchased.

b. All Mobile Food Vehicles and Mobile Food Vendors must obtain all approvals required by the Jefferson Health Department. Proof of the Health Department approvals must be displayed on the Mobile Food Vehicle.

c. All Mobile Food Vehicles must be inspected initially by the Fire Marshal of the Center Point Fire District and the Mobile Food Vendor must provide proof of same. Annual inspections are required and each Mobile Food Vehicle is subject to re-inspection at any time.

d. Each Business License for a Mobile Food Vehicle is non-transferable and may be revoked in accordance with the Code of Ordinances of the City of Center Point, Alabama.

e. For special events, a one-time per event fee shall apply and is calculated in accordance with Schedule B as detailed in Sections 10-46 and 10-47 the Business License Code. Mobile Food Vehicles only operating during special events and not purchasing an annual Business License shall be required to purchase a separate license for each Special Event. All other provisions of this section apply to the license for Special Events.

f. All Mobile Food Vehicles and Mobile Food Vendors are responsible for obtaining and following all procedures for the remittance of any and all applicable sales tax.

g. All Mobile Food Vehicles and Mobile Food Vendors shall comply in all respects with all applicable federal, state and local laws, ordinances, rules and regulations of any kind as they exist or are hereafter adopted or amended, including without limitation, those pertaining to the manufacture, preparation, display and service of foods, confections and beverages, and /or pertaining to the operation of licensing of Mobile Food Vehicles in general.

h. All Mobile Food Vehicles must comply with any setback regulations of the City.

Section 3 Permit Required.

a. In addition to the annual Business License, all Mobile Food Vendors shall obtain Permits for each Mobile Food Vehicle to be issued by the Center Point City Clerk, unless otherwise exempted in this Article. This Permit shall be posted in a visible location on the Mobile Food Vehicle at all times while in operation. In order to obtain a Permit, operators shall submit copies of all required and current Health Department approvals for both commissary and each Mobile Food Vehicle and, if applicable, the current City Business License. Applicant shall be responsible for having each Mobile Food Vehicle inspected and approved by the Fire Marshal of the Center Point Fire District prior to issuance of Permit.

b. Permits shall include the applicant's name and address and, where applicable, its trade name, the address of any location used for storage of Mobile Food Vehicles, carts, supplies, equipment, or inventory and proof of insurance adequate to indemnify the City. The application for the permit shall include a photo

ID of the Mobile Food Vendor and picture of the Mobile Food Vehicle and tag number, if applicable. The City shall be notified within ten (10) days of any address change.

c. Permits shall be renewed annually (for those vehicles applying for a one-year license) or on a per-event basis by filing a renewal application with the City Clerk. Permits are not transferrable.

d. The City reserves the right at any time and from time to time to suspend a Permit issued hereunder in order to accommodate a city-sanctioned special event, parade, marathon or run, City project or public works activity.

e. The fee for a Permit is \$25.00 for a one-day permit, \$50.00 for a month-long Permit and \$100.00 for a one-year Permit.

f. The city reserves the right to eliminate "same type" vendors when issuing permits where space limitations are involved.

g. When limited space is available at an event, Permits will be issued on a "first come" basis.

Section 4 Rules and Regulations.

a. All Mobile Food Vehicles shall offer a waste container for public use that the operator shall empty at his/her expense. Said container must allow for 10 feet of clearance from the Mobile Food Vehicle. The Mobile Food Vendor shall keep the permitted premise and any adjacent public property clean and free from all trash, litter, debris, or waste generated from the operation of the Mobile Food Vehicle.

b. Any auxiliary power, water or sewer utilities required for the operation of the Mobile Food Vehicle shall be self-contained.

c. Mobile Food Vehicles must have the following fire extinguisher on board during operation: minimum Class 2A, 10B and C rated extinguisher. If food preparation involves deep-frying and/or production of grease-laden vapors, a Class K fire extinguisher must also be on the Mobile Food Vehicle. Fire extinguishers shall be maintained pursuant to National Fire Protection Association (NFPA) standard 10.

d. No Mobile Food Vehicle shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches and stand-up counters.

e. No Mobile Food Vehicle shall make or cause to be made any unreasonable or excessive noise and shall not use lights or noisemakers, such as bells, horns or whistles to attract customers.

f. No Mobile Food Vehicle or Mobile Food Vendor shall (i) create or maintain a public nuisance, (ii) damage or alter public property or infrastructure, and/or (iii) erect or utilize any permanent or fixed structures in any public place pursuant to the Business License issued hereunder.

g. No signs shall be used to advertise the conduct of the Mobile Food Vehicle at the premises other than that which is physically attached to the Mobile Food Vehicle. Menu boards or other signs indicating pricing, etc. may be used.

h. Hours of operation for any Mobile Food Vehicle shall be 6:00 a.m. to 9:00 p.m. A maximum set up and break down time of 30 minutes before and after these allotted hours will be allowed. The hours of operation may be altered by the Permit issued hereunder and the City reserves this right.

