

ORDINANCE NO. **BG2019 - 50**

ORDINANCE AMENDING CODE OF ORDINANCES

ORDINANCE AMENDING CHAPTER 15 (BUSINESS AND GENERAL REGULATIONS) OF THE CITY OF BOWLING GREEN CODE OF ORDINANCES TO ADD SUBCHAPTER 15-8 (REGULATION OF MOBILE FOOD VENDORS AND PUSHCARTS ON PUBLIC RIGHTS-OF-WAY) AND CHAPTER 27 (PROPERTY CODE), SUBCHAPTER 27-8 (PENALTIES) RELATED TO MOBILE FOOD UNITS AND PUSHCARTS

WHEREAS, food trucks are an expanding business operating on public rights-of-way; and,

WHEREAS, City staff drafted an ordinance providing for regulations of food trucks using public rights-of-way, met with food truck owners and operators to obtain input on the draft ordinance and presented the draft ordinance to the Board of Commissioners at the September 16, 2019 Fall Retreat/Special Work Session; and,

WHEREAS, it is in the best interest of the City to adopt an ordinance providing for regulations of mobile food vendors and pushcarts operating on public rights-of-way.

NOW, THEREFORE, BE IT ORDAINED by the City of Bowling Green, Kentucky as follows:

1. Chapter 15 (Business and General Regulations) is hereby amended as follows:

15-8 REGULATION OF MOBILE FOOD VENDORS AND PUSHCART VENDORS ON CITY RIGHTS-OF-WAY.

15-8.01 Definitions.

Unless the context requires otherwise, the following terms as used in this Subchapter shall have the following meanings:

“Downtown Square Area” shall mean the Fountain Square and adjacent area to include the area bounded by 8th Avenue to 10th Avenue and College Street to State Street.

“Mobile Food Unit” shall mean a food establishment which is on wheels, is mobile and self-

(Ordinance No. BG2019 - 50)

propelled as a licensed vehicle from which is sold both prepared and pre-packaged consumable foods and which conducts business on public streets within the City of Bowling Green. Mobile Food Unit shall also include food concession trailers pulled by licensed vehicles which are used to prepare or sell consumable foods. Mobile Food Unit shall include ice cream vehicles.

“Mobile Food Unit Vendor” shall mean any person or business entity who conducts business from a Mobile Food Unit on public streets within the City of Bowling Green.

“Pushcarts” shall mean a non-self propelled mobile food unit that is lightweight enough, designed and intended to be moved by one person that typically serves foods such as fruit, popcorn, drinks, hot dogs, flavored ice or pre-wrapped foods.

“Pushcart Vendor” shall mean any person or business entity who conducts business from a Pushcart on public sidewalks within the City of Bowling Green.

15-8.02 Mobile Food Unit Vendor Regulations.

a. Mobile Food Unit Vendors and Pushcart Vendors shall be subject to and shall comply with all City of Bowling Green business registration requirements and shall not be delinquent on any fees or taxes owed to the City. Mobile Food Unit Vendors and Pushcart Vendors shall also comply with all other federal, state and local laws, rules and regulations including, but not limited to, Health Department and Fire Department laws and regulations.

b. Mobile Food Unit Vendors using public streets in the City of Bowling Green outside the Downtown Square Area shall operate only in authorized on-street parallel parking spaces and shall not occupy more than two (2) consecutive parallel parking spaces. Mobile Food Units shall not be parked for longer than four (4) hours and shall not park any closer than ten (10) feet from any structure. Except as authorized in this Subchapter, Mobile Food Unit Vendors shall not park any Mobile Food Unit in a manner which prohibits others from parking in otherwise available spaces or areas or park in any manner that prohibits or hinders the ability of other drivers to safely enter or exit any street or alley or to observe

(Ordinance No. BG2019 - 50)

posted traffic signs or signals. Mobile Food Units may operate on public streets outside the Downtown Square Area in the City of Bowling Green from 6:00 a.m. to 12:00 a.m. each day.

