

ORDINANCE NO. 2016-11

**AN ORDINANCE REGULATING PEDDLERS AND SOLICITORS,
DOOR-TO-DOOR SALES, AND CHARITABLE SOLICITATIONS
IN THE CITY OF CENTER POINT, ALABAMA**

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

ARTICLE I – AMENDMENT OF BUSINESS LICENSE CODE

Section 1.1 Amendment of “Non-Store Retailer”.

Ordinance Number 2007-14, the Business License Code of the City of Center Point, Alabama is hereby amended by replacing the following in “SECTION 23. License Classification”:

454391 **Non-Store Retailer** – other direct selling, peddler’s license B
Each person peddling ice cream, peanuts, sandwiches, donuts, etc.,
Delivered by basket, handcart or truck Sales made under this Peddlers
License shall be made from the public right-of-way. Door to Door sales
of and products, including food products, as permitted herein, are
specifically prohibited.

With the following:

454391 **Non-Store Retailer** – other direct selling, peddler’s license B
Each person peddling ice cream, peanuts, sandwiches, donuts, etc.,
delivered by basket, handcart or truck Sales under this license and any
person or organization granted a “Certificate of Registration” under the
City’s ordinance regulating peddlers and solicitors, door-to-door sales,
and charitable solicitations in the City.

ARTICLE II - GENERAL PROVISIONS

Section 2.1 Finding.

The entering into residential property by peddlers, canvassers, solicitors, and itinerant vendors of goods and services is a matter of public concern, necessitating the reasonable regulations of this ordinance for such conduct for the preservation of the privacy and safety of the citizens of the City, to alleviate public annoyance and alarm, and the detection and prevention of fraud as set out in Section 13A-9-41 and charitable solicitation fraud as set out in Sections 13A-9-70, et seq. and 13A-9-80, et seq. of the Code of Alabama 1975.

Section 2.2 Definitions.

Whenever used in this article, unless a different meaning clearly appears from the

context:

"Certificate" shall mean Certificate of Notification or Certificate of Registration.

"Certificate of Notification" shall mean a certificate issued pursuant to Article IV of this ordinance.

"Certificate of Registration" shall mean a certificate issued pursuant to Article III of this ordinance.

"Charitable" shall mean and include the words patriotic, philanthropic, social service, welfare, benevolent, education, religious, civic or fraternal, either actual or purported.

"Charitable Organization" shall mean a Person or nonprofit corporation who is or holds himself or herself out to be established for a benevolent, educational, philanthropic, humane, scientific, artistic, religious, patriotic, social welfare or advocacy, public health, environmental, conservation, civic, or other eleemosynary purpose, or a Person who employs a Charitable appeal as the basis for any solicitation or appeal that suggests, directly, or indirectly, that the solicitation is for a Charitable purpose. Charitable Organization includes a Person, chapter, branch, area office, or a similar affiliate, or agent of any of these, soliciting contributions within the state for a charitable organization or cause that has its principal place of business within or without the state.

"Charitable Purpose" shall mean any charitable, benevolent, philanthropic, humane, patriotic, scientific, artistic, public health, social welfare, advocacy, environmental, conservation, civic, religious or other eleemosynary purpose as defined and amended, from time to time, by the Internal Revenue Code.

"City" shall mean the City of Center Point, Alabama.

"City Council" means the governing body of the City of Center Point, Alabama.

"Contribution" shall mean the promise or grant of any money or property of any kind or value, including the promise to pay, except payments by members of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in the organization confers a bone fide right, privilege, professional standing, honor, or other direct benefit, other than the right to vote, elect officers, or hold offices, and except money or property received from any governmental authority. Reference to the dollar amount of "contributions" in this ordinance means in the case of promises to pay, or payments for merchandise or rights of any other description, the value of the total amount promised to be paid for the merchandise or rights and not merely that portion of the purchase price to be applied to a charitable purpose. The term shall encompass the word donation.

"For Profit Sales" shall mean any Sale, as defined herein, offered or performed for the pecuniary benefit of any Person not affiliated with a Charitable or Religious Organization.

"Panhandling" shall have the meaning set forth in Section 2.10 of this ordinance.

"Person" or "Entity" shall mean any individual, firm, co-partnership, corporation, company, association or joint stock association, church, religious sect, religious denomination, society, organization or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

"Religious Purpose" shall mean any charitable, benevolent, philanthropic, humane, patriotic, scientific, artistic, public health, social welfare, advocacy, environmental, conservation, civic, religious or other eleemosynary purpose as defined and amended, from time to time, by the Internal Revenue Code.

