

ORDINANCE NO. ____-2013

AN ORDINANCE CREATING SECTIONS 15-11.1 THROUGH 15-11.4 OF THE CODE OF ORDINANCES, LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT, PERTAINING TO THE REGULATION OF MOBILE FOOD UNIT VENDORS AND PROVIDING FOR A DEFINITION; APPLICATION OF LAWS AND REGULATIONS AND ITINERANT MERCHANTS REQUIREMENTS WITH EXCEPTIONS; A \$50.00 FEE FOR EACH ADDITIONAL UNIT; A GENERAL ZONING COMPLIANCE PERMIT; INDEMNIFICATION; PARK PROPERTY RESTRICTIONS; AND OTHER REGULATIONS.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That Section 15-11 of the Code of Ordinances be and hereby is created and enacted to read as follows:

Sec. 15-11.1

Mobile Food Unit Vendor. An Itinerant Merchant who conducts business from a food establishment which is on wheels or is otherwise mobile.

Sec. 15-11.2

A Mobile Food Unit Vendor shall be subject to all applicable ordinances and regulations unless expressly provided otherwise herein. These include, but are not necessarily limited to, those matters pertaining to zoning, public safety, pedestrian and state traffic laws, restricted sales or vending areas, parking and licensing.

Sec. 15-11.3

A Mobile Food Unit Vendor shall be subject to the licensing and regulatory requirements pertaining to an Itinerant Merchant except as follows:

- (a) The licensing of the Vendor shall be on a per unit basis, with each different Mobile Food Unit Vendor requiring a separate license. A separate license is not required for each location.
- (1) Unless otherwise exempted, all applications for permits/licenses shall be accompanied with the required fee(s) as specified in the schedule of fees established by ordinance or the Director of the Division of Revenue.
- (2) Any person operating more than one mobile food unit shall pay an additional fifty dollar (\$50) fee for each additional unit. This fee will not be prorated and will be in effect for the same period of time as the license for the primary mobile food unit.
- (b) As an alternative to the requirements imposed by subsections 15-8(1) and (3) of the Code of

Ordinances, the owner of the real property to be used for Mobile Food Unit Vending operations or his designee, may, in advance of such a business operating on that property, apply to the Division of Planning to have the property used on a regular basis by one or more Mobile Food Unit Vendors, in compliance with the following:

- (1) The location of Mobile Food Unit Vendors shall be subject to a General Zoning Compliance Permit issued by the Division of Planning. The permit shall be valid for a period of two (2) years from the date of its issuance. The application for the General Zoning Compliance Permit shall contain information as reasonably required by the Division of Planning and shall, at a minimum, include a site plan clearly depicting the proposed location for the Mobile Food Unit Vendor(s).
- (2) The Division of Planning shall review the application for the permit and shall be authorized to approve it upon finding that:
 - a. Minimum off-street parking spaces as required for the site shall be maintained; however, no new parking spaces shall be required for a Mobile Food Unit Vendor;
 - b. The location specified for Mobile Food Unit Vendors allows for proper vehicular and pedestrian access and circulation on the site, including required fire access; and
 - c. That the site is zoned in a category that permits restaurants as a principal permitted use, or that site restrictions are in place that make the Mobile Vending use compliant with applicable zoning restrictions related to the serving of food within the zone.
- (3) Upon approval of the General Zoning Compliance Permit, no additional specific Occupancy Permit shall be required from the Urban County Government for the location of any individual Mobile Food Unit Vendor(s) on the site. Notwithstanding the above, a Mobile Food Unit Vendor(s) must make available to the government a duly executed statement of permission from the property owner or his or her agent for use of the property upon request.
- (4) Nothing contained in this section shall relieve a Mobile Food Unit Vendor from obtaining its itinerant merchant license(s) and any other permits required by state agencies or the local Health Department.

Sec. 15-11.4.

- (a) It shall be unlawful for any person to intentionally provide false information or to intentionally omit requested information on an application for any license or permit pertaining to Mobile Food Unit Vendors.
- (b) As a condition of issuance of any license or permit, the Mobile Food Unit Vendor agrees to indemnify, hold harmless, and defend the urban county government and its officials, officers, employees, representatives, and agents against liability and/or loss arising from activities connected with and/or undertaken pursuant to the permit or licensee. The urban county government is not liable for any business loss, property loss, or other damage that may result from use of the permit or license, or suspension or revocation of the permit or license, and no such vendor shall maintain any claim or action against the urban county government and/or its officials, officers, employees, or agents on account of any suspension or revocation.
- (c) Any permit or license issued to a Mobile food Unit Vendor shall be valid for the time period specified thereon. Re-application shall be required upon expiration of said permit or license if the person wishes to continue such activity.
- (d) Every Mobile Food Unit Vendor to whom a license or permit is issued shall, at all times while engaged in that business, have the applicable license or permit in his or her possession and shall produce the same at the request of any urban county government official or at the request of any individual to whom the vendor is exhibiting his or her food or attempting to sell same.
- (e) Permits for vending activities which occur solely on or within urban county government park lands or on avenues, streets, roads, drives or sidewalks adjacent to the boundaries of a public park must be obtained from the Division of Parks and Recreation prior to performing such activities. The Division of Parks and Recreation may impose conditions on any issued permit as it deems necessary for health and safety, and/or to mitigate the impact of vending on an area and may restrict or prohibit vending in certain locations. The Division of Parks may limit the number of vendors at any one location or within an area, or limit the number of operators, sales persons, or others engaged in the act of vending at the requested or approved location.
- (f) Each Mobil Food Unit Vendor must obtain all necessary licenses and permissions and comply with all requirements imposed by the Health Department or other regulatory agencies.

Section 2 - That this Ordinance shall become effective upon date of passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:
DJB:X:\Cases\CO\13-CC0081\LEG\00380065.DOC