c. Mobile Food Unit Vendors using public streets in the City of Bowling Green within the Downtown Square Area may operate in authorized on-street parallel parking spaces from 6:00 a.m. to 5:00 p.m. Mobile Food Unit Vendors shall not occupy more than two (2) consecutive parallel parking spaces and shall not park for longer than two (2) hours. Except as authorized in this Subchapter, Mobile Food Unit Vendors shall not park any Mobile Food Unit in a manner which prohibits others from parking in otherwise available spaces or areas or park in any manner that prohibits or hinders the ability of other drivers to safely enter or exit any street or alley or to observe posted traffic signs or signals. Any Mobile Food Unit operating in the Downtown Square Area after 5:00 p.m. shall park only in signed and designated loading and unloading zones and shall not operate after 2:30 a.m. All Mobile Food Units shall not be parked closer than ten (10) feet from any structure.

d. Pushcart Vendors may operate on public sidewalks in the City of Bowling Green. Pushcart Vendors shall not operate on public streets, roads or alleys. Pushcart Vendors shall not impede the ingress or egress of any driveway or the entrance into any building. Pushcart Vendors shall not obstruct pedestrian space and shall maintain at a minimum five (5) feet of sidewalk space for pedestrian passage adjacent to the pushcart. Pushcart Vendors may operate on public sidewalks in the City of Bowling Green from 6:00 a.m. to 12:00 a.m. each day and shall not remain at the same location for longer than four (4) hours.

e. No Mobile Food Unit or Pushcart shall operate in violation of the above provisions unless allowed pursuant to an approved special event application. During special events, no Mobile Food Unit or Pushcart shall occupy any permitted special event location without the consent of the management of the special event.

f. No Mobile Food Unit or Pushcart shall be left unattended or allowed to park on

(Ordinance No. BG2019 - 50)

public streets or sidewalks in the City of Bowling Green overnight and any such Mobile Food Unit or Pushcart left unattended or parked overnight may be towed or removed at the City's discretion. All Mobile Food Unit Vendors and Pushcart Vendors shall promptly cease operations and remove the Mobile Food Unit or Pushcart upon request by appropriate City officials.

g. Mobile Food Unit Vendors or Pushcart Vendors shall only use lighting which is affixed to the Mobile Food Unit or Pushcart and which does not cause any glare that creates a public hazard, nuisance or distraction to other vehicles or neighboring businesses. No flashing, strobe or neon lighting shall be permitted.

h. Mobile Food Unit Vendors and Pushcart Vendors shall supply their own electrical power and shall not connect to City power outlets.

i. The operator of any Mobile Food Unit shall possess a valid driver's license and shall provide that license upon request by any authorized City official.

j. Mobile Food Units and Pushcarts shall at all times operate in a manner that ensures the safety of patrons, pedestrians and the public. All operations of authorized Mobile Food Units shall serve customers only from the side of the Mobile Food Unit that is parked abutting and parallel to the curb and from the side opposite of the flow of traffic. No Mobile Food Units or Pushcarts shall solicit drive-through service or solicit or make any sales to occupants of vehicles nor shall Mobile Food Units or Pushcarts operate in a manner to cause congestion that impedes pedestrian or vehicle traffic or interferes with the public use of any rights-of-way, sidewalks or public benches. No tables, chairs or similar property shall be permitted on public property. No cords, cables or wires shall be attached to any part of the Mobile Food Unit, trailer or Pushcart that cross any public sidewalk or street.

k. The Mobile Food Unit or Pushcart shall provide its own waste and recycling containers in sufficient size to collect all waste and recyclables generated by the Mobile Food Unit or Pushcart. The operator of the Mobile Food Unit or Pushcart shall remove all garbage, trash, paper, cups,

(Ordinance No. BG2019 - 50)

cans or litter from the immediate area around the Mobile Food Unit or Pushcart. No waste shall be disposed of in public waste receptacles. No hoses or drainage of grease traps or similar liquids shall be drained into any storm water drainage system and all such liquids shall remain on the Mobile Food Unit or Pushcart until properly disposed.

l. Mobile Food Unit Vendors and Pushcart Vendors shall be responsible for any damage to public property or public streets caused by the operation of the Mobile Food Unit or Pushcart, including, but not limited to, damage due to stakes, rods or other support methods.

m. Appropriate City inspectors, fire inspectors and police officers shall be authorized to inspect the permitted Mobile Food Unit or Pushcart without notice and without consent during normal operating hours.

n. All Mobile Food Units and Pushcarts shall be subject to Subchapter 9-3 (Noise) of the City of Bowling Green Code of Ordinances. Sound absorbing devices are recommended to contain or deflect the noise from generators. All Mobile Food Unit generators shall be rated at or below 80 decibels. Amplified music is not permitted.

o. Consent for Mobile Food Units or Pushcarts to operate on other City property to include City parking lots and parks shall be obtained from the Parks and Recreation Director for the use of any park property and from the Assistant City Manager / CFO for all other City properties prior to operating on such City property. The City may impose conditions for the approval of such requests as it deems necessary for health and safety and to mitigate the impact of vending that conflicts with City operations. The City has the authority to limit or prohibit such operation on other City properties.

