ORDINANCE NO. 2016-1293

AN ORDINANCE REVISING CERTAIN SECTIONS OF THE FARMINGTON CITY CODE PROVIDING FOR CLARIFICATION AND ADDITIONS TO PROVISIONS IN CHAPTER 8, ARTICLE 13 DEALING WITH FOOD CATERING/VENDING WAGONS AND TRUCKS

WHEREAS, several sections of the City Code are in need of clarification to better serve the methods and procedures of enforcement in dealing with food catering/vending wagons and trucks; and

WHEREAS, the City Council finds it necessary to amend certain provisions of the Farmington City Code to allow a clearer interpretation of the Code and to benefit the public and compliance officers by providing clarity to these sections.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FARMINGTON:

Section One: Article 13 of Chapter 8, Food Catering/Vending Wagons and Trucks be repealed and replaced with the following:

Article 13. Mobile Food Units

Sec. 8-13-1. - Definitions.

(a) *Mobile Food Unit*. Any wagon, truck, push cart or vehicle self-propelled or otherwise movable from place to place from which any person sells, offers for sale beverages, food or any food product for human consumption. A mobile food unit may be as complex as a full commercial kitchen on wheels or as simple as a push cart and includes any activity involved with food preparation or sales.

(b) *Common ownership*. The ownership by a single person of at least 25 percent of the outstanding equity in more than one licensed mobile food unit.

(c) *Food*. Any articles sold for human consumption not prohibited by law.

(d) *Person*. Any individual, estate, trust, receiver, cooperative association, association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity.

Sec. 8-13-2. - Business license, display and renewal.

Each mobile food unit must obtain a business license and pay the applicable license fee imposed by section 8-3-7(10) of the Farmington City Code. The business license must display on its face the vehicle identification number (VIN) and the license plate number of the mobile food unit that is being licensed, if applicable. Business license(s) must be renewed each January 1. The business license must be displayed at all times in the mobile food unit in a prominent and conspicuous manner. Business licenses are not transferrable from vehicle to vehicle.

Sec. 8-13.3. - Compliance.

All persons operating a mobile food unit must comply with the following guidelines:

(1) Obtain the proper business license(s) for each mobile food unit as provided in section 8-13-2.

(2) Each mobile food unit shall be approved by the New Mexico Environment Department and shall display appropriate evidence of the most current approval.

(3) Proper trash facilities and receptacles shall be provided to patrons pursuant to sections 23-1-9 and 12-2-27 of the Farmington City Code.

(4) A special events license must be obtained by the owner of a business hiring a mobile food unit to be upon its premises if food is dispensed therefrom.

(5) The cab must be attached to the mobile food unit, if applicable, while in business on a public street or public parking lot.

(6) A business establishment which is not a mobile food unit will not be licensed under this article.

(7) Prior approval from the city parks and recreation department is needed to conduct any business in a city park or city parking lot at a park or other City-owned recreational facility and shall be subject to such conditions and restrictions as may be deemed appropriate by the department.
(8) Common ownership, as defined in section 8-13-1(b) must be disclosed at the time the license is issued.
(9) Mobile food units are permitted to operate on private property in non-residential zones provided that written permission from the property owner for use of the site is provided to the city clerk and the community development department grants approval of the site plan.
(10) Mobile foods units are prohibited from operating on private property in residential zones.

Sec. 8-13-4. - Restrictions.

(a) Business shall be restricted to the sale of food and beverage.
(b) Mobile food units cannot exceed a length of 40 feet and a width of eight feet, not including the cab.
(c) Mobile food units must be mobile and be removed from the street or from the location where food is sold during those hours when not open for business unless the property is fenced and the mobile food unit is secure overnight.
(d) Mobile food units shall not be parked within 100 feet of flammable fuels.
(e) Mobile food units shall not sell any food from any vehicle within 200 feet of any school ground between the hours of 7:00 a.m. and 4:30 p.m. on any day while school or school activities are in session, unless specifically requested by the school.
(f) It shall be unlawful for any person to operate a mