

ORDINANCE NO. 8-13

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMEMBER Brooks Compton ON THE 15<sup>th</sup> DAY OF July, 2013.

AN ORDINANCE ESTABLISHING CHAPTER 844 "FOOD VENDING VEHICLES" OF THE CODIFIED ORDINANCES OF THE CITY OF CENTERVILLE AND REPEALING CHAPTER 836.03 "RESTRICTIONS ON STREET SALES OF FROZEN DESSERTS"

WHEREAS, the purpose of Chapter 844 is to protect the health, safety, and welfare of the citizens of Centerville; and

WHEREAS, the City had enacted Chapter 836.03 of the Codified Ordinances of Centerville, titled "Peddlers and Solicitors" to establish regulations for the sale of frozen desserts in the public right-of-way

WHEREAS, it is in the best interests of the City to provide for regulations for food vending vehicles in the public right-of-way of all types including the sale of frozen desserts; and

WHEREAS, the City Council desires to protect the residential well-being, tranquility, and privacy of its residents by implementing certain curfews for food vending vehicles in the public right-of-way within the City; and

WHEREAS, the City Council desires to protect its citizenry from crime, through the efficient use of its limited law enforcement resources, utilizing proactive policing methods, and simultaneously fulfilling its mandatory obligations to balance its budget under Ohio Revised Code §5705.39 and otherwise responsibly conserve fiscal taxpayer resources; and

WHEREAS, the City is authorized as a charter municipality to exercise all powers of local self-government;

NOW, THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1: That Chapter 836.03 "Restrictions on Street Sales of Frozen Desserts" of the Codified Ordinances of the City of Centerville be and is hereby repealed in its entirety.

Section 2: That Chapter 844 "Mobile Food Vehicle Vendors" is hereby adopted as follows:

**CHAPTER 844**  
**Mobile Food Vehicle Vendors**

**844.01 DEFINITIONS**

*As used in this chapter:*

- (a) *"City Manager" means the City Manager or his/her designee.*
- (b) *"Mobile Food Vehicle" means a commercially manufactured, self-contained, motorized, vehicle currently licensed by the Ohio Department of Motor Vehicles in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for service, sale or distribution.*
- (c) *"Temporary Use", means a short term or seasonal use intended to promote or sell specific merchandise or products and shall include, but not limited to special events, sidewalk sales, and outdoor seasonal sales.*

**844.02 GENERAL RESTRICTIONS**

- (a) *It shall be unlawful for any person to operate a Mobile Food Vehicle within the City of Centerville without first having obtained a valid mobile food vending license as prescribed in this ordinance.*
- (b) *A Mobile Food Vehicle shall be operated or parked so as not to obstruct or impede the normal movement of traffic.*
- (c) *A Mobile Food Vehicle may operate in the public right-of-way provided:*
  - 1) *A Mobile Food Vehicle shall not operate on a street designated as a Thoroughfare Street on the Centerville Thoroughfare Plan.*
  - 2) *A Mobile Food Vehicle may be operated for sales purposes between the hours of 11:00 a.m. and 8:30 p.m,*
  - 3) *A Mobile Food Vehicle shall be parked or stopped with the curb-side wheels parallel with and not more than twelve inches from the curb when food items are sold, dispensed or prepared.*
  - 4) *All items shall be sold, offered for sale or dispensed only from the right hand (curb side) of a Mobile Food Vehicle.*

- 5) *Flashing lights shall be operated continuously at all times when a Mobile Food Vehicle is parked or stopped so as to be clearly visible to drivers of other vehicles approaching such vehicle from the front or rear.*
  - 6) *Sound emanating from a Mobile Food Vehicle shall be in accordance with the Sound requirements contained in the Unified Development Ordinance (UDO) Article 9.53.*
  - 7) *A Mobile Food Vehicle shall not remain stationary in one location for longer than one (1) hour while operating for sales purposes. This restriction does not prohibit a Mobile Food Vehicle which is not open for business and operating for sales purposes from being legally parked for longer than one (1) hour. After a Mobile Food Vehicle has been stationary in one location and operating for sales purposes for a period of one (1) hour, the Mobile Food Vehicle must be moved to a location at least 100 yards from the previous location.*
- (d) *A Mobile Food Vehicle may operate on private property in accordance with all requirements of Chapter 1216, Unified Development Ordinance, Article 9.05 A 10, Mobile Food Vehicle Vendors.*

#### **844.03 LICENSE REQUIRED**

*Any person desiring to operate a Mobile Food Vehicle shall make a written application for such License to the City Manager's Office. The application for such license shall be on forms provided by the City Manager and shall include the following:*

