ORDINANCE NO. 13-16

CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND THE CITY OF SOUTH LYON CODE OF ORDINANCES, CHAPTER 22 – BUSINESSES, TO ADD ARTICLE IX - MOBILE FOOD VENDING, SECTIONS 22-231 THROUGH 22-279, SETTING FORTH REGULATIONS CONCERNING THE LICENSING AND OPERATIONS OF MOBILE FOOD VENDING UNITS AND MOBILE FOOD VENDORS

THE CITY OF SOUTH LYON ORDAINS:

PART I. Amendment to Chapter 22. Chapter 22– Businesses, is amended to add the following Article IX - Mobile Food Vending, Sections 22-231 through 22-279 as follows:

ARTICLE IX. - MOBILE FOOD VENDING.

DIVISION 1 - Generally.

Sec. 22-231. – Intent.

(a) To provide for the regulation of mobile food vendors and mobile food vending operations and activities.

(b) To allow mobile food vendors an opportunity to operate in the City of South Lyon on designated public property and on private property in the B-2 and B-3 districts subject to these regulations.

(c) To offer a variety of food for sale through mobile food vendors for consumption by the public.

(d) To ensure the highest quality offerings of food for sale to the public.

(e) To ensure that mobile food vendors add to the vibrancy, vitality, desirability, and aesthetic appeal of the City.

(f) To balance the interests of existing food establishments and other businesses in the City, residents, and mobile food vendors, and the public desiring additional options for food service in the City of South Lyon.

(g) To ensure mobile food vendors meet all applicable federal, state, county and local laws, ordinances, and health codes.

(h) To protect the public health safety and welfare.

Sec. 22-232. – Definitions.

(a) Mobile Food Vending shall mean vending, serving, or offering for sale food and/or beverages from a mobile food vending unit which meets the definition of a Food Service Establishment under Public Act 92 of 2000, including a mobile food establishment.

(b) Mobile Food Vending Unit shall mean any motorized or non-motorized vehicle, trailer, cart, stand, or other device designed to be portable and not permanently attached to the ground from which food is vended, served, or offered for sale.

(c) Vendor shall mean any individual engaged in mobile food vending; if more than one individual is operating a single stand, cart or other means of conveyance, then vendor shall mean all individuals operating such single stand, cart or other means of conveyance.

(d) Operate shall mean all activities associated with the conduct of business of a mobile food vending unit, including set up and take down and/or actual hours where the mobile food vending unit is open for business.

(e) City shall mean the City of South Lyon.

Sec. 22-233. – Permit required.

No person shall engage in mobile food vending without first obtaining a license from the City authorizing mobile food vending and obtaining required licenses or permits required by state or local laws and codes. A private property owner shall not allow mobile food vending on its site without first obtaining a mobile food vending sponsor license from the City Clerk. The City Clerk shall prescribe the forms of such licenses and applications for such licenses.

Sec. 22-234. – Exemptions.

(a) A person exempt from the licensing requirements of this ordinance under state or federal law.

(b) A person engaging in mobile food vending at a farmers market, special event, festival, block party, or other event approved and permitted by the City of South Lyon.

Sec. 22-235 through 22-240 - Reserved.

DIVISION 2 - Mobile Food Vendor License

Sec. 22-241. – Application.

(a) A person desiring to engage in mobile food vending in the City must submit to the City Clerk the required non-refundable application fee along with a written, sworn application, signed by the applicant, if an individual, or if a business entity, by a person with authority on behalf of a business entity, on a form to be furnished by the City Clerk, which shall contain the following information:

(1) The applicant's full legal name, date of birth, current address, telephone number and email address, and a copy of the individual's driver's license, operator's license or state identification card with photograph, or other photograph identification acceptable to the City.

(2) If the applicant is not an individual person, the applicant shall provide a list of all individuals who will be vending on its behalf, including each individual's full legal name, date of birth, current address, telephone number, and a copy of the individual's driver's license, operator's license or state identification card with photograph, or other photograph identification acceptable to the City, and relationship to the applicant.

(3) The name under which the mobile food vendor will be doing business.

(4) A description of food and beverages to be offered for sale from the mobile food vending unit.

(5) A description and photograph of the mobile food vending unit, including height, width and length dimensions.

(6) The proposed location(s) at which the applicant proposes and intends to engage in mobile food vending.

(7) Proposed hours of operation, by date as applicable.

(8) Copies of county health department mobile food establishment permit/license, and/or other permits/licenses.

(9) A description of the heating sources and cooking equipment contained in the mobile food vending unit.

(10) A description of the sanitation and hand-washing equipment in the mobile food vending unit.