"Sale" shall mean the exchange of goods or services for an amount of money or its equivalent.

"Salesperson" is defined as anyone, whether or not a resident of the City, traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any kind whatsoever for future delivery or for services to be furnished or performed in the future, whether or not such Person has, carries or exposes for sale a sample of the subject of such sale or whether such Person is collecting advance payments on such sale or not; and shall include activities commonly associated with a "peddler" which shall include itinerant or transient vendors, merchants, solicitors, dealers, door-to-door salespersons, or hawkers, but shall not include canvassers or other individuals going in or upon private property for religious, charitable, governmental, educational or political purposes.

"Sell" or "Selling" shall mean the offering of the exchange of goods or services by a Salesperson engaged in For Profit Sales.

"Solicit" and "Solicitation" shall mean the request directly or indirectly of money, credit, property, financial assistance or other thing of value on the plea of representation that such money, credit, property, financial assistance or other thing of value will be used for a Charitable or Religious Purpose as those purposes are defined in this ordinance. These words shall also mean and include the following methods of securing money, credit, property, financial assistance or other thing of value on the plea or representation that it will be used for a Charitable or Religious Purpose as herein defined:

- (1) Any oral or written request;
- (2) The distribution, circulation, mailing, posting or publishing of any handbill, written advertisement or publication;
- (3) The making of any announcement to the press, over the radio, television, telephone or telegraph concerning an appeal, assemblage, athletic or sports event, bazaar, benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale or social gathering, which the public is requested to patronize or to which the public is requested to make a contribution for any Charitable or Religious Purpose connected therewith; or

(4) The sale of, offer or attempt to sell, any advertisement, advertising space, book, card, chance, coupon, device, magazine, membership, merchandise, subscription, ticket or other thing in connection with which any appeal is made for any Charitable or Religious Purpose or where the name of any Charitable or Religious Entity is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will go or be donated to any Charitable or Religious Purpose.

Solicitation shall not include any established Entity organized and operated exclusively for Charitable or Religious Purposes, if the solicitations by such established Entity are conducted among the members thereof by other members or officers thereof, or if the solicitations are in the form of collections or contributions at the regular assemblies or services of any such established Entity. Further, Solicitation shall not include Entities advancing a Charitable or Religious Purpose, provided that such Entities are not seeking, nor requesting, donations, contributions, or sales.

A "solicitation" as defined herein shall be deemed completed when made, whether or not the Person making the same receives any contribution or makes any sale referred to in this definition.

Section 2.3 Prohibited Acts.

It shall be unlawful for any Person engaged in Selling or Soliciting within the City to do any of the following:

(1) To Sell or Solicit without first obtaining the applicable Certificate unless otherwise provided herein.

(2) Intentionally cause confusion or misunderstanding about the Person's affiliation, connection, or association with another individual, group, or organization.

(3) Knowingly make false, misleading, or deceptive representations including, but not limited to, presenting invalid or false identification, about the individual, organization, the quality or quantity of goods or services, or any Charitable Purpose.

(4) Represent, directly or by implication, that the City endorses the Selling or Solicitation.

(5) Refuse to immediately and peacefully leave a residence upon being asked to leave by the owner or a lawful occupant.

Nothing herein shall prohibit any Person expressly invited onto the property by the owner, tenant, or proprietor for the purpose of Selling or Soliciting.

Section 2.4 Use of Fictitious Name; Fraudulent Misrepresentation and Misstatements.

No Person shall directly or indirectly elicit Sales or Contributions for any purpose by misrepresentation of his name, occupation, company or organizational affiliation, financial condition, social condition or residence, and no Person shall make or perpetrate any other misstatement, deception or fraud in connection with any Sale or Solicitation for any purpose in the City or in any application or report filed with the City.

Section 2.5 Limit on Hours.

It shall be unlawful for any Person to approach the door or enter upon the property of any residence in the City for the purpose of Selling or Soliciting, except between the hours of 8:00 a.m. and 5:00 p.m., unless the individual does so by express invitation or with the express permission of the owner or legal occupant of the residence.

Section 2.6 Limit on Numbers.

It shall be unlawful for more than three people to simultaneously, i.e., as a group, approach, at any time, the door or enter upon the property of any residence, unless invited or with the express permission of the owner or legal occupant, to canvas, Sell or Solicit.

Section 2.7 Limit on Place.