15-8.03 Permits.

a. No person, firm, partnership, corporation or other business entity shall operate a Mobile Food Unit or Pushcart on public rights-of-way in the City of Bowling Green without a Mobile Food Unit Vendor or Pushcart Vendor permit issued by the City of Bowling Green Finance Department.

(Ordinance No. BG2019 - 50)

Each Mobile Food Unit or Pushcart shall require a separate permit (a vehicle pulling a trailer constitutes one Mobile Food Unit). Each permit shall be valid for a twelve (12) month calendar period beginning on January 1st of each year unless suspended or revoked. Upon approval of the permit application, the Mobile Food Unit or Pushcart shall be issued a unique colored coded sticker for that calendar year and this sticker shall be affixed to the Mobile Food Unit or Pushcart in a publicly visible location. Mobile Food Unit Vendors and Pushcart Vendors shall renew permits with the City prior to the end of any twelve (12) month term and shall be in compliance with the provisions of this Subchapter prior to being issued a renewal permit.

b. The Mobile Food Unit or Pushcart permit application shall be submitted with an annual fee of three hundred dollars (\$300) along with the name, business address and contact information for the applicant. Any permit issued on or after July 1 of any calendar year shall pay a permit fee of one hundred and fifty dollars (\$150) for the remainder of that year. The application shall also include a copy of the City of Bowling Green's business registration and documentation showing that the Mobile Food Unit or Pushcart has been inspected and approved by the City of Bowling Green Fire Department and the Health Department if applicable. The application shall also include the Mobile Food Unit license number, description, vehicle identification number and proof of the Mobile Food Unit automotive insurance. The Mobile Food Unit or Pushcart permit application shall contain proof of required liability and other insurance required by this Subchapter.

c. Each Mobile Food Unit Vendor or Pushcart Vendor issued a permit shall agree to hold the City of Bowling Green and its officials, officers and employees harmless and to indemnify and defend the City against all claims, damages, losses and expenses, including attorney's fees, resulting from the permitted activity. Each Mobile Food Unit Vendor or Pushcart Vendor also agrees to indemnify and hold harmless the City of Bowling Green and its official, officers and employees for bodily injury, disease or death, or injury to or destruction of property, including the loss of use there from and/or breach

(Ordinance No. BG2019 - 50)

of contract that is not caused by any negligent act or omission of willful misconduct of the City or its officials, officers and employees acting within the scope of their employment.

d. The Mobile Food Unit Vendor or Pushcart Vendor shall not commence work until all insurance has been obtained and copies of policies or certificates thereof are submitted to and approved by the City of Bowling Green's Human Resources & Risk Management Department. Prior to commencing work, the Vendor shall maintain continuous liability coverage written on an occurrence basis or, if on a claims made basis, with an extended coverage provision (ERP) option of not less than three (3) years. Coverage will be provided through insurance companies licensed to do business in the State of Kentucky with a Best Rating of A- or better. Without limiting Vendor's indemnification requirements, it is agreed that Vendor/Seller shall procure and maintain in force at all times during the performance of this agreement the following policy or policies of insurance covering its operations in the minimum limits set out below.

1. COMMERCIAL GENERAL LIABILITY - Including contractual liability, bodily injury and property damage combined at a minimum of \$1,000,000 for each occurrence; personal and advertising injury of \$1,000,000 for any one person or organization and \$1,000,000 in the aggregate.

2. AUTOMOBILE LIABILITY - Insuring all Owned, Non-Owned and Hired Motor Vehicles. The minimum coverage for Liability Limit is \$1,000,000 Combined Single Limit for any one accident. The limit of liability may be subject to increase according to any applicable State or Federal Transportation Regulations.

3. WORKERS' COMPENSATION - Insuring the employers' obligations under Kentucky Revised Statutes Chapter 342 at Statutory Limits.