(11) A description of how and where waste water or grey water utilized or generated in the operation of the mobile food vending unit will be disposed.

(12) A description of how and where waste, garbage, trash, refuse, litter, and debris generated in the operation of the mobile food vending unit will be disposed.

(13) A description of any sources of electricity, water, or other utilities and whether such are self-contained in the mobile food vending unit.

(14) A statement whether external electrical power or other utilities are needed, and if so, a description of such utilities and how they will be provided and written consent from the property owner from whom the utilities will be obtained.

(15) If the mobile food vending unit is a licensed motor vehicle, proof of vehicle registration with the State of Michigan and proof of motor vehicle or other

applicable insurance for the unit in an amount meeting State of Michigan minimum requirements.

(16) Proof of a comprehensive general liability policy written on an occurrence basis having policy limits of no less than $1,000,000 per occurrence. A certificate of insurance naming the City as an additional insured shall be filed by the licensee with the approved application. The certificate shall provide that the City will receive 30 days written notice of cancellation or non-renewal.

(17) Signed indemnity and hold harmless agreement.

(18) A statement whether the applicant has ever had a mobile food vendor or similar food vending license or permit denied, revoked or suspended, and if so, the date, the jurisdiction and a statement of the reasons for the action.

(19) A statement as to whether or not the applicant, or any person listed on the application who may be vending on applicant's behalf, has been convicted of a crime, and, if so, the nature of the offense.

(20) Any other information or documentation requested by the City Clerk.

(b) Any change in the information provided in the application shall be provided to the City Clerk within ten (10) calendar days of any such change.

Sec. 22-242 - Investigation.

Upon receipt of an application for a mobile food vendor license, an investigation of the applicant shall be conducted for the protection of the public good which may include, but is not limited to, a review of the applicant's background (including other listed individuals), an inspection of the mobile food vending unit and proposed operation locations, a review of the completeness of the application and its compliance with applicable laws, regulations and requirements.

Sec. 22-243. – Fees.

(a) Application Fee. An application for a mobile food vending license shall be accompanied by the required application fee in an amount established by City Council resolution which shall be non-refundable.

(b) License Fee. Each applicant to whom a license is granted shall pay a nonrefundable license fee in an amount established by City Council resolution.

(c) There shall be no proration of fees.

(d) No license fee shall be charged to any honorably discharged veteran of the United States military who is a resident of the State of Michigan and submits official documentation evidencing such to the City Clerk.

Sec. 22-244. – License duration.

Mobile food vendor licenses issued by the City Clerk shall be valid for six (6) calendar months and shall be issued and valid for either the period April 1 to October 31 or November 1 to March 31 unless otherwise revoked or suspended.

Sec. 22-245. – License non-transferable; non-assignable.

Mobile food vendor licenses are not transferable or assignable.

Sec. 22-246. – License display.

A mobile food vendor license issued to a mobile food vendor shall be displayed on the mobile vending unit so licensed and shall be produced upon request of any law enforcement officer, City code inspector, county health inspector, or authorized individual or entity. Any required health code permits, licenses, or certificates, including health inspection certificates, shall also be displayed on the mobile vending unit.

Sec. 22-247. – License denial.

(a) Any application may be denied for any of the following reasons:

(1) Incomplete application.

(2) Failure to pay the required fees.

(3) Fraud, misrepresentation, or false statement contained in the application.

(4) Failure to comply with or a violation of applicable federal, state and local laws, ordinances and health codes.

(5) Failure to comply with or a violation of the provisions of this ordinance.

(6) Operating a mobile food vending unit or engaging in mobile food vending contrary to or in violation of conditions of the mobile food vendor license.

(7) Operating a mobile food vending unit or engaging in mobile food vending in a manner which creates a public nuisance or constitutes a danger to the public health, safety and welfare.

(8) Having a mobile food vendor license revoked or suspended within the previous year.

(9) Recommendation for denial from City department heads or staff, including Police Chief, Fire Chief, and Building Official or their designees.

(10) Failure to comply with or a violation of applicable fire department and fire code requirements.

(11) Conviction of an offense that may jeopardize the public health, safety and welfare.

(12) Prior conduct or a history of conduct which may be detrimental to the public health, safety and welfare.

(13) Other reasons necessary to protect the public health, safety and welfare consistent with the purposes of this ordinance.

(b) If an application is denied, the City Clerk shall provide the applicant written notice by personal service or by first class mail at the address listed in the application stating the reasons for the denial.