It shall be unlawful for any Person to approach, at any time, any door or enter upon the property of any residence or business, when there is posted a clearly visible sign on or by the front door of the property the words "NO SOLICITING" or "NO SOLICITATION", in order to Sell or Solicit.

Section 2.8 Written Receipts Required.

Any Person receiving money or anything having a value of fifty dollars (\$50.00) or more from any Person under a Sale or Solicitation made pursuant to a Certificate granted pursuant to this ordinance shall give a written receipt signed by the Seller or Solicitor showing plainly the name and certificate number of the Person under whose Certificate the Sale or Solicitation is conducted, the date, and the amount received; provided, however, that this section shall not apply to any contributions collected by means of a closed box or receptacle used in Solicitation where it is impractical to determine the amount of such contributions or the name of the contributor.

Section 2.9 Obstructing Public Ways.

No Person shall willfully obstruct the free, convenient and normal use of any public sidewalk, street, highway, bridge, alley, road or other passageway, or the entrance, door or passageway of any public building, or other public structure, by impeding, hindering or

restraining traffic or passage thereon or therein for the purpose of Selling or Soliciting.

Section 2.10 Panhandling Prohibited.

It shall be unlawful for any Person to engage in Panhandling, which is defined as any request made in person upon any street, sidewalk, public way, or public place, or upon the premises of any business establishment or other private property that is routinely or customarily frequented by the general public, requesting an immediate donation of money or other thing of value for oneself or another Person or entity.

Section 2.11 Solicitation in Public Streets Reserved for Vehicular Travel or in Median.

No Person shall Sell or Solicit within the right-of-way of the public streets, highways or other rights-of-way used for vehicular travel or on or in the medians in the City thereof unless otherwise authorized by the City.

Section 2.12 No Certificates to Felons.

No Certificate shall be issued to any Person who has been convicted of a federal or state felony.

Section 2.13 Revocation of Certificate.

Any Certificate issued by the City shall be revoked if the Person issued the Certificate is convicted of violating this ordinance, if the registrant has falsified the application, or otherwise becomes disqualified for the issuance of a Certificate. Notice of revocation shall be given to the registrant by personal service or by certified mail to the address listed on the application. Immediately upon giving such notice, the Certificate shall become null and void and shall remain unless the revocation is ordered rescinded by the City Clerk.

Section 2.14 Appeal.

A Person whose application for a Certificate was denied or a Person whose Certificate was revoked shall have the right to appeal to the City Clerk. A Person shall also have the right to appeal any adverse decision of the City Clerk to the City Council. Any appeal must be demanded in writing sent by certified mail to the City Clerk within seven (7) calendar days of the decision that is being appealed.

Section 2.15 Non-Transferability.

Certificates shall be issued only in the name of the Person and the firms, corporations, organizations, or associations on whose behalf the Person is authorized to Sell or Solicit, as the case may be. Each Person Selling or Soliciting must obtain the applicable Certificate and Certificates shall not be transferable. It shall be a violation for a Person whose Certificate authorized Selling or Soliciting on behalf of a firm, corporation, organization, or association named in the Certificate to Sell or Solicit on behalf of any other firm, corporation, organization,

or association or for any other purpose than specified in the Certificate.

Section 2.16 Penalties.

- (a) Any owner or person who violates any of the provisions of this shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500.00) and/or six (6) months in jail.
- (b) Each violation of this ordinance shall constitute a separate offense.
- (c) This section shall not serve to limit any other remedies available to the City in law or equity.

ARTICLE III - DOOR-TO-DOOR FOR PROFIT SALES

Section 3.1 Itinerant Vendors, Peddlers Defined; Declared Nuisance; Prohibited Generally.

The practice of going in and upon private residences in the city by itinerant or transient vendors, peddlers or any other Salesperson who have not been so requested or invited by the owner(s) or occupant(s) of said private residence for purposes of taking orders for the Sale of goods, wares, merchandise or services and/or disposing of same is a nuisance and shall be prohibited without a Certificate of Registration as provided in this Article III.

Section 3.2 Door-to-Door For Profit Sales.

(a) *Certificate Required.* No Salesperson shall attempt to sell for profit goods or services by traveling door-to-door within the City without first obtaining a Certificate of Registration issued by the City Clerk. Application for a certificate shall be made to the City Clerk upon forms provided by the City. There shall be a cost for applying for a Certificate of Registration of \$50.00 per application.

