

ORDINANCE NO. 2018 - 15

**AN ORDINANCE AMENDING THE SEARCY CODE OF ORDINANCES;
AMENDING CHAPTER 17 OF THE SEARCY CODE OF ORDINANCES;
PROVIDING FOR BUSINESS LICENSING FOR CERTAIN OUTDOOR
AND MOBILE VENDORS; DECLARING AN EMERGENCY; AND FOR
OTHER PURPOSES**

WHEREAS, the City of Searcy wished to provide for the business licensing and to provide certain exceptions from the Arkansas Fire Prevention and Building Codes to permit the operation of certain outdoor and mobile vendors within the City of Searcy; and

WHEREAS, in light of the need for these changes, and the need to provide the residents of the City of Searcy with dining and other options not associated with brick and mortar retail and commercial facilities, the Searcy City Council declares that an emergency exists and that the need to provide for the public peace, health, safety and welfare dictates that the provisions of this ordinance shall be in full force and effect from and after its adoption.

NOW, THEREFORE, be it ordained by the City Council of the City of Searcy, Arkansas, to wit:

Section 1. The Code of Ordinances of the City of Searcy, Arkansas, is hereby amended by adding certain section to Chapter 17 of the said code, which said section shall read as follows:

“Section 17-20 – The Operation and Licensing of Certain Outdoor and Mobile Food Vendors.

Sec. 17-20-1 Definitions: The following words and phrases shall have the following meanings for the purposes of this Section:

- A. Mobile Food Establishment– a food establishment preparing and/or serving foods from a self-contained vehicle either motorized or within a trailer that is readily movable without disassembling for transport to another location. Mobile food establishment may serve as a conveyance for outdoor vending at a fixed location and may be a mobile cart, stationary cart, pedal cart, trailer, van, portable building, or similar chassis with or without an engine.
- B. Mobile Food Vendor – any person or persons who operate or sell food from a mobile food establishment.
- C. Mobile Outdoor Vending - exhibiting, displaying, selling or offering for sale any goods, wares or merchandise from a conveyance

at a fixed location on public or private property.

- D. Mobile Outdoor Vendor - a person that exhibits, displays, sells or offers for sale any goods, wares or merchandise from a conveyance at a fixed location. This definition does not include a door-to-door solicitor, mobile food vending, children’s lemonade stands or homeowners having garage sales.
- E. Fixed Location 6 month – a vendor occupying a location for a period of 6 months or less.
- F. Fixed Location 12 month – a vendor occupying a location for a period of 6 months to 12 months.
- G. Temporary – a vendor occupying a location for 7 days or less.
- H. Roving Mobile Vendor – a vendor traveling constantly without a fixed destination

Sec. 17-20-2 Fee Schedule: Each application for the issuance of a business license under this Section shall be accompanied by a fee, as designated below. A fixed mobile vendor must operate at the location(s) specified on the application. Each additional location will be charged a fee of \$10.

Fixed location 6 months	Fixed location 12 months	Roving Mobile Vendor	Temporary
\$50	\$100	\$250	\$10
Multiple locations for Fixed Vendor- \$10 per location			

Sec. 17-20-3 Zoning Districts: Mobile vendors and mobile food vendors shall be allowed as indicated in the following zoning districts in compliance with the Zoning Code.

Permitted Uses	R-1	R-2	R-3	R-4	R-AH	C-1	C-2	C-3	C-4	I-1	I-2	U-T
Fixed Vendor						P	P	P	P	P	P	
Temporary Vendor						P	P	P	P	P	P	
Roving Mobile Vendor	P	P	P	P	P	P	P	P	P	P	P	P

P = Permitted

Sec. 17-20-4. Mobile Vendor Permit Requirements. Mobile vendors and mobile food vendors shall be subject to the following regulations:

- A. Mobile fixed vendors/mobile food vendors are permitted in the C-1, C-2, C-3, C-4, I-1, and I-2 zoning districts by right and on city owned properties zoned U-T with approval from the Mayor or his designee.
- B. Roving Mobile Vendors are permitted in all zoning districts.
- C. Mobile vendors/mobile food vendors shall not operate within City street rights of way, City parks, or other public properties without first securing an agreement with the Mayor or his designee.
- D. Mobile vendors/mobile food vendors must locate on a paved surface or approved parking area.
- E. A valid copy of all necessary permits required by state and county health authorities. All permits shall be conspicuously displayed at all times during operation of the business.
- F. A picture of the mobile food establishment.
- G. A picture of the applicant, between 2 to 3 inches in size, to be attached to the final approved mobile vending permit.
- H. Valid driver's license and proof of insurance.
- I. Authorization by the property owner or legal representative of record, stating that the mobile vendor is permitted to operate on the subject property for a specified period of time. For the purposes of this authorization, an electronic writing may suffice, at the discretion of the Mayor or his designee.
- J. A site plan roughly drawn to scale showing the location of the property lines, building setback lines, vehicle parking spaces, the sidewalk location and any proposed dining or sitting areas.
- K. All mobile food vendors shall provide garbage receptacles for customer use.
- L. The mobile vendor has the responsibility to dispose of all wastes in accordance with all applicable laws.
- M. Account set up with Searcy Sanitation to dispose of trash. The Sanitation department will provide the vendor with a list of acceptable disposal locations, subject to the following:
 - i. Roving Mobile Vendors and Temporary Vendors are not required

to have an account; however, vendors are still responsible for the disposal of any solid waste or trash.