(c) An applicant who is denied a mobile food vending license may appeal to the City Council by filing a written notice of appeal with the City Clerk within 14 days after the date of the written notice of the denial was issued. The City Council shall hear and determine the appeal and its decision shall be final.

Sec. 22-248. - License suspension or revocation.

(a) A license may be suspended or revoked for a period up to one (1) year any of the following reasons:

(1) Fraud, misrepresentation, or false statement contained in the application.

(2) Failure to comply with or a violation of applicable federal, state and local laws, ordinances and health codes.

(3) Failure to comply with or a violation of the provisions of this ordinance.

(4) Operating a mobile food vending unit or engaging in mobile food vending contrary to or in violation of conditions of the mobile food vending license.

(5) Operating a mobile food vending unit or engaging in mobile food vending in a manner which creates a public nuisance or constitutes a danger to the public health, safety and welfare.

(6) Having a mobile food vendor license issued revoked or suspended within the previous year.

(7) Failure to comply with or a violation of applicable fire department and fire code requirements.

(8) Conviction of an offense that may jeopardize the public health, safety and welfare.

(9) Prior conduct or history of conduct which may be detrimental to the public health, safety and welfare.

(10) Other reasons necessary to protect the public health, safety and welfare consistent with the purposes of this ordinance.

(b) In determining an appropriate administrative sanction, the City Manager or his or her designee may consider the following factors: nature and timing of prior warnings; date(s) of violation; previous violations; duration of license; complaints; investment in business; circumstances of the violation; punishment imposed for previous violations; cooperation with City officials; and other aggravating or mitigating circumstances directly relating to any violation. If the City Manager or his or her designee determines that a license should be revoked or suspended, the City Manager or his or her designee shall provide the licensee written notice by personal service or by first class mail at the address listed in the application stating the action taken and the reasons for the action.

(c) A licensee whose mobile food vending license is suspended or revoked may appeal to the City Council by filing a written notice of appeal with the City Clerk within 14 days after the date of the written notice of action was issued. The City Council shall hear and determine the appeal and its decision shall be final.

(d) It shall be unlawful for any person to engage in mobile food vending or operate a mobile food vending unit while the mobile food vendor license is suspended or revoked. No license which has been suspended or revoked shall be reinstated until the required reinstatement fee has been paid.

Sec. 22-249. – Requirements and operational regulations.

Mobile food vendors, mobile food vending units, and mobile food vending shall comply with the following requirements and regulations:

(a) If on public or City-owned or controlled property, the mobile food vendor may only locate and operate on such property as designated in a resolution adopted by City Council for mobile food vending operations.

(b) If located on a public street in designated areas and spaces, vendors shall conform to and comply with all applicable parking regulations.

(c) If located on a public street, food service shall be provided on the non-driving lane side of the mobile food vending unit.

(d) If on private property zoned B-2 Central Business District or B-3 General Business District, the mobile food vendor may only locate the mobile food vending unit and operate at the location on the site designated and approved in the sponsor's license.

(e) If operating on private property zoned B-2 Central Business District or B-3 General Business District, ensure that the private property owner has provided the vendor with written permission to operate on the private property on the applicable date(s) including hours of operation, and ensure that the private property owner has also obtained a mobile food vending sponsor license from the City, and the vendor may operate only at and on the locations designated and approved in the sponsor's license.

(f) A mobile food vending unit and its operations shall not block or impair vehicular or pedestrian travel.

(g) Mobile food vending is prohibited in residential zones, except pursuant to a special event permit or other City approval.

(h) A mobile food vending unit shall not operate within 500 feet of a farmers market, block party, street fair, public festival, or special event approved by the City without the written consent of the event permit holder or sponsor.

(i) Mobile food vending operations shall be permitted during the hours of 7 a.m. and 11 p.m. unless other hours are designated in a mobile food vendor license, as permitted for mobile food vending operations on a sponsor site consistent with the sponsor's hours of business and applicable licenses, or as otherwise provided for in writing by the City Manager.

(j) No mobile food vending unit may be left unattended for more than two (2) hours; and any mobile food vending unit not in operation shall be removed between the hours of 11 p.m. and 7 a.m.

(k) No food shall be prepared, sold, or displayed outside of the mobile food vending unit except as permitted pursuant to a County Health Department permit, license or approval.

(l) No outdoor cooking facilities, including grills, not contained in the mobile food vending unit are permitted.

(m) Waste receptacles must be provided and all trash, garbage, refuse, litter, debris and all other waste attributable to the mobile food vending operations must be removed and properly disposed of at the end of the hours of operation each day. Trash and waste from mobile food vending operations may not be disposed of in public and City-owned waste receptacles.