(b) *Application Information.* Such application shall be sworn to, or affirmed, and shall contain the following information, or in lieu thereof a statement of the reason or reasons why such information cannot be furnished:

- (1) The name and address of the Person applying for the certificate;
- (2) If applicant is not an individual, the names and addresses of the applicant's corporate officers or the partners and managers of the Entity for which the applicant will be engaging in For Profit Sales;
- (3) The name and address of the Person or Entities by whom the receipts of such For Profit Sales shall be disbursed if different than the applicant;
- (4) The dates when such For Profit Sales are planned to be made, giving the preferred dates for the beginning and ending of such For Profit Sales and the neighborhoods to

be canvassed;

- (5) A list showing the goods or services to be offered for sale;
- (6) The taxpayer identification number of the Person or Persons responsible for collecting and paying taxes;
- (7) A statement as to whether or not the applicant has ever been convicted of a misdemeanor or a felony;
- (8) Whether a permit, license, or certificate of registration from any city in connection with For Profit Sales has ever been revoked, explaining the circumstances;
- (9) A statement to the effect that if a certificate is granted, it will not be used or represented in any way as an endorsement by the City, or by any department or officer thereof;
- (10) Original documents showing authority to engage in For Profit Sales for the organization or company;
- (11) A copy of the applicant's current Non-Store Retailer Business License.

If, while any application is pending, or during the term of any Certificate of Registration granted thereon, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the City Clerk in writing thereof within three (3) days after such change.

(c) *Proof of Identification Required.* No Certificate of Registration shall be issued except upon proof of identification, including a photograph of the applicant, in one (1) of the following forms:

- (1) A valid driver's license of any state in the United States;
- (2) A valid United States Uniform Service Identification;
- (3) A valid passport; or
- (4) A valid identification issued by any agency of a state for the purpose of identification of the holder.

(d) *Issuance; Term; Form.* Upon receipt of such application, the City Clerk shall forthwith issue the applicant a Certificate of Registration to every lawful business, but no later than ten (10) days of receipt of all items required herein. The certificate shall remain in force and effect for a period of not to exceed three (3) months after the issuance thereof and shall be renewed upon the expiration of this period upon the filing of a new application as provided in this section. Certificates of Registration shall bear the name and address of the applicant, the number of the certificate, the date issued, and a statement that the certificate does not constitute an endorsement by the City, or by any of its departments or officers of the goods or services

offered. The denial of any certificate shall be in writing, and shall set forth the reasons therefore.

(e) *Certificate to be Carried.* All Persons to whom Certificates of Registration have been issued shall furnish copies to their agents and representatives. No Person shall sell for profit any good or service door-to-door without having such certificate in his possession, and such Person shall, upon demand, present a copy of the certificate to any Person engaged for a For Profit Sale or to any law enforcement officer in the City.

Section 3.3 Stopping, Standing, etc., on Streets and Sidewalks Restricted.

(a) It shall be unlawful for any Person in charge or control of any vehicle, pushcart or other device in which wares or goods are kept or exposed for sale or from which wares or goods are sold or offered for sale to permit or suffer such vehicle, pushcart or other device to stop or stand upon any street of the City except during such period as a sale of wares or goods therein contained is being negotiated and is in actual progress; provided, that in no event shall any Person in charge or control of any such vehicle, pushcart or device suffer or permit the same to be or remain upon any such street at or within 50 feet of any given point thereon for a longer continuous period than ten minutes, or suffer or permit the same to be or remain upon any such street within 600 feet of any given point thereon for a longer continuous period than 30 minutes.

(b) It shall also be unlawful for any Salesperson who is peddling, while engaged in the business of peddling, to stop or stand upon any street or sidewalk of the City except during such period as a sale of wares or goods is being negotiated and is in actual progress; provided, that in no event shall any Salesperson who is Peddling, while so engaged, be or remain upon any such street or sidewalk at or within 50 feet of any given point thereon for a longer continuous period than ten minutes, or be or remain upon any street or sidewalk within 600 feet of any given point thereon for a longer continuous period than 30 minutes.

Section 3.4 Bond and License Required.

It shall be unlawful for a Salesperson to engage in the business of selling tangible personal property at retail on a public street within the City without the posting of a bond as set forth in Section 3.5, and without obtaining and keeping current a business license as required by the then current Business License Code of the City.

Section 3.5 Salesperson to File Bond.

