

ORDINANCE NO. 2021 - 38

AN ORDINANCE AMENDING THE SEARCY CODE OF ORDINANCES;
AMENDING THE PROCEDURES FOR CERTAIN MOBILE VENDORS
WITHIN THE CITY OF SEARCY; AND FOR OTHER PURPOSES.

WHEREAS, the Searcy City Council has received reports from the Searcy Inspection Department in connection with the operation of certain mobile vendors within the City of Searcy; and

WHEREAS, the City of Searcy is authorized to administer regulations concerning certain operations of businesses within the City of Searcy; and

WHEREAS, the Searcy City Council has reviewed the existing structure for regulation of the operation of certain mobile vendors within the City of Searcy;

NOW, THEREFORE, be it ordained by the Searcy City Council, meeting in regular session, that:

Section 1. Section 17-20 of the Code of Ordinances of the City of Searcy, Arkansas, is hereby amended to read as follows:

“Sec. 17-20 The Operation and Permitting of Certain Mobile Vendors 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 Vendor – any person or persons who operate or sell food from a mobile food setting.
- B. Mobile Vendor – a person that exhibits, displays, sells or offers for sale any goods, wares or merchandise from a mobile setting. This definition does not include a door-to-door solicitor or mobile food vendors .
- C. Yearly Mobile Vendor, Mobile Food Vendor or Roving Mobile Food Vendor – Permitted to operate during a calendar year.
- D. Temporary Mobile Vendor , Mobile Food Vendor or Roving Mobile Food Vendor – Permitted to operate for a specified consecutive 7 days or less.
- E.. Roving Mobile Food Vendor – a vendor traveling without a fixed destination

Sec. 17-20-2 Fee Schedule: Each application for the issuance of a Mobil Vendor permit under this Section shall be accompanied by a fee, as designated below.

- A. Yearly mobile vendor, Mobile Food Vendor, or Roving Mobile Food Vendor \$100
- B. Temporary Mobile Vendor, Mobile Food Vendor or Roving Mobile Food Vendor \$25

Sec. 17-20-3 Zoning Districts: Mobile vendors, mobile food vendors and roving 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
Yearly Vendor or Mobile Food Vendor						P	P	P	P	P	P	
Temporary Mobile Vendor or Mobile Food Vendor						P	P	P	P	P	P	
Roving Mobile Food Vendor	P	P	P	P	P	P	P	P	P	P	P	P

P = Permitted

No vendor of any sort may operate within the street rights-of-way of the City of Searcy, within City parks or upon any public property without first securing a separate agreement with the Mayor or his designee.

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

- A. Mobile 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 Food Vendors are permitted in all zoning districts.
- C. Mobile vendors, mobile food vendors, or roving mobile food vendors shall not operate within fire lanes, block the ingress or 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.

- D. Mobile vendors/mobile food vendors must locate on a dust-free approved surface or approved parking area.
- E. Mobile Vendors and Mobile Food Vendors must have the following conspicuously displayed at all times during operation of the business:
 - 1. Authorization by the property owner or legal representative of the property owner, stating that the vendor is permitted to operate on the relevant property for the specified time.
 - 2. A valid copy of all permits required by state and county health authorities.
 - 3. A valid copy of the vendor's permit issued by the City.
 - 4. A valid driver's license.
 - 5. Proof of insurance if occupying a public or City owned property.
- F. All mobile food vendors shall provide garbage receptacles for customer use.
- G. The mobile vendor has the responsibility to dispose of all wastes in accordance with all applicable laws. **VENDORS SHALL NOT UTILIZE DUMPSTERS OF OTHER EXISTING BUSINESSES WITHOUT PERMISSION.**
- H. During business hours and at the conclusion of business activities at a given location, the vendor shall clean the area around the mobile setting of all trash, litter and debris.
- I. A permanent wastewater connection is prohibited.
- J. All utility hookups must be approved by the City and be in conformance with all applicable state and local codes.
- K. The mobile vendor permit issued shall not be transferable in any manner.
- L. All signage must conform to sign ordinance provided in the Zoning Code and applicable set back or right-of-way restrictions.
- M. Mobile food vendor establishments must meet the following conditions in order to pass inspection by Fire Department:
 - 1. 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.

2. LP tanks must be secured to the mobile food establishment.
3. Mobile food establishment cannot be located within 10ft of a permanent structure if truck has any apparatus designed to combust any inflammable fuel
4. Hood suppression system over cooking surface that produces grease laden vapors.
5. Or any other applicable fire codes.

Sec. 17-20-5 Temporary Mobile Vendors, Mobile Food Vendors and Roving Mobile Food Vendors 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 or goods by or for any not-for-profit organization whose status has been confirmed by the City, 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:

- A. First Violation – \$100 fine within any twelve (12) month period
- B. Second Violation -- \$250 fine for the second violation within a 12 month period
- C. Third Violation -- \$500 fine for the 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 2. The provision of this ordinance are separable and, upon any finding that any provision of this ordinance is unenforceable, the remaining provision or provisions shall be enforceable according to their terms.

Section 3. All ordinances, resolution or other acts of the City in conflict with the terms hereof are repealed to the extent of any such conflict; provided, however, that no other section of Chapter 17 of the Searcy Code of Ordinances shall be deemed to be modified, altered, or amended except as otherwise specifically set forth herein.

Emergency Clause. The Searcy City Council has determined that an emergency exists and that the immediate adoption and enforcement of this ordinance being necessary for the public peace, health, safety and welfare, the provisions hereof shall be in full force and effect from and after its passage.

PASSED AND ADOPTED this 14th day of December, 2021.

/s/ Kyle Osborne
Mayor of Searcy

Attest:

/s/ Jerry Morris
City Clerk