



City Of North Little Rock, Arkansas
Office Of The City Attorney

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May 19, 2015

To: Mayor Joe Smith and Members of the City Council

Re: Committee Amendments to O-15-28 - Mobile Food Trucks

Dear Mayor Smith and Aldermen:

At Mayor Smith's suggestion, a committee was formed to discuss recommendations for amendments to current City regulations on mobile food vendors. The goal of the committee was to find suggestions to ease the process for mobile food vendors to operate in the City. The committee met for an hour and a half on Tuesday, May, 12, 2015. Alderman Hight served as chairman of the committee. Alderman White and other representatives of various City Departments, including Neighborhood Services, the Fire Department, and the City Attorney's Office, a food truck owner, and a restaurant owner, amongst others, all participated in the committee meeting.

At the conclusion of the meeting, the committee decided to present several recommendations for amendments to the current ordinance for City Council to consider. The committee's recommendations, as prepared by the City Attorney's Office, include but are not limited to: (1) removing the restriction of community-based events as the only mode of operation; (2) expanding areas of operation for mobile food vendors; (3) simplifying the process in order for a mobile food vendor to operate in the City; and (4) removing the requirement of liability insurance.

The proposed committee amendments to O-15-28 are attached for your consideration.

Sincerely,

Daniel L. McFadden
Assistant City Attorney

FILED 11:40 A.M. _____ P.M.
BY Daniel McFadden - Legal
DATE 5-19-15
Diane Whitbey, City Clerk and Collector
North Little Rock, Arkansas
RECEIVED by K. Thomas

AN ORDINANCE AMENDING SECTION 74-51 OF CHAPTER 74 OF THE NORTH LITTLE ROCK MUNICIPAL CODE TO CLARIFY AND SIMPLIFY REGULATIONS FOR MOBILE FOOD VENDORS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, Chapter 74 of the North Little Rock Municipal Code (“NLRMC”) was amended by the City Council on July 14, 2014 through its adoption of Ordinance No. 8655 to add regulations for vehicles engaged in the business of cooking, preparing and distributing food or beverage, with or without charge, from mobile food trucks on or in public or restricted spaces as part of temporary food truck events (“Mobile Food Vendors”); and

WHEREAS, within the City, there is an increased interest and demand for access to mobile food vendors;

WHEREAS, the City desires to increase access to affordable and gourmet foods, encourage food entrepreneurship, support local small businesses, and foster economic development; and

WHEREAS, there is a need to clarify and simplify the regulations for Mobile Food Vendors in order facilitate and encourage Mobile Food Vendors to conduct business and participate in community based events in the City of North Little Rock (“the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That Section 74-51 of Chapter 74 of the NLRMC is hereby amended as follows:

Sec. 74-51 – Mobile Food Vendors.

1. Scope

- a. It shall be the responsibility of the Mayor or his designee to permit mobile food vendors to operate on City property, City rights-of-way, and areas zoned as residential. Operations on private property in areas zoned commercial or industrial shall require express written permission from the owner or designee. Operations on property owned by schools shall require express written permission from the school’s governing body or its designee. Any written permission must be present at the mobile food truck and available for inspection at all times. ~~determine what events~~

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~~qualify as a community based event. Such events may include but are not limited to:~~

- ~~i. Predetermined events designated by the Mayor or his designee as community based events, or~~
- ~~ii. Events based upon an application made by an event organizer who makes application through the Mayor's office or through the City Department designated to receive those applications.~~
- b. The provisions of this section shall apply to mobile food operations engaged in the business of cooking, preparing and distributing food or beverage, with or without charge, from mobile food trucks on or in public or private spaces as part of temporary food truck events. This section shall not apply to mobile frozen treat vendors (ice cream trucks) that move from place to place.
- c. The provisions of this section shall not apply to concessionaire operations and agreements managed by the North Little Rock Parks and Recreation Department.
- d. Mobile Food Truck operators shall obtain the following prior to participating in any qualified community based event:

- ~~i. A valid business license,~~
- ~~ii. A valid A & P license,~~
- ~~iii. A current health inspection, and~~
- ~~iv. A photo identification of the applicant/operator;~~
- ~~v. A valid drivers license; and~~
- ~~iv-vi. A current fire inspection.~~

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~~2. Mobile Food Truck Permit Required~~

- ~~a. No person or business entity, including a religious or charitable organization, shall operate a mobile food truck in any public space without a permit issued by the Clerk's Office.~~
- ~~b. A mobile food truck permit is required for each and every mobile food truck.~~

~~3. Application for a Mobile Food Truck Permit~~

- ~~a. Single Application. There shall be made available a single application form to apply for each mobile food truck permit. The application shall provide the following:~~
 - ~~i. A description of necessary inspections and fees;~~
 - ~~ii. A description of areas of the City where the operation of mobile food trucks are limited or prohibited;~~
- ~~b. Submission of Materials. Each application shall indicate on its face that the following materials must be submitted by the applicant:~~
 - ~~i. The name of the business and its owner or owners and the mailing address of the business;~~
 - ~~ii. A description of the proposed business plan for the mobile food truck operation;~~

- iii. ~~Hours of operation with a detailed schedule of times and locations where the mobile food truck will be stationary and serving food;~~
 - iv. ~~Certification that the vehicle has passed all necessary inspections required by the Arkansas Department of Health, and~~
 - v. ~~A certificate of insurance providing general liability insurance. A food truck permit shall be issued only for the explicit time period covered by the effective dates of the general liability insurance policy.~~
- e. ~~Approval Process. An application must be submitted to the City Clerk's Office at least three (3) business days prior to the event. The application must receive the approval of the Clerk's Office, based on duly published criteria established by the City.~~

4. ~~Permit Renewal~~

- a. ~~Every mobile food truck permit, unless suspended or revoked by the City for a violation of any provision of this section or other rule or regulation promulgated for the implementation of this section, shall be renewed for each subsequent temporary mobile food truck event based upon the previous application.~~

2.5. ~~Rules and Regulations~~

- a. ~~General. The City is hereby authorized to promulgate, both jointly and within its respective departments, additional rules and regulations appropriate for the implementation of this section to establish a streamlined process for the permitting of mobile food trucks; provided however, that such rules and regulations are not inconsistent with the following limitations and restrictions:~~
 - i. ~~No operator of a mobile food truck shall park, stand, or move a vehicle and conduct business within unauthorized areas of the City where the permit holder has not been authorized to operate;~~
 - ii. ~~The issuance of a permit does not grant or entitle The operator of a mobile food truck is not granted or entitled to the exclusive use of the service location, in whole or in part, to the mobile food truck permit holder, other than the approved time and place as approved for the term of the permit;~~
 - iii. ~~No mobile food truck shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches and standup counters without prior approval.~~
 - iv. ~~Mobile food trucks must be located at least 100 feet from the front door of any restaurant, outdoor dining area, 200 yards from any school, and at least 15 feet from any stop sign, fire hydrant and 5 feet away from any driveway, utility box or vault, handicapped ramp, building entrance or exit or emergency call box.~~

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~~(1) These minimum distance requirements are all measured in a straight line from the closest point of the proposed food truck location to the closest point from the buffered object, or in the case of a restaurant measured from the closest point of the restaurant's main entrance.~~

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~~(2) If a permit is issued and a restaurant subsequently opens within 100 feet of the approved food truck location, the food truck may continue to operate until the permit expires.~~

~~(2) Exception: Mobile food trucks may be located closer to a school if provided with express written permission from the school's principal or designee. Any written permission must be present at the temporary mobile food truck event and available for inspection at all times.~~

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~~v. Consumers shall be provided with single service articles, such as plastic forks and paper plates, and a waste container for their disposal. All mobile food trucks shall offer waste container for public use that the operator shall empty at his or her own expense;~~

vi. Mobile food truck operators shall remove all trash at their expense. Mobile food truck operators shall not utilize dumpsters of other existing businesses without the permission of such businesses.