For the purpose of securing the payment of any tax, penalties or interest due or which may become due under the provisions of this ordinance, every Salesperson engaged in the business of selling tangible personal property at retail, shall, before Soliciting or making any Sale in the City, file a bond with the City, conditioned upon the payment of any tax, penalty or interest due or to become due under this the ordinances of the City and upon faithful observance of the provisions of this ordinance. Such bond shall be effective for a period of one year from date of issuance and shall be fixed by the City in an amount equal to the tax estimated due or to become due to the City, but not less than \$100.00 nor more than \$1,000.00, and shall have sureties satisfactory to the City. It shall be filed with the City within ten days after notice in

writing has been issued by the City Clerk or any person designated by them in writing for this purpose, and sent by registered or certified mail to the last known address of any Salesperson or after such notice has been personally served upon such Salesperson by a duly accredited representative of the City. If such Salesperson fails to make any return due under this ordinance or to pay any taxes or penalties due to the City or to keep books and records as required by this ordinance or fails to perform any other duty or obligation imposed on him under this ordinance, such bond shall thereupon be forfeited, and the City shall institute an action upon such bond in the name of the City for the entire amount of said bond and costs. The City Clerk may, for good cause shown, require a Salesperson to post a cash bond, in lieu of the surety bond referred to hereinbefore. The cash bond shall be subject to the foregoing conditions and provisions of this section, to the extent that such conditions and provisions are applicable to a cash bond. The City shall not pay a Salesperson interest on a cash bond.

ARTICLE IV - CHARITABLE SOLICITATIONS

Section 4.1 Charitable and Religious Solicitations; Certificate of Notification Required.

(a) *Certificate of Notification Required.* No Person shall solicit Contributions or donations for any Charitable Purpose or Religious Purpose within the City without first notifying the City and obtaining a Certificate of Notification from the City Clerk. The procedure for obtaining a Certificate of Notification shall be as set forth in Section 4.1(b) on forms provided by the City and made available on the City's website. There shall be no cost for applying for or receiving a Certificate of Notification.

(b) *Procedure.* Such application shall be sworn to, or affirmed, and shall contain the following information, or in lieu thereof, a statement of the reason or reasons why such information cannot be furnished:

(1) The name and address or headquarters of the Person applying for the Certificate of Notification;

(2) The name and address of the Person or Persons for whose benefit the funds are being Solicited;

(3) The name and address of the Person or Persons who will be in direct charge of conducting the Solicitation and the names of all promoters connected or to be connected with the proposed Solicitation;

(4) The time when such Solicitations shall be made, giving the preferred dates for the beginning and ending of such Solicitation;

(5) A statement to the effect that the certificate will not be used or represented in any way as an endorsement by the City, or by any department or officer thereof;

(6) A statement as to whether the Person has obtained tax exempt status from the Internal Revenue Service and proof of tax exempt status; and

(7) The name, address, and license number of the Promoter of the solicitation event, if applicable, together with copies of all registrations under Section 13A-9-71 of the Code of Alabama 1975.

If, while any application is pending, or during the term of any Certificate of Notification granted thereon, there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the City Clerk in writing thereof within three (3) business days after such change.

(c) *Issuance; Term; Form.* Upon receipt of such information, the City Clerk shall forthwith issue the applicant a Certificate of Notification, but no later than ten (10) business days of receipt of all items required herein. The failure of the City to issue a Certificate of Notification by the tenth business day shall be deemed an approval of the Certificate of Notification and the Person may carry, in lieu of the Certificate of Notification, a copy of the application presented to the City. The Certificate of Notification shall remain in force and effect for a period of three (3) months after the issuance thereof and shall be renewed upon the expiration of this period upon the filing of a new notification as provided in this section. Certificates of Notification shall bear the name and address of the Person by whom the solicitation is to be made, the date issued, and a statement that the certificate does not constitute an endorsement by the City, or by any of its departments or officers, of the purpose or of the Person conducting the Solicitation.

(d) *Certificates to be Carried.* All Persons to whom Certificates of Notification have been issued shall furnish copies of the certificate to their agents and solicitors. No Person shall solicit for any Charitable or Religious cause without having a copy of the Certificate of Notification under which the Solicitation is being conducted in his possession, and such Person shall, upon demand, present the copy of the certificate to any Person Solicited or to any law enforcement officer in the City.

Section 4.2 Notice when Contributions, or Portions thereof, not Tax-Exempt.

If the applicant for a Certificate of Notification has not obtained a tax exemption notice from the Internal Revenue Service, there shall be imprinted or stamped on the Certificate of Notification in the form and manner approved by the City Clerk, a statement to the effect that contributions to the organization may not be tax deductible.