The Commercial General Liability Policy shall be endorsed to contain the following provisions:

a) "The City of Bowling Green, its elected and appointed officials, employees, agents

(Ordinance No. BG2019 - 50)

and successors and volunteers are to be added as "Additional Insured." The coverage shall contain no special limitations on the scope of protection afforded to the City, its elected and appointed officials, employees, agents, successors and volunteers and may not include terms which may make the coverage excess to other insurance on which the City, its elected and appointed officials, employees, agents, successors and volunteers may also qualify as an additional insured.

b) The insurance coverage for the Vendor entering into a contract shall be on a primary and non-contributory basis for liability arising out of activities performed by or on behalf of the Vendor entering into this contract for service including the insured's general supervision of the premises owned, occupied or used by the Vendor/Seller entering into this contract and ongoing operations as well as completed operations and work performed by Vendor. Any insurance or self-insurance maintained by the City, its elected and appointed officials, employees, agents and successors and volunteers shall be in excess of the Vendor's insurance coverage.

c) Certificates of Insurance as required above shall be furnished to:

City of Bowling Green
Department of Human Resources & Risk Management
Attn: Risk Management
1001 College Street
Bowling Green, Kentucky 42101
Fax: (270) 393-3298

15-8.04 Enforcement, Penalties, Denial, Revocation or Suspension of Permit.

a. Enforcement proceedings for the provisions of this Subchapter shall be initiated by the issuance of a notice of violation or a citation by any City Police Officer or designated Code Enforcement Officer as set out in Chapter 2 of this Code of Ordinances. Any person or business entity violating any of the provisions of this Subchapter, shall be subject to civil fines as set out in Subchapter 27-8 (Penalties) of the City of Bowling Green Code of Ordinances.

b. The Assistant City Manager / CFO may deny the issuance of a Mobile Food Unit Vendor or Pushcart Vendor permit pursuant to this Subchapter due to the failure of the applicant to meet

(Ordinance No. BG2019 - 50)

the requirements of this Subchapter or for filing an application that contains material false or untrue statements. The Assistant City Manager / CFO may revoke or suspend the Mobile Food Unit Vendor or Pushcart Vendor permit of any person or business entity that violates the provisions of this Subchapter, including but not limited to: (1) the failure of the permittee to comply with this Subchapter and other laws and regulations involving the operations of the Mobile Food Unit or Pushcart; (2) the failure of the permittee to pay the appropriate permit fees, other taxes and fees and civil fines payable to the City; and (3) the submission by the permittee of an application that contains material false or untrue statements. Any denial, suspension or revocation shall be in writing setting forth the basis for the denial, suspension or revocation. The applicant or permittee may request an appeal in writing within twenty (20) days following the date of the denial, suspension or revocation addressed to the City Manager. The City Manager shall review the record and the basis for the denial, suspension or revocation and may meet with the applicant or permittee. The decision of the City Manager shall be final.

2. Chapter 27 (Property Code), Subchapter 27-8 (Penalties) is hereby amended as follows:

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>All Others</u>
Recycling Establishments			
Screening Violations	\$ 100.00	\$ 250.00	\$ 500.00
Property Maintenance and Nuisances			
Structural Violations	\$ 150.00	\$ 300.00	\$ 600.00
Non-Structural Violations	\$ 100.00	\$ 200.00	\$ 400.00
Zoning Ordinance/Subdivision Regulations			
Use Violations	\$ 100.00	\$ 200.00	\$ 300.00
Yard/Dimensional Violations	\$ 50.00	\$ 100.00	\$ 200.00
Sign Violations	\$ 50.00	\$ 100.00	\$ 200.00
Violation of General			
Development Standards	\$ 100.00	\$ 200.00	\$ 300.00
Violation of Development			
Review Procedures	\$ 100.00	\$ 200.00	\$ 300.00
Violation of Overlay			
District Standards	\$ 250.00	\$ 500.00	\$ 750.00
Obstructions on City Right-of-Way	\$ 250.00	\$ 500.00	\$ 750.00
Damage to City Property/Infrastructure	\$ 500.00	\$1,000.00	\$2,000.00

(Ordinance No. BG2019 - 50)