Section 5 Location of Mobile Food Vehicles.

a. Mobile Food Vehicles must maintain a 15 foot clearance from fire hydrants, driveway entrances, and handicap parking spaces /ramps.

b. Mobile Food Vehicles must maintain a 10 foot clearance from any fire lane, sidewalk, utility box or building entrance.

c. Mobile Food Vehicles shall only be operated in areas or districts zoned non-residential or on public property as approved by the City for special events.

d. Mobile Food Vehicles shall not occupy parking spaces required to fulfill the minimum requirements of a principal business use, unless the hours of operation of the principal business use do not coincide with those of the Mobile Food Vehicle.

e. No Mobile Food Vehicle or Mobile Food Vendor may obstruct the use of any public right of way, street intersection or pedestrian crosswalk and may not obstruct pedestrian space.

f. If the Mobile Food Vehicle is operating within a parallel parking space, the service of food must be done on the side away from vehicular traffic.

g. No Mobile Food Vehicle shall operate within 150 feet of the nearest public entrance of any Restaurant in current operation unless it is the Mobile Food Vendor's principal place of business or unless there has been unrevoked written consent of the owner or manager of such Restaurant obtained in advance and available for inspection upon request of any City official at any time during the operation of the Mobile Food Vehicle. If the owner or manager of such Restaurant grants permission to the Mobile Food Vendor for the operation of a Mobile Food Vehicle to operate within 150 feet as stated herein, the permission may contain such reasonable conditions and restrictions upon which the parties agree.

- h. No Mobile food Vehicle shall operate within 150 feet of a school unless at a special event sponsored by that school or approved by the City.
- i. Access to neighboring buildings or uses shall not be impeded.
- j. Mobile Food Vehicles shall not be located on public property without prior written approval from the City. This shall include property owned or leased by the City of Center Point, City park property, and City rights-of-way.
- k. Mobile Food Vehicles may not be operated in such a way as to block or otherwise obstruct any motor vehicle, bicycle, or pedestrian traffic on any street, bicycle lane, sidewalk, public way, or public place, nor shall any mobile food vehicle obstruct sight distance at any roadway intersection.
- l. Mobile Food Vehicles shall not occupy an area greater than two parking spaces.
- m. Mobile Food Vehicles must provide sufficient artificial lighting during non-daylight hours.
- n. All on-site food preparation shall be performed inside the primary Mobile Food Vehicle only. Grills or other cooking facilities are not allowed outside the Mobile Food Vehicle.
- o. Mobile Food Vendors shall have approval of the property owner for each location at which the Mobile Food Vehicle operates. This approval shall be in writing, signed by the property owner and must be available for inspection upon the request of any City officials at any time during the operation of the Mobile Food Vehicle.

Section 6 Operation of Mobile Food Vehicles.

- a. Any Mobile Food Vehicle being operated without a valid City of Center Point Business License shall be deemed a public safety hazard and may be subject to enforcement as provided for herein.
- b. No Mobile Food Vehicle shall be parked on the street overnight, or left unattended and unsecured at any time food is kept in the Mobile Food Vehicle. Any Mobile Food Vehicle found to be unattended shall be considered a public safety hazard and may be subject to enforcement as provided for herein.
- c. A Mobile Food Vehicle operating outside of an approved location shall be deemed in violation of this ordinance and may be subject to enforcement as provided for herein.

d. No Mobile Food Vehicle shall operate on more than two individual sites within the City per day.

e. No more than one Mobile Food Vehicle shall operate on the same site per day unless specifically approved for City events and the like, and upon approval by the City.

Section 7 Enforcement; Penalties

Violation of this ordinance shall be a violation of Section 10-38 of the Business License Code which states:


Any person found guilty of violating any of the provisions of this article shall be fined in an amount not less than \$50.00 and not more than \$500.00, and may also be sentenced to imprisonment for a period of not exceeding six months, in the discretion of the court trying the case, and violations on separate days shall each constitute a separate offense.

Section 2 Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Center Point, Alabama, which are inconsistent with the provisions of this ordinance, are hereby expressly repealed.


Section 3 Severability. If any section, sentence, paragraph, clause, phrase or word of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding of invalidity shall not affect the remaining portions of this ordinance, and it shall be construed without such unconstitutional, invalid or inoperative part therein, and the remainder of this ordinance shall be deemed and held to be valid as if such parts had not been included therein.

Section 4 Effective Date. This ordinance shall become effective immediately upon its adoption and approval by the Mayor and City Council of the City and posting as required by Alabama law.

ADOPTED this ¹²~~10~~ day of October, 2017.



Roger A. Barlow, Council President



Bobby Scott, Councilmember

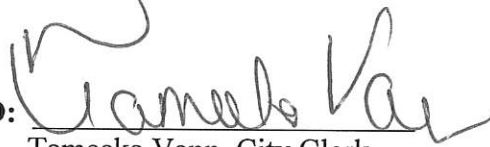

Linda Kennemur, Councilmember


James Howell, Councilmember


Terry Leesburg, Councilmember

APPROVED this 26th day of October, 2017.


Thomas E. Henderson, Mayor

ATTESTED: 
Tameeka Vann, City Clerk