BY COUNCILMAN ELLIS

CITY OF CENTRAL
ORDINANCE NO. 2016-24

AN ORDINANCE MOVING THE ITINERANT VENDOR REGULATIONS FROM TITLE 12 (NUISANCES) OF THE CODE OF ORDINANCES TO TITLE 9 (LICENSING AND REGULATION OF TRADES AND OCCUPATIONS) OF THE CODE OF ORDINANCES AND ADDING PROVISIONS PERMITTING AND REGULATING MOBILE FOOD VENDORS

WHEREAS, mobile food trucks are currently prohibited from operating within the City; and

WHEREAS, there is a desire to permit mobile food trucks to operate within the City subject to certain regulations designed to protect the health, safety and welfare of the City and its residents; and

WHEREAS, the itinerant vendor regulations, to which the mobile food vendor regulations are to be added, should be found in the Title of the Code of Ordinances regulating trades and occupations.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Central, State of Louisiana as follows:

Section 1: That Title 12, Chapter 3A of the Code of Ordinances shall be moved to Title 9, Chapter 3 of the Code of Ordinances and revised and added to as set forth in Exhibit A, attached hereto and made a part hereof.

Section 2: The specific terms and conditions of this Ordinance shall prevail against other ordinances of the City to the extent that there may be any conflict.

Section 3: Severability. If any section, subsection, sentence, clause or provision of this Ordinance is declared by a court of competent jurisdiction to be invalid, such declaration of invalidity shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part declared invalid. The remainder of the Ordinance shall not be affected by the declaration of invalidity and shall remain in force and effect.

Section 4. Effective Date. This Ordinance shall be effective upon publication.

Introduced before the Council on June 14, 2016.

This Ordinance having been submitted to a vote, the vote thereon was as follows:

For: Ellis, Evans, Fralick, Messina, Vance
Against: None
Absent: None

Adopted the 28th day of June, 2016.

Signed the 29th day of June, 2016.

Delivered to the Mayor on the 29th day of June, 2016.

Mark Miley, City Clerk

Approved:

I.M. Shelton, Jr. Mayor

Received from Mayor on the 29th day of June, 2016:

Mark Miley, City Clerk

Adopted Ordinance published in The Advocate on the 8th day of July, 2016

EXHIBIT A

CHAPTER 3. - ITINERANT VENDORS

Sec. 9:301. - Sales from temporary structures or vehicles.

Except as set forth in Sec. 9:302 below, it shall be unlawful for any person to sell any merchandise, wares, goods, food, food products, plants, flowers, paintings, mirrors, or any artifact or saleable product from any temporary structure, including, but not limited to, any stand, table, mobile unit, cart, motor vehicle, portable or movable container or display case, whether closed or enclosed, operating on a permanent, temporary, or seasonal basis either upon:

(1) Any public rights-of-way such as a street, boulevard, highway, roadway, emergency lane, neutral ground, or shoulder of a road which is used for vehicular traffic or any other public property dedicated for specific use; or

(2) On any private property, unless authorized by this chapter.

Sec. 9:302. - Exceptions.

The provisions of section 9:301 shall not apply to:

(1) Sales by charitable organizations, provided that the sale takes place on private property with the permission of the landowner or occupant thereof and that said sale is conducted for a period of not more than 72 hours. For the purpose of this section, the term "charitable organization" shall include a nonprofit board, association, corporation, or other organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501 (c)(3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code or organization of at least five individuals which has as its purpose a benevolent, civic, recreational, educational, voluntary, health, law enforcement, social service, philanthropic, fraternal, humane, patriotic, religious, or eleemosynary organization;

(2) Temporary outdoor sales of merchandise, other than food items, shall be permitted by a business lawfully operating in an enclosed building or space provided that any such temporary outdoor sales are conducted in an area adjacent to the enclosed building or space. In no case shall such sales be conducted on any area of the private property within ten feet of the property line or within 20 feet of any public rights-of-way such as a street, boulevard, highway, roadway, emergency lane, or shoulder of a road which is used for vehicular traffic;

(3) Garage sales conducted by the property owner, provided that no more than four garage sales per calendar year shall be conducted upon any property. No garage sale shall begin prior to sunrise on Friday or continue after sunset on Sunday;

(4) Sales in a permitted farmers' market by a person possessing a current occupational license issued by the City of Central or by a current farmers' market vendor permit; or

(5) Sales by Mobile Food Vendors consistent with Section 9:303-308 below.