(n) Tables, chairs, benches, umbrellas or other seating or dining equipment or items are prohibited.

(o) All power sources must be self-contained and no electric or power cables or utilities equipment shall be extended to cross any public street, alley or sidewalk unless approved in the permit.

(p) All materials and supplies related to the mobile food vending operation must be stored in the mobile food vending unit.

(q) A mobile food vendor may have one portable sign that is no more than six square feet in area or a sandwich board sign with two faces that are no more than six square feet in area. The portable sign must be located within five feet of the unit. Under no circumstances shall such sign be placed upon the sidewalk or impede pedestrian and/or vehicle traffic and/or safety.

(r) Flashing, blinking or strobe lights are prohibited. All exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward.

(s) Loud music, amplification devices and other audible methods to gain attention which causes a disruption or safety hazard as determined by the City are prohibited. All noises and sounds from and created by the mobile food vending unit must comply with the City noise ordinance. Unreasonable or excessive noise is prohibited.

(t) Mobile food vending units and operations must comply with the City's noise ordinance, sign ordinance, and all other City ordinances.

(u) Mobile food vending units and operations must comply with all applicable federal, state and county laws, regulations and codes.

(v) A licensed mobile food vendor, shall, to the fullest extent permitted by law, indemnify, hold harmless and defend the City, its elected officials, officers, employees, agents and insurers from and against any liability, claims, losses, costs, and expenses and attorneys fees arising from the vendor's use of public or city-owned or city-controlled property and its mobile food vending unit and operations.

(w) A licensed mobile food vendor shall obtain and maintain during the term of the license a comprehensive general liability policy written on an occurrence basis having policy limits of no less than $1,000,000 per occurrence. A certificate of insurance naming the City as an additional insured shall be filed by the licensee with the approved application. The certificate shall provide that the City will receive 30 days written notice of cancellation or non-renewal.

Sec. 22-250. – Impoundment.

Any mobile food vending unit and/or equipment not in compliance with this ordinance or left unattended on public, city-owned or city-controlled property may be ticketed and impounded at the owner's and/or vendor's expense.

Sec. 22-251. – Other permits and licenses.

A license obtained under this ordinance shall not relieve a person of the responsibility for obtaining any other licenses, approvals, or authorizations required by any other ordinance, statute, code or regulation.

Sec. 22-252 through 22-260. Reserved.

DIVISION 3 - Mobile Food Vending Sponsor License.

Sec. 22-261. - Application.

An owner of private property in the B-2 Central Business district or B-3 General Business district desiring to obtain a license to allow a licensed mobile food vendor to operate on its site must submit to the City Clerk the required non-refundable application fee along with a written, sworn application, signed by the owner, if an individual, or if a business entity, by a person with authority on behalf of a business entity, on a form to be furnished by the City Clerk, which shall contain the following information:

(a) The applicant's name, current address and date of birth.

(b) Property address.

(c) Zoning district.

(d) Sketch plan of proposed location for a licensed mobile food vending unit.

(e) Proposed hours of operation, including days and frequency of operations.

(f) A description of how and where waste, garbage, refuse, litter, and other debris from the mobile food vending operation will be disposed of and whether it will be disposed of on the sponsor's site.

(g) A description of how and where grey or waste water from the mobile food vending operation and unit will be disposed of and whether it will be disposed of on the sponsor's site.

(h) A description of any electric, water or sanitary sewer utilities or services that will be provided to the unit by the property owner.

(i) Proof of a comprehensive general liability policy written on an occurrence basis having policy limits of no less than $1,000,000 per occurrence. A certificate of insurance naming the City as an additional insured shall be filed by the licensee with the approved application. The certificate shall provide that the City will receive 30 days written notice of cancellation or non-renewal.

(j) Signed indemnity and hold harmless agreement.

(k) Any other information or documentation requested by the City Clerk.

(l) Any change in the information provided in the application shall be provided to the City Clerk within ten (10) calendar days of any such change.

Sec. 22-262. – Fees.

(a) Application Fee. An application for a mobile food vending sponsor license shall be accompanied by the required application fee in an amount established by City Council resolution which shall be non-refundable.

(b) License Fee. Each applicant to whom a license is granted shall pay a nonrefundable license fee in an amount established by City Council resolution.

(c) There shall be no proration of fees.

Sec. 22-263. – License duration.

Mobile food vending sponsor licenses issued by the City Clerk shall be valid for twelve (12) calendar months from April 1 to March 31, unless otherwise revoked or suspended.

Sec. 22-264. – License non-transferable; non-assignable.

Mobile food vending sponsor licenses are not transferable or assignable.

