

ORDINANCE NO. 12-2-23

AN ORDINANCE OF THE CITY OF BROMLEY ADDING A NEW SECTION OF TITLE XI OF THE OFFICIAL CODE OF ORDINANCES OF THE CITY OF BROMLEY, SECTION 117, REGARDING MOBILE FOOD VENDING (FOOD TRUCKS) IN THE CITY.

City of Bromley Ordinance No.12-2-23 is an ordinance creating a new section of Title XI of the Official Code of Ordinances of the City, Section 117, providing for use and operation of Mobile Food Vending also known as food trucks.

The ordinance provides definitions for terms in the Ordinance, provides an application and permit procedure, establishes criteria for review of applications for permits, and provides for authorized locations and restrictions applicable to operation of mobile vending units. The ordinance also sets forth restrictions related to the use of mobile vending use and provides safeguards for prevention of nuisances and preservation of public health and safety. The ordinance also allows the Mayor to suspend or revoke the operation or use of mobile vending units under conditions described in the ordinance and allows the City Council to terminate or amend the ordinance in the future.

The ordinance provides for appeals of decisions by the Mayor related to denial, termination or revocation of permits including the right to a hearing before the City Council.

The ordinance contains the following penalties for violations:

§ 117.99 PENALTY

Any person, firm or corporation found guilty of violating the provisions of Section 117.01 through Section 117.9 of this chapter shall be deemed guilty of a misdemeanor and shall be fined not less than \$100.00 or imprisoned for not more than 10 days, or both, for the first offense, and fined not less than \$250.00 or imprisoned for not more than 60 days, or both, for each offense after the first in the same calendar year, plus mandatory revocation of license with the second offense.

I hereby certify that I am an attorney licensed to practice law in the Commonwealth of Kentucky and I have prepared the above summary of City of Bromley Ordinance No.12-1-23 in a way reasonably calculated to inform the public in a clear and understandable manner of the meaning of the ordinance.



R. KIM VOCKE
CITY ATTORNEY
CITY OF BROMLEY, KENTUCKY

ORDINANCE NO. 12-2-23

AN ORDINANCE OF THE CITY OF BROMLEY ADDING A NEW SECTION OF TITLE XI OF THE OFFICIAL CODE OF ORDINANCES OF THE CITY OF BROMLEY REGARDING MOBILE FOOD VENDING (FOOD TRUCKS) IN THE CITY.

BE IT ORDAINED BY THE CITY OF BROMLEY, KENTUCKY:

SECTION I

A new section of Title XI, Business Regulations, of the Official Code of Ordinances of the City of Bromley is hereby adopted as follows:

MOBILE FOOD VENDING SERVICES

§ 117.1 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MOBILE FOOD VENDOR. An itinerant merchant who operates a mobile food unit business.

MOBILE FOOD UNIT. A licensed, motorized vehicle permitted by the Northern Kentucky Health Department for food service, which is temporarily parked in a location to sell food and/or non-alcoholic beverage items to the general public.

MOBILE FOOD VENDING SERVICE BOUNDARIES. The following rights-of-way are permissible parking areas for mobile food units:

(1) All rights of way within the Bromley Z21 zones designated as Downtown Core and Neighborhood Commercial, in accordance with the zoning map attached hereto and incorporated herein by reference.

§ 117.2 PERMIT REQUIRED TO OPERATE MOBILE FOOD VENDING SERVICE.

(A) A mobile food unit may not operate within the city without obtaining a permit for mobile food vending services.

(B) Mobile food unit services on city-owned property shall be limited to the rights-of-way and defined parking lots described in the mobile food vending service boundaries. Mobile food unit services on other city-owned property shall be limited to areas approved on a city special event permit.

(C) Mobile food service on private property shall be limited to the zones permitted in the above designated zones, and require written permission of the property owner.

(D) A mobile food vendor may obtain a permit to serve customers, provided all standards identified in this section are met. If demand for mobile food units exceeds available spaces within the defined locations, the city will issue permits on a first come first served basis.

(E) The granting of a permit under this section shall not constitute a property interest or right in any city-owned property, including, but not limited to, city rights and sidewalks. Any permit granted herein does not provide a mobile food vendor or mobile food unit exclusive rights to any public property or parking space.

§ 117.3 PERMIT APPLICATION AND FEES.

(A) Permitting shall be on a per mobile food unit basis, with each different mobile food vendor requiring a separate license for each individual mobile food unit.

(B) There shall be no permit application fee.

(C) All applications for permits shall be submitted to the Mayor and shall be accompanied with all submittal requirements on the city's application form, including the required certificate of insurance, state and county approvals, proof of Health Department approval, and permitting fee.

(D) Permits are valid for the calendar year the permit is issued, unless otherwise invalidated, revoked or terminated prior to the end of the term. Mobile food vendors must reapply (including payment of all applicable fees) each calendar year.

(E) The mobile food vendor must submit proof of a valid insurance policy through an insurance carrier authorized or eligible to do business in the commonwealth for any damage to the public right-of-way and for any damages for which the city might incur liability for property damage, personal injury or death arising out of the mobile food vendor's operations. The minimum liability limit of the policy shall be \$1,000,000. The city shall be listed as an additional insured as its interests may appear on all certificates of insurance.

(F) By submitting a permit application, the mobile food vendor agrees to abide by all terms and conditions of this subchapter, and agrees that it shall hold the city, its employees, agents and elected officials harmless and indemnify them for any loss, liability, damage and costs and expenses arising from its operations. The city is not liable for any business loss, property loss or other damage that may result from use of the permit, or suspension or revocation of the permit, relocation of the mobile food unit, or the discontinuance of the practice of permitting such activity, and no such mobile food vendor shall maintain any claim or action against the city and/or its officials, officers, employees or agents on account of any suspension, relocation, revocation or discontinuance. The indemnifications required herein shall include, but not be limited to, injury or death resulting from a slip and fall of the mobile food vendor's employees or customers due to grease, debris, snow or ice in the queue areas of the mobile food vending unit.

§ 117.4 REVIEW CRITERIA.

When considering a permit application, the Mayor shall consider the following criteria:

(A) Impact on local economy;

(B) Impact on public health and safety;

(C) Impact on transportation and traffic;

(D) Completeness of the application and accuracy of information;

(E) Compliance with the terms of this subchapter, and other city, county, state and federal laws, ordinances, rules and regulations;

(F) Outstanding delinquent accounts or liabilities, if any, to the city;

(G) The existing number of mobile food unit permits operating within the city rights-of-way; and

(H) If demand exceeds appropriate and available space.

§ 117.5 AUTHORIZED LOCATIONS AND LOCATIONS RESTRICTIONS FOR MOBILE FOOD UNIT VENDING SERVICES.

(A) The mobile food unit may only be parked within the mobile food unit service boundaries or upon private property in an authorized zone.

(B) If located upon private property, the mobile food unit shall comply with all setback, sightline and other city zoning code regulations regarding the location of an accessory structure.

(C) In order to preserve sufficient public parking, and to prevent potential traffic congestion on city streets and sidewalks which may present a risk to public health and safety and the right to quiet enjoyment of property, at any one time no more than three mobile food units may be located on a single street within the mobile food unit service boundaries.

(D) Mobile food vendors must be actively engaged in vending operations at all times while occupying any public property.

(E) All mobile food units must be situated to allow at least five feet of unobstructed space for pedestrians on sidewalks, pedestrian paths, and other locations intended primarily for pedestrian travel. If any applicable law, including the Americans with Disability Act, shall require a greater distance, the greater distance shall apply.

(F) Mobile food units may not be parked in a location that prohibits or restricts access to a private property or public facility. A minimum five-foot spacing is required from any driveway, measured from the driveway apron.

(G) Mobile food vendors may not operate in any manner that blocks, obstructs or restricts the free passage of vehicles or pedestrians in the lawful use of the sidewalks or highways or ingress or egress to the abutting property.

(H) The mobile food unit must be located at least five feet from any utility box, utility vault, handicapped ramp or emergency call box. The mobile food unit must be located at least 15 feet from all fire hydrants.

(I) Mobile food units may not be parked upon a sidewalk, in grass, or on any other unpaved surface unless specifically authorized in an applicable city permit.

(J) Mobile food units shall not park on public rights-of-way during designated street sweeping times, or when a road is closed, or blocked, including for maintenance. Mobile food units and

vendors shall comply with all ordinances, laws and regulations, including, but not limited to, those regarding traffic and parking.

§ 117.6 OPERATING RESTRICTIONS, NUISANCE PREVENTION AND PUBLIC HEALTH AND SAFETY.

A mobile food unit must comply with the following standards at all times during operation.

(A) The mobile food vendor must dispose of all waste associated with the mobile food unit operation, and must make waste and recycling receptacles available to its customers. City receptacles may not be utilized. No liquid waste or grease may be poured into any tree pit, storm drain, gutter pan, sidewalk or any other public space, or in a manner inconsistent with the city's solid waste disposal regulations or nuisance code. Grease cannot be released into the city's sanitary sewer system. The mobile food vendor shall make available hand sanitizer to its customers.

(B) Permitted mobile food units may operate every day of the week from the hours of 6:00 a.m. to 10:00 p.m. The mobile food unit may not operate or park within the mobile food vending service boundaries before 5:30 a.m. and must cease operation and leave the permitted parking space by 10:30 p.m.

(C) Mobile food vending units shall not exceed 31 feet in length or eight feet, five inches in width. If parked within a public right-of-way, the mobile food unit shall comply with all applicable parking regulations, and shall not occupy more than one marked parking space.

(D) The mobile food vendor shall not utilize tables or chairs on public property, including city sidewalks or streets, in conjunction with the mobile food unit. All equipment shall be contained within or on the mobile food unit. This section shall not prevent an approved special event permit from specifically authorizing the use of tables, chairs and other free-standing equipment on public property.

(E) Mobile food vendors shall not utilize the city's electrical outlets, unless specifically authorized by the city in writing.

(F) Every mobile food vendor to whom a permit is issued shall, at all times while engaged in that business, have the applicable permit in his or her possession, prominently displayed in the front windshield of the vehicle, for public viewing, and shall produce the same at the request of any city official or at the request of any individual to whom the mobile food vendor is exhibiting his or her food or attempting to sell the same.

(G) Mobile food vendors must comply with all other applicable ordinances, laws and regulations, including, but not limited to, applicable ordinances regulating license fees and taxes.

(H) During operation, mobile food vendors shall be required to keep the vending area adjacent to the mobile food unit free from ice, snow, oil or other material that may cause a slip and fall hazard.

§ 117.7 SUSPENSION OR REVOCATION OF PERMIT.

(A) The Mayor may suspend or revoke any permit issued under this section, or require a mobile food vendor to relocate its mobile food unit, for any of the following reasons:

(1) To allow for construction, maintenance or repair of any street, curb, gutter, sidewalk, storm drain inlet or any other similar facility;

(2) Failure to comply with all terms of this subchapter, or other applicable local, state and federal regulations;

(3) Revocation of any required permit to conduct the mobile food service operations, including revocation by the Northern Kentucky Health Department or other issuing entity;

(4) Excessive noise;

(5) Improper disposal of solid waste, grease, oil or other materials from the mobile food unit;

(6) When the desired location of the mobile food unit is closed, or during special events;

(7) In the event this subchapter is amended or repealed as to render the mobile food vendor's activities inconsistent with the city's mobile food unit regulations; and

(8) To maintain the comfort, health, safety and welfare of the public.

(B) If the Mayor exercises the right to suspend or revoke a permit issued under this section, written notice shall be provided to the mobile food vendor at the address on file for the permit. The city's delay or failure to issue a suspension or revocation of any permit shall not constitute a waiver of this section. No reimbursement for any portion of the permit fee shall be made in the event a mobile food unit permit is suspended or revoked, or if a mobile food unit is required to relocate temporarily or permanently.

§ 117.8 TERMINATION OR AMENDMENT OF MOBILE FOOD VENDING.

The Bromley City Council may amend, revise or terminate mobile food service by ordinance duly enacted. The city shall retain the entire fee paid for the permit by the permit holder; no refund shall be issued to any mobile food unit permit issued that is no longer valid because of an amendment, revision or termination.

§ 117.9 APPEALS.

Any person aggrieved by a decision of the Mayor regarding denial, suspension or revocation of a mobile food vending service permit shall have the right to appeal any such decision to the City Council by filing a written notice of appeal with the City Clerk within ten days after the written decision is rendered. The appeal shall be heard no later than 30 days after the notice of appeal is filed. The appeal shall be based on the record, except when the City Council, in its sole discretion, requests additional evidence from the interested parties or other witnesses. No appeals will be considered if an appeal is not filed in a timely manner.

§ 117.99 PENALTY

Any person, firm or corporation found guilty of violating the provisions of Section 117.01 through Section 117.9 of this chapter shall be deemed guilty of a misdemeanor and shall be fined not less than \$100.00 or imprisoned for not more than 10 days, or both, for the first offense, and fined not less than \$250.00 or imprisoned for not more than 60 days, or both, for each offense

after the first in the same calendar year, plus mandatory revocation of license with the second offense.

SECTION II

All ordinances in conflict herewith are to the extent of such conflict repealed.


SECTION III

The invalidity of any section, subsection, or sentence or the ordinance shall not affect the remainder.

SECTION V

This Ordinance shall take effect and be in full force from and after its passage, approval, and publication, according to law.

CITY OF BROMLEY, KENTUCKY
A municipal corporation

BY: 
MAYOR

FIRST READING

YES

12-27-23

NO

SECOND READING 1-10-24

 b
YES

 o
NO

ATTEST:

Montgomery Frizman
CITY CLERK