vii. No mobile food truck shall make or cause to be made any unreasonable or excessive noise in violation of City ordinances;

~~viii. A mobile food truck may not operate on public property unless the City has otherwise granted approval on the permit application for its operation at the particular location during specific times;~~

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ix. A mobile food truck may conduct sales while parked on a public street when the City has approved a temporary street closure for a City-sponsored or neighborhood-sponsored event such as a street festival or street fair; and

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x. For mobile food trucks on public property, the City reserves the right to temporarily move a mobile food truck to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit purpose;

b. *Inspectional Services.* The food truck applicant shall ensure compliance with all City and state health regulations for mobile food truck vendors.

~~6. Permit Fees~~

~~a. *Application Fee.* The application fee for a permit or a renewal of a permit granted by the City for the operation of a mobile food truck shall be \$15 per individual day of operation, or \$25 for two to three (3)~~

~~continuous days of operation for a single temporary mobile food truck event.~~

~~7. Prohibition Against the Transfer of a Permit~~

- ~~a. *Transfer for value prohibited.* No person holding a permit for a mobile food truck shall sell, lend, lease or in any manner transfer a mobile food truck permit for value.~~
- ~~b. *Unauthorized transfer voids permit.* Any unauthorized transfer or attempt to transfer a permit shall automatically void such permit. Whoever violates this provision, including both the transferor and transferee, shall be subject to a fine of three hundred dollars (\$300). The unauthorized transfer or attempt to transfer of each permit shall constitute a separate violation.~~

~~3.8. Operation of Mobile Food Trucks~~

- ~~a. *Operation without A&P Permit. without permit.* Any mobile food truck being operated without a valid A & P mobile food truck permit issued by the Clerk's Office shall be deemed a public safety hazard and may be ticketed and impounded.~~
- ~~b. *Unattended Vehicles prohibited.* No mobile food truck shall be parked on the street overnight, unless present at the location as part of the mobile food truck event, or left unsecured at any time food is kept in the mobile food truck. Any mobile food truck which is found to be unsecured shall be considered a public safety hazard and may be ticketed and impounded.~~
- ~~c. A mobile food truck operating outside of an approved site, 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 under this section.~~

~~4.9. Enforcement~~

- ~~a. *Fine for Violation.* Any person permit holder operating a mobile food truck or service in violation of any provision of this section ~~or any rules and regulations promulgated by the City~~ may be subject to a fine of three hundred dollars (\$300) per day. Each day violation shall constitute a separate and distinct offense.~~
- ~~b. *Revocation, suspension, modification.* Once a permit has been issued, it may be revoked, suspended, modified, or not renewed for failure to comply with the provisions of this section or any rules and regulations promulgated by the City.~~
- ~~b. *Enforcement.* The provision of this section ~~or any rules and regulations promulgated by the City~~ may be enforced by the North Little Rock Police Department, the North Little Rock Fire Department and the North Little Rock Code Enforcement Office.~~

~~10. Severability~~

a. ~~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.~~

Editor's Note: Deletions denoted by ~~strikethrough~~; additions denoted by underline.

SECTION 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 3: That the provisions of this Ordinance are hereby declared to be severable and if any section, phrase, or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

SECTION 4: Mobile Food Vendors provide a convenient alternative for food selections ~~at special community based events taking place on public property or on closed public streets; the busiest seasons for such events are beginning,~~ and the City and its residents can best be served by adoption of these streamlined regulations for mobile vendors, and being necessary for the immediate preservation of the public health, safety and welfare; THEREFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

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PASSED:

APPROVED:

Mayor Joe A. Smith

SPONSOR:

ATTEST:

Mayor Joe A. Smith

Diane Whitbey, City Clerk

APPROVED AS TO FORM:

C. Jason Carter, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY

FILED _____ A.M. _____ P.M.
By _____
DATE _____
Diane Whitbey, City Clerk and Collector North Little Rock, Arkansas
RECEIVED BY _____