Sec. 22-265. – License denial.

(a) Any application may be denied for any of the following reasons:

(1) Incomplete application.

(2) Failure to pay the required fees.

(3) Fraud, misrepresentation, or false statement contained in the application.

(4) Failure to comply with or a violation of applicable federal, state and local laws, ordinances and health codes.

(5) Failure to comply with or a violation of the provisions of this ordinance.

(6) Allowing mobile food vending on the site contrary to or in violation of this ordinance or the conditions of the mobile food vendor license or the mobile food vending sponsor license.

(7) Allowing mobile food vending on the site in a manner which creates a public nuisance or constitutes a danger to the public health, safety and welfare.

(8) Having a mobile food vending sponsor license revoked or suspended within the previous year.

(9) Recommendation for denial from City department heads or staff, including Police Chief, Fire Chief, and Building Official or their designees.

(10) Failure to comply with applicable fire department and fire code requirements.

(11) Failure to meet minimum parking requirements.

(12) Failure to meet applicable zoning requirements.

(13) Conviction of an offense that may jeopardize the public health, safety and welfare.

(14) Prior conduct or history of conduct which may be detrimental to the public health, safety and welfare.

(15) Other reasons necessary to protect the public health, safety and welfare consistent with the purposes of this ordinance.

(b) If an application is denied, the City shall provide the applicant written notice by personal service or by first class mail at the address listed in the application stating the reasons for the denial.

(d) It shall be unlawful for a sponsor to allow mobile food vending on its property while the mobile food vending sponsor license is suspended or revoked. No sponsor license which has been suspended or revoked shall be reinstated until the required reinstatement fee has been paid.

Sec. 22-267. – Requirements and operational regulations.

Mobile food vending sponsors shall comply with the following requirements and regulations:

(a) A sponsor must provide a licensed mobile food vendor with written permission to operate on the sponsor's property specifying the dates and hours of operation permitted by the sponsor.

(b) If operating on a sponsor's property within a B-2 or B-3 zoning district, a mobile food vending unit may only locate and operate at the approved location(s) designated in the mobile food vending sponsor license.

(c) Only one mobile food vending unit may operate on a sponsor property at a time unless approved through a special event permit.

(d) A mobile food vending unit shall not be located in or operate in a parking space required to meet the property's minimum parking requirement.

(e) Comply with applicable fire department and fire code requirements.

(f) A mobile food vending unit shall not block or impede vehicular or pedestrian traffic or movement on the sponsor property.

(g) A mobile food vending unit may not operate beyond the business hours of operation on the sponsor property unless approved by the City.

(h) Comply with the City's noise ordinance, sign ordinance, and all other City ordinances.

(i) Comply with all applicable federal, state and county laws, regulations and codes.

(j) A licensed mobile food vendor, shall, to the fullest extent permitted by law, indemnify, hold harmless and defend the City, its elected officials, officers, employees, agents and insurers from and against any liability, claims, losses, costs, and expenses and attorneys fees arising from the vendor's use of public or city-owned or city-controlled property and its mobile food vending operations.

(k) A licensed mobile food vendor shall obtain and maintain during the term of the license a comprehensive general liability policy written on an occurrence basis having policy limits of no less than $1,000,000 per occurrence. A certificate of insurance naming the City as an additional insured shall be filed by the licensee with the approved application. The certificate shall provide that the City will receive 30 days written notice of cancellation or non-renewal.

(l) A mobile food vending sponsor shall be responsible for and ensure that a mobile food vendor and/or mobile food vending unit operating on its property complies with all requirements of this ordinance and the vendor's license while located or operating on sponsor's property.

Sec. 22-268 through 22-270. Reserved.

DIVISION 4 - Enforcement.

Sec. 22-271. – Municipal civil infractions.

A person who violates any provision of this ordinance is responsible for a municipal civil infraction and upon a determination of responsibility thereto shall be punished as provided for in Section 1-14 of this Code. Each day a violation exists and continues shall constitute a separate offense.

Sec. 22-272 through 22-279. Reserved.

PART IV. Severability. Should any division, section, subsection, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART V. Savings Clause. The amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance.

PART VI. Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART VII. Effective Date; Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

Made, Passed and Adopted by the South Lyon City Council this 28 day of March, 2016.

John Galeas, Jr., Mayor

Lisa Deaton, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the South Lyon City Council held on the 28 day of March, 2016.

Lisa Deaton

Lisa Deaton, City Clerk

Adopted: 3/28/16
Published: 4/7/16
Effective: 4/21/16

mobile food vending ordinance - 2016-03-08.docx