- ii. Fixed vendors are required to have an account set up with Searcy Sanitation. The business license shall be subject to termination should the sanitation bill be delinquent for nonpayment for more than thirty (30) days.
- N. A permanent wastewater connection is prohibited.
- O. All utility hookups must be approved by the City and be in conformance with all applicable state and local codes.
- P. The mobile vendor permit issued shall not be transferable in any manner.
- Q. The mobile vendor permit issued shall be conspicuously displayed at all times during the operation of the mobile vending business.
- R. Mobile vendors/mobile food vendors shall not locate in fire lanes, block the ingress/egress to the area, cause traffic hazards, block sidewalks, streets, alleys, or any other public place or by causing people to congregate at or near the place where food or merchandise is being sold or offered for sale.
- S. During business hours and at the conclusion of business activities at a given location, the mobile vendor shall clean the area around the mobile vending establishment of all trash, litter, and debris.
- T. Signage is limited to signs attached flat to the exterior of the mobile vending structure of equipment. Must conform to sign ordinance provided in the Zoning Code and applicable set back or right-of-way restrictions.
- U. Mobile food establishments must meet the following conditions in order to pass inspection by Fire Department:
- i. The vendor must have a 10lb ABC fire extinguisher mounted inside the vehicle with a current service tag. If the vendor uses grease laden vapors then an additional Class K fire extinguisher is required.
 - ii. LP tanks must be secured to the mobile food establishment.
 - iii. Mobile food establishment cannot be located within 10ft of a permanent structure if truck has any apparatus designed to combust

any inflammable fuel

- iv. Hood suppression system over cooking surface that produces grease laden vapors.
- v. Or any other applicable fire codes.

Sec. 17-20-5 Temporary Mobile Vendors. Mobile vendors and mobile food vendors who wish to apply for a permit with the City of Searcy on a temporary basis, may apply for a Temporary Mobile Vendor Permit. All temporary permits issued shall be valid only for the time period established on the permit, not to exceed 7 days, and are required to meet the same conditions listed above.

Sec. 17-20-6 Sidewalk Café Requirements. Public rights-of-way are designed for free and unobstructed travel. However, the City of Searcy recognizes that certain developed and developing areas in a traditional town are unique and that certain public amenities are not inconsistent with the underlying dedication for the public right-of-way, as long as they do not impede travel or interfere with the public safety. This ordinance is designed to encourage pedestrian activity and make the urban environment more attractive. Sidewalk cafés shall meet the following requirements in order to be approved:

- A. Applicants requesting a license must provide a detailed site plan and written description illustrating the type, location and dimensions of all furniture to be placed in the public right-of-way. Sidewalk cafés may not be enclosed by fixed walls or other permanent structures.
- B. Sidewalk cafés must be open to the air, except that an awning or canopy conforming to requirements established by the Unified Development Code and Building Code may be constructed over the sidewalk café. In order to provide sufficient pedestrian clearance, umbrellas must have 7 feet of free and clear space from the sidewalk surface to the lower edge of the umbrella.
- C. Property shall be kept clean and free of refuse with no permanent trash containers placed on the premises.
- D. All furnishings and fixtures must be of a temporary nature
- E. For sidewalk cafés using city right-of-way for operation, there shall be a minimum of 5 feet or 50% of the total sidewalk width for clearance, whichever is greater, to provide adequate and unobstructed pedestrian movement.

- F. If at any time the sidewalk café is determined to impede travel or interfere with the public safety, as determined by the Code Enforcement office, the sidewalk café shall be modified or removed.
- G. One A-frame sandwich/menu board is permitted within the sidewalk cafés' border during hours of operation, subject to the applicable regulations in Chapter 20: Signs

Sec. 17-20-7. Exemptions. The following activities, businesses, and/or persons, as such are commonly known, shall be exempt from mobile vendor/mobile food vendor regulations. However, this exemption shall not be construed to limit or restrict the application of other laws and regulations pertaining to such activities, businesses and/or persons:

- A. Newspaper couriers.
- B. Youth lemonade stands and similar uses.
- C. Stands used to sell or distribute flowers, fruit, vegetables, produce, or plants grown in White County
- D. Delivery or distribution of food, goods or products ordered or purchased by customers from a point of sale other than a mobile vendor/mobile food vendor.
- E. Delivery or distribution of food by or for any not-for-profit organization, governmental agency, or other charitable organization.
- F. Any City sponsored or Main Street Searcy organized event

Sec. 17-20-8. Parking. In no instance, with the exception of special events, may the mobile vendor/ mobile food vendor reduce the number of available parking spaces below the minimum required for the primary business or other businesses on that same lot.

Sec. 17-20-9. Enforcement; Revocation of Permit. Failure to comply with any provisions of this ordinance that result in the finding by a court of competent jurisdiction, after the issuance of a citation of a violation of this ordinance, as follows:

- **First Violation:** \$50 fine within a 12 month period.
- **Second violation:** \$100 fine within a 12 month period.
- **Third violation:** within a 12 month period

Upon a third violation, the City shall revoke any permit and no application for

such a permit may be considered from an applicant, or a principal of the said applicant for a period of twelve (12) months from and after the date of any such revocation.

Section 3. The provisions of this ordinance are separable and, upon any finding that any provision of this ordinance is unenforceable, the remaining provision shall be enforceable according to their terms.

Section 4. Emergency Clause. The need to provide for the continued orderly use and development of mobile food and other vendors within the City of Searcy, having been determined to be an emergency, and to provide for the public peace, health, safety and welfare, this ordinance shall be in full force and effect from and after its passage.

Adopted this 8th day of May, 2018.

The City of Searcy, Arkansas:

/s/ David Morris
Mayor of Searcy

Attest:

/s/ Jerry Morris
City Clerk-Treasurer