- (a) *Name, signature and address of each applicant and each corporate officer of the Mobile Food Vehicle vending corporation.*
- (b) *A valid copy of all necessary licenses, permits or certificates required by the County of Montgomery, the State of Ohio or any subsidiary enforcement agencies or departments thereof, including, but not limited to: a valid Ohio Department of Motor Vehicle Registration and Certificate of Inspection and valid Driver's Licenses of all vehicle operators.*
- (c) *A signed statement that the vendor shall hold harmless the City and its officers and employees, and shall indemnify and hold harmless the City and its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under terms of the license. Vendor shall furnish and maintain such public liability, food products liability, and property insurance, as will protect vendor and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the license or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice served upon the City Manager. A license issued pursuant to the*

*provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with City Manager.*

- (d) All license applicants shall submit to a Centerville Police Department background check for convictions that would indicate that he or she is not a suitable licensee. A license application may be refused by the City Manager if a license applicant has a previous offense against a child or a sex offense or a drug conviction within the past seven years or an assault conviction within the past seven years or a weapons conviction within the past five years or a homicide offense.*

#### **844.04 AUTHORITY TO ISSUE LICENSE**

*The City Manager is hereby authorized to grant, issue and revoke a license to any person who desires to operate a mobile food vehicle under this chapter.*

#### **844.05 FORM AND CONDITION OF LICENSE**

*Every Mobile Food Vehicle Vending License shall contain the following conditions:*

- (a) Each Mobile Food Vehicle Vending License shall expire on April 1<sup>st</sup> of every year,*
- (b) The license shall not be transferable from person to person without written approval of the City Manager,*
- (c) The license is valid for one vehicle only, and*
- (d) There shall be issued to each vendor a suitable decal that shall be permanently and prominently affixed to the vehicle.*

#### **844.06 LICENSE FEE**

*All vendors licensed under this Chapter shall pay an annual license fee of \$200.*

#### **844.07 BACKGROUND CHECK**

*All assistants or employees of an owner/operator of any Mobile Food Vehicle are required to submit to a Centerville Police Department background check for convictions that would indicate that he or she is not suitable to participate in the operation of a Mobile Food Vehicle. This background check must be completed prior to an assistant or employee participating in the operation of a Mobile Food Vehicle. The City Manager may declare an individual not suitable to participate in the operation of a Mobile Food Vehicle if that individual has a previous offense against a child or a sex offense or a drug conviction within the past seven years or an assault conviction within the past seven years or a weapons conviction within the past five years or a homicide offense.*

#### **844.08 SUSPENSION AND REVOCATION**

- (a) The owner/operator of any Mobile Food Vehicle licensed by the City of Centerville shall comply with all provisions of federal, state and local laws and ordinances.*

- (b) *The owner/operator of any Mobile Food Vehicle licensed by the City of Centerville shall comply with all notices, orders, decisions and rules and regulations made by the Centerville Police Department or any other City of Centerville Department and/or Agency.*
- (c) *Any person, firm, corporation or other entity violating the provisions of this chapter may be liable for penalties as prescribed in Section 844.99, of this Code, and may be subject to immediate closure by the Centerville Police Department and/or the City Manager's Office; an Administrative Hearing will be scheduled within sixty (60) days of said immediate closure.*

**844.09 CLOSURE FOR OPERATION WITHOUT A LICENSE**

*Any establishment operating without the required City of Centerville license shall be immediately closed by order of the Centerville Police Department. Every day of operation without a license shall constitute a separate violation.*

**844.10 APPEALS**

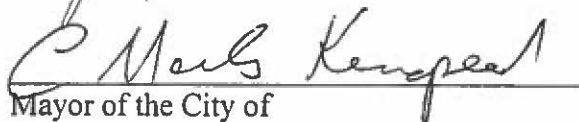
*The City Manager shall give notice of a refusal to issue a license required by this chapter to the applicant. The applicant may appeal such refusal to Council by filing a written Notice of Appeal with the Clerk of Council within ten (10) days after such refusal and at least seven (7) days before the Council meeting at which the appeal shall be heard. The appeal shall state briefly the grounds for appeal. The applicant may appeal before Council, in person or by attorney. The decision of Council shall be final.*

**844.99 PENALTY**

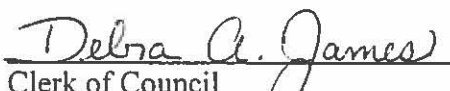
*Whoever violates any of the provisions of this chapter is guilty of an unclassified misdemeanor and shall be fined not more than one thousand dollars (\$1000.00) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.*

**Section 3:** This ordinance shall be effective from and after the earliest date allowed by law.

PASSED THIS 15<sup>th</sup> day of July, 2013.

  
\_\_\_\_\_  
Mayor of the City of  
Centerville, Ohio

ATTEST:

  
\_\_\_\_\_  
Clerk of Council  
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 8-13, passed by the Council of the City of Centerville, Ohio on the 15<sup>th</sup> day of July, 2013.

Debra A. James  
Clerk of the Council

Approved as to form, consistency with the  
Charter and Constitutional Provisions.  
Department of Law  
Scott A. Liberman  
Municipal Attorney