Sec. 9:303. – Definitions.

The following words, terms and phrases, when used in this article, shall have the following meaning:

Commissary means a catering establishment, restaurant, or any other properly equipped place in which food, containers, or supplies are kept, handled, prepared, packaged or stored and is subject to health inspections with an operating base location to which a mobile food truck or transportation vehicle returns at least once daily for such things as vehicle and equipment cleaning, discharging liquid or solid wastes, refilling potable water tanks and ice bins, and storing food and supplies. Initial food preparation and storage cannot be done in mobile vendor's home or other private residence.

Licensee means the recipient of a mobile vending license under the terms and provisions of this division.

Mobile food truck means a trailer or double-axle, self-propelled vehicle that is completely mobile with no permanent fixed location that is designed and/or intended to be mobile and readily moveable, the vendor of which stores foods and makes initial food preparations in a state licensed commissary, and cooks or heats all or most of its food on board the vehicle to serve or distribute to customers, in a form suitable for immediate ingestion or consumption. Food trucks shall not be utilized as an extension of an existing building or business to circumvent these regulations. This definition excludes vendors selling only fresh, uncooked or unprepared produce or seafood, or farmers selling their own produce or value-added products (oils, jams, jellies, etc.) directly to customers from motor vehicles or at farmer's markets. This definition also excludes snow cone stands selling only snow cones and ice cream trucks.

Mobile vendor means a person, natural or juridical, that has obtained a valid occupational license to operate a mobile food truck to serve or distribute food on private owned commercial property with a valid lease.

Public right-of-way means any city street, alley, road, sidewalk, parking lot, neutral ground, or other passageway whereby pedestrians or vehicles traverse.

Sec. 9:304. - Occupational license required.

(1) It shall be unlawful for any mobile food vendor to transact any phase of business in the city without first applying for and receiving an occupational license from the City. A fee for this license shall be $200.00 per annum.

(2) No occupational license shall be issued until all requisite approvals and permits by the Louisiana State Department of Health and Hospitals, Office of Public Health, Sanitation Division are finalized and received by the City.

(3) All licensees shall comply with all applicable laws and regulations of the State of Louisiana and the Code of the City of Central.

(4) Licenses shall be issued on an annual basis and shall expire on December 31 of every year.

(5) Occupational licenses and all requisite approvals shall be conspicuously displayed and affixed to the food truck in a conspicuous place where it is clearly visible from outside the mobile food truck at all times during operation.

(6) Mobile vendors shall provide the City with the dates, hours of operation, and locations for mobile food truck operations within the City of Central.

Sec. 9:305. - Lease requirements.

Mobile food vendors shall operate their business on private commercial property that is either owned by the mobile food vendor or for which the owner of said property has entered into a legal lease agreement with the mobile food vendor for the use of a specified area of the private commercial property, all of which shall be defined in the lease agreement.

Before an occupational license is issued by the City, the mobile food vendor applicant will be required to furnish a signed letter of permission or copy of a signed lease for the use of the property on which he proposes to sell his food. (The rent amount in said lease(s) may be redacted.) This letter or lease must indicate who is responsible for liability on said property.

Sec. 9:306. - Insurance requirements.