Storm Water			
Erosion Prevention and Sediment Control	\$ 500.00	\$1,000.00	\$2,000.00
Illicit Discharge	\$1,000.00	\$2,000.00	\$4,000.00
Post Construction BMP Maint.	\$ 500.00	\$1,000.00	\$2,000.00
Construction, Repair, Permitting and Maintenance			
Infrastructure Requirements	\$1,000.00	\$2,000.00	\$4,000.00
Maintenance Responsibility	\$ 500.00	\$1,000.00	\$2,000.00
Cuts and Excavations	\$ 500.00	\$1,000.00	\$2,000.00
Chapter 21 Violations Not Specifically Listed	\$ 100.00	\$ 200.00	\$ 400.00
Cemeteries			
Unleashed Animal	\$ 25.00	\$ 50.00	\$ 100.00
Animal Waste Removal	\$ 25.00	\$ 50.00	\$ 100.00
Animal on Grass	\$ 25.00	\$ 50.00	\$ 100.00
Contractors Licensing			
Expired License	\$ 100.00	\$ 200.00	\$ 300.00
No License	\$ 250.00	\$ 500.00	\$ 750.00
Expired Insurance	\$ 100.00	\$ 200.00	\$ 300.00
No Insurance	\$ 250.00	\$ 500.00	\$ 750.00
Mobile Food Units and Pushcarts	\$ 100.00	\$ 200.00	\$ 300.00

b. If the citation is contested and a hearing before the Board is required, the following maximum penalties may be imposed at the discretion of the Board:

<u>Violation</u>	<u>1st Offense</u>	<u>2nd Offense</u>	<u>All Others</u>
Recycling Establishments			
Screening Violations	\$ 200.00	\$ 500.00	\$1,000.00
Property Maintenance and Nuisances			
Structural Violations	\$ 300.00	\$ 600.00	\$1,200.00
Non-Structural Violations	\$ 200.00	\$ 400.00	\$ 800.00
Zoning Ordinance/Subdivision Regulations			
Use Violations	\$ 200.00	\$ 400.00	\$ 600.00
Yard/Dimensional Violations	\$ 100.00	\$ 200.00	\$ 400.00
Sign Violations	\$ 100.00	\$ 200.00	\$ 400.00
Violation of General			
Development Standards	\$ 200.00	\$ 400.00	\$ 600.00
Violation of Development			
Review Procedures	\$ 200.00	\$ 400.00	\$ 600.00
Violation of Overlay			
District Standards	\$ 500.00	\$1,000.00	\$1,500.00
Obstructions on City Right-of-Way	\$ 500.00	\$1,000.00	\$1,500.00
Damage to City Property/Infrastructure	\$1,000.00	\$2,000.00	\$4,000.00
Storm Water			
Erosion Prevention and Sediment Control	\$1,000.00	\$2,000.00	\$4,000.00
Illicit Discharge	\$2,000.00	\$4,000.00	\$8,000.00
Post Construction BMP Maint.	\$1,000.00	\$2,000.00	\$4,000.00
Construction, Repair, Permitting and Maintenance			
Infrastructure Requirements	\$2,000.00	\$4,000.00	\$8,000.00

(Ordinance No. BG2019 - 50)

Maintenance Responsibility	\$1,000.00	\$2,000.00	\$4,000.00
Cuts and Excavations	\$1,000.00	\$2,000.00	\$4,000.00
Chapter 21 Violations Not Specifically Listed	\$ 200.00	\$ 400.00	\$ 800.00
Cemeteries			
Unleashed Animal	\$ 50.00	\$ 100.00	\$ 200.00
Animal Waste Removal	\$ 50.00	\$ 100.00	\$ 200.00
Animal on Grass	\$ 50.00	\$ 100.00	\$ 200.00
Contractors Licensing			
Expired License	\$ 200.00	\$ 400.00	\$ 600.00
No License	\$ 500.00	\$1,000.00	\$1,500.00
Expired Insurance	\$ 200.00	\$ 400.00	\$ 600.00
No Insurance	\$ 500.00	\$1,000.00	\$1,500.00
Mobile Food Units and Pushcarts	\$ 200.00	\$ 400.00	\$ 600.00

3. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

4. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

5. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on November 5, 2019, and given final reading on November 19, 2019, and said Ordinance shall be in full force and effective on January 1, 2020, upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: November 19, 2019

APPROVED: Bruce Wilkerson
Mayor, Chairman of Board of Commissioners

ATTEST: Ashley Jackson
City Clerk

SPONSORED BY: Jeffery B. Meisel, City Manager, 10/22/2019, 9:00 a.m.