ARTICLE V - MISCELANEOUS

Section 5.1 No Conflict with Federal or State Law. No portion of this ordinance shall be construed in such a manner which is inconsistent with any federal, State or local law or regulation.

Section 5.2 Effect of Headings. The section headings herein are for convenience only and shall not affect the construction hereof.

Section 5.3 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 5.4 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.

ARTICLE VI - EFFECTIVE DATE

Section 6.1 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 22nd day of November, 2016.

Roger A. Barlow, Council President

Bobby Scott, Councilmember

Linda Kennemur, Councilmember

James Howell, Councilmember

Terry Leesburg

Terry Leesburg, Councilmember

APPROVED this 22nd day of November, 2016.

Thomas E. Henderson

Thomas E. Henderson, Mayor

ATTESTED:

Tameeka Vann

Tameeka Vann, City Clerk

Date _____

Permit # _____

City of Center Point
2209 Center Point Parkway
Center Point, AL. 35215
Inspections Department
Phone (205)854-4617 Option # 3
Fax (205)854-3396
E-mail cpinspections@centerpointal.org

Food Vendor Permit

Name: _____

Address: _____

Business Name: _____

Business Address: _____

Location of set up: _____

Type of vehicle being used: _____ Truck _____ Trailer _____ Cart

One Time fee (Single Event) _____ \$25.00 Annual Permit _____ \$100.00 (anywhere in city)

The following items must be provided before permit and business license can be issued:

Copy of Liability Insurance _____

Photo id of mobile vendor _____

Copy of commissary kitchen license (from Health Dept.) for each truck, trailer or cart _____

Copy of mobile food vehicle license (from Health Dept.) for each truck, trailer or cart _____

Photo of the vehicle and tag # for each truck or trailer _____

Signature of food vendor _____

Ricky Hinkle- Inspections Superintendent

Brandon Self – Fire Marshal

Must be signed by Ricky Hinkle and Brandon Self for annual permits and for single event permits. After all paper work is turned in and inspection is done of truck, trailer or carts and permits are signed you will be given a copy of this to take to the City Clerks office to purchase your City of Center Point business license.

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:

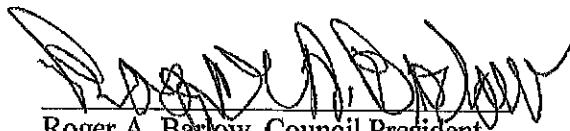
Any person found guilty of violating any of the provisions of this article shall be fined in an amount not less than \$50.00 and not more than \$500.00, and may also be sentenced to imprisonment for a period of not exceeding six months, in the discretion of the court trying the case, and violations on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

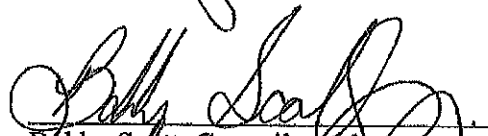
Section 3 Severability. If any section, sentence, paragraph, clause, phrase or word of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holding of invalidity shall not affect the remaining portions of this ordinance, and it shall be construed without 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.

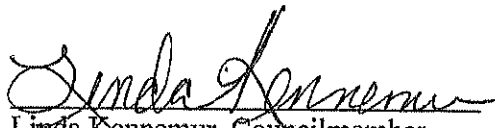
ADOPTED this 12 day of October, 2017.

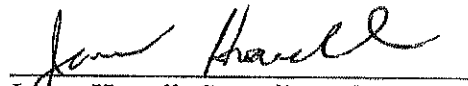


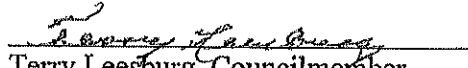
Roger A. Barlow, Council President



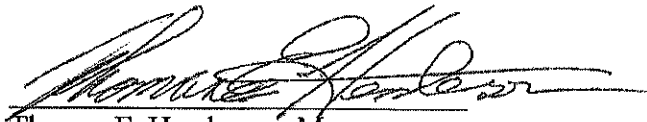
Bobby Scott, Councilmember

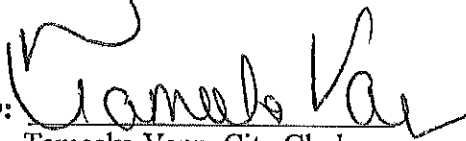

Linda Kennemur, Councilmember


James Howell, Councilmember


Terry Leesburg, Councilmember

APPROVED this ^{HR} 26th day of October, 2017.


Thomas E. Henderson, Mayor

ATTESTED: 
Tameeka Vann, City Clerk