Before a license is issued by the City, the mobile food vendor applicant will be required to furnish proof of a policy of general liability insurance in the amount of $200,000.00 per incident which covers any damage to person or property caused by mobile food truck or by the mobile food truck products and merchandise. This policy must include a provision that the City will be notified within 30 days if this policy of insurance is canceled for any reason.

Sec. 9:307. - Rules and regulations for all mobile food vendors.

In addition to all other applicable laws pertaining to licenses and franchises, all mobile vendors operating pursuant to this division shall also be subject to the following provisions:

(1) All mobile food trucks shall be registered and licensed in the State of Louisiana. Any driver of a mobile food truck shall possess a valid Louisiana Driver's License and provide a copy of same to the business license department.

(2) All mobile vendors shall comply with all applicable parking, traffic and vehicle safety laws, regulations and restrictions, and with the Louisiana Highway Regulatory Act, but in no event shall any mobile vendor remain in any one location for more than five hours.

(3) No mobile vendor shall operate within six feet of any public or private driveway, wheelchair ramp or bicycle ramp.

(4) No mobile food truck shall be more than 26 feet in length or eight feet in width. A photograph of the vehicle indication the dimensions shall be provided to the City at the time of application for Occupational license.

(5) No mobile vendor shall sell alcoholic beverages, controlled substances, or any other item the possession or use of which is deemed illegal under any federal, state or local law.

(6) No mobile vendor shall sell goods, wares or other items of merchandise other than food and non-alcoholic beverages.

(7) No mobile vendor shall place any tents, awnings or other fixtures or furniture around mobile food truck. Tables and chairs are permitted around immediate vicinity of mobile food truck as long as they do not obstruct any portion of the street, sidewalk, pedestrian path, or right-of-way.

(8) All mobile vendors shall provide a trash receptacle within three feet of the front or back of the mobile food truck, which shall be large enough to contain all refuse generated by operation. The location shall be kept clean and free of trash and debris. All mobile vendors shall be responsible for cleaning all debris and refuse generated by such operation within a 50-foot radius of the mobile food truck upon ceasing operation. It shall be unlawful for any mobile vendor to leave any location without first picking up, removing and properly disposing of all trash or refuse remaining at a location. Any trash, garbage, refuse or other debris generated by the mobile vendor or relating to the operation of the mobile vendor shall be disposed of at approved locations. Any tables and chairs must also be removed. The trash receptacle shall be removed after area cleanup has been completed.

(9) No mobile vendor shall operate any horn, sound amplification system, or other sound-producing device or music system which can be heard outside the mobile food truck when

such mobile food truck is moving, stopped, standing or parked, or is being operated as allowed under this division.

(10) No advertising shall be allowed on any mobile food truck, except to post prices and to identify the name of the product or name of the lawful mobile vendor.

(11) All mobile vendors must comply with all other applicable conditions and requirements imposed upon mobile vendors under the law, and must comply with all applicable City and State health laws and regulations and shall make such sales tax returns and other reports as required by provisions of the Code of the City Central.

(12) No mobile food vendor shall operate or conduct business in or on any street, public right-of-way, or residentially zoned property.

(13) No mobile food vendor shall operate or conduct business in or on any public property unless written permission is given by the governmental entity which owns the property.

Sec. 9:308. - Exemptions.

Mobile food trucks and other mobile food vendors located at fairs, festivals, parades, school or church sponsored events, holiday events, sponsored fundraising events, antiques district events, or privately catered events, shall be permitted to remain at any one location (for the purpose of selling food) for the duration of the event. Furthermore, mobile food vendors at one of these specified events may place tables and chairs on site provided that they do not obstruct the street, pedestrian right-of-way or violate any other traffic and parking laws or regulations.

Sec. 9:309. - Penalty.

(1) Violations of any provision of this title may be enforced by the city pursuant to the administrative procedures set forth in Chapter 12 of this title or by a court of competent jurisdiction.

(2) Any person violating any provision of this title shall be fined not more than $500 per violation. Each day of the violation shall constitute a separate violation.