

ORDINANCE NO. \_\_\_\_-2013

AN ORDINANCE ESTABLISHING A SIX MONTH LIMITED PILOT PROGRAM FOR CERTAIN MOBILE FOOD UNIT VENDORS TO LAWFULLY OPERATE IN DESIGNATED STREET PARKING AREAS AND PROVIDING FOR LICENSING; COMPLIANCE WITH ORDINANCE AND PROGRAM REQUIREMENTS; FOOD VENDING ZONES; HOURS OF OPERATION; INSURANCE; AND A FINE NOT TO EXCEED \$250.00 FOR EACH VIOLATION; ALL EFFECTIVE UPON DATE OF PASSAGE.

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WHEREAS, mobile food and beverage vendors have become increasingly popular; and

WHEREAS, mobile food and beverage vendors can contribute to a vibrant and diverse food experience in Lexington, Kentucky; and

WHEREAS, the Lexington-Fayette Urban County Government has established groups to study the issue of mobile food and beverage vending; and

WHEREAS, this Ordinance has been recommended by a working group which included five (5) Urban County Council members, who considered input from mobile food and beverage vendors and other interested members of the community; and

WHEREAS, the Lexington-Fayette County Parking Authority's Board has endorsed this Ordinance; and

WHEREAS, the Urban County Council wishes to encourage and support local business and entrepreneurship by providing a mechanism to allow the operation of certain Mobile Food Unit Vendors, as defined in Section 15-11.1 of the Lexington-Fayette Urban County Government Code of Ordinances, in certain public street parking areas of Fayette County; and

WHEREAS, Mobile Food Unit Vendors should be located in areas with pedestrian traffic but in a manner that protects public safety and does not detract from the aesthetics of the surrounding streetscape; and

WHEREAS, the Council desires to establish a pilot program in order to further study whether public property should be made available for use by Mobile Food Unit Vendors and how to best regulate Mobile Food Unit Vendors operating on public property;

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

Section 1 – That there is hereby established a pilot program for Mobile Food Unit Vendors to lawfully operate on limited public property and in conformity with the requirements of this Ordinance, to otherwise be known as the “Mobile Food Unit Program Pilot Program” (and which may hereinafter be referred to as the “Program”)

Section 2 – The Mobile Food Unit Pilot Program is established for an initial duration of six (6) months from the date of adoption of this Ordinance. Additional action by the Urban County Council will be required in order to extend the Program for any additional period of time.

Section 3 – The Mobile Food Unit Pilot Program shall be conducted as follows:

(a) The Program shall be limited to the use of the public property as further provided in this Ordinance, which is public street parking in identified zones or areas during the limited hours further provided herein.

(b) The Chief Administrative Officer or her or his designee is authorized to grant revocable street privileges for the placement and operation of Mobile Food Unit Vendors on the public property further identified herein, subject to the restrictions provided in this Ordinance.

- (1) An applicant for the Program must already possess a valid LFUCG Mobile Food Unit Vendor Permit or License (as defined in Section 15-11.1 of the Code of Ordinances) and each such vendor is limited to one (1) Revocable Program License.
  - a. Participation shall be further limited to those vending apparatuses which can safely operate out of a street parking space or area.
  - b. The maximum size limit of any mobile unit shall not exceed the width of any marked parking space. If the space is not marked, the width of the unit shall not exceed eight feet (8'). The Lexington-Fayette County Parking Authority (“LFCPA”) may establish additional size restrictions on units using those parking spaces and areas within its control.
- (2) A non-refundable application fee of twenty-five dollars (\$25.00) shall accompany each application for a Revocable Program License.
- (3) As condition of participating in the Program, each person receiving the Revocable Program License must sign a verified statement that she or he agrees to conform and abide by the requirements of this Ordinance and the Program, which shall include any additional requirements or conditions established by the LFCPA.
- (4) The Revocable Program License shall be issued in a form which can easily be displayed by the vendor at all times during which it is conducting business as part of the Program.
- (5) The Revocable Program License is non-transferrable and the issuance of the license does not create or confer a property interest of any kind.
- (6) In addition to those penalties as further provided in this Ordinance, a conviction for a violation of this Ordinance or of Sections 15-11.1 through 15-11.6 of the Code of Ordinances shall result in the automatic revocation of the Revocable Program License. A license may also be suspended or

revoked by the Chief Administrative Officer or her or his designee based upon a finding that the licensee has failed to abide by the requirements of the Program or this Ordinance, including any requirements or conditions established by the LFCPA.

- a. If the CAO or her or his designee determines that the license should be suspended or revoked, the licensee shall be provided a written notice which includes an explanation of the basis for the decision.
  - b. The licensee may request an appeal of the decision in writing within five (5) days of the date of the above notice by serving the appeal to the address indicated in the notice.
  - c. If a determination is timely appealed, the CAO or her or his designee will meet with the licensee within ten (10) business days unless agreed to otherwise by the licensee.
  - d. At the meeting, the licensee will be allowed to present information and present any arguments as to why the original determination should be amended.
  - e. The person representing the LFUCG at the above meeting shall issue a final written determination to the licensee within five (5) days. This final determination shall not be appealable.
- (c) The following public parking areas are available for use by Program licensees. Absent an agreement between the licensee and the LFCPA, no parking area or space is guaranteed or reserved, and all areas and parking spaces are available on a first-come, first-served basis. Licensees shall abide by all parking conditions, requirements or regulations established by LFCPA.
- (1) Licensees shall be allowed to lawfully operate Monday through Friday between the hours of 7 a.m. and 5 p.m. in metered parking spaces in the following "On-Street Food Vending Zones". During the hours in which the spaces are subject to any paid metering requirements no more than fifty percent (50%) of the spaces within each separate parking area are to be occupied by a Mobile Food Unit Vendor, unless otherwise agreed to in advance by the LFCPA. All payments are to be made by the "Pay by Phone Method" established by the LFCPA unless otherwise agreed to by the LFCPA. A map of these areas is attached hereto and incorporated by reference.
- a. The 100 Block of East High Street (between the intersections of South Limestone and South Martin Luther King Boulevard);
  - b. The 200 Block of West High Street (between the intersections of South Upper Street and South Mill Street);
  - c. The 300 Block of North Martin Luther King Boulevard (between Corral Street and Wickliffe Street);
  - d. The 200 Block of East Corral Street (between Martin Luther King Boulevard and Spruce Street);
  - e. The 200 Block of West Vine Street (between the intersections of South Broadway and South Mill Street); and
  - f. The 100 Block of West Vine Street (between the intersections of South Mill Street and South Upper Street)

- (2) Each licensee shall be allowed to lawfully operate between the hours of 5 p.m. and 3 a.m. Monday through Friday in on street parking areas in which it is otherwise legal to park and in compliance with subsection (4), below.
- (3) Each licensee shall be allowed to lawfully operate between the hours of 7 a.m. and 3 a.m. Saturdays and Sundays in on street parking areas in which it is otherwise legal to park and in compliance with subsection (4), below.
- (4) The licensee must comply with the provisions of this Ordinance, including the following restrictions:
  - a. Must not locate or operate within one hundred feet (100') of the primary entrance of any business establishment during its posted hours of business. An exception is provided if no public safety issue would otherwise be created and the licensee has the permission of the affected establishment(s).
  - b. Must not locate or operate within an area zoned as a Residential District under the Lexington-Fayette County Zoning Ordinance or within one hundred (100') feet of the property line of a dwelling unit located in an area zoned as a Residential District. An exception is provided if permission is obtained from the legally recognized Homeowner's Association or the Neighborhood Association for the affected property, and the above restriction does not apply to areas zoned for adaptive re-use.
  - c. Upon notification by any public safety official, including but not limited to the Division of Police, Division of Fire and Emergency Services, or the Lexington-Fayette County Health Department, that a vendor's location endangers the public health, safety, or welfare, the vendor shall cease operation and/or relocate without delay.
- (d) Each Program Licensee shall comply with the following at all times while operating as part of the Program:
  - (1) The requirements of all applicable ordinances and regulations, including but not limited to sections 15-11.1 through 15-11.5 of the code of ordinances.
  - (2) Shall at all times of operation or use of a public area display its Revocable Program License.
  - (3) Each vendor must maintain a comprehensive general liability insurance policy in a minimum amount of \$1 million, which names the Lexington-Fayette Urban County Government as an additional insured party. Insurance shall be placed only in Commonwealth of Kentucky authorized insurance companies rated A+ VIII or A VIII in "Best's Policyholders Ratings" or their financial equivalent. A current Certificate of Insurance shall be filed with LFUCG's Division of Risk Management for review and compliance.
  - (4) Shall remain open for business at all times while located on public property made available as part of the Program. "Open for business" includes setting up or breaking down the unit.
  - (e) A vendor must immediately cease operation upon being provided a citation or warning to do so by any urban county government, LFUCA, or Lexington-Fayette County Health Department official that it has violated any provision of an applicable law, ordinance, regulation, or this Ordinance.

- (f) The Chief Administrative Officer may promulgate administrative regulations or guidelines which are consistent with this Ordinance.
- (g) Any person convicted of violating any provision of this Ordinance shall be subject to a fine of not more than two hundred fifty dollars (\$250.00). Each day a violation occurs shall constitute a separate offense.

Section 4 - That this ordinance shall become effective upon the date of its passage.

PASSED URBAN COUNTY COUNCIL:

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MAYOR

ATTEST:

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CLERK OF URBAN COUNTY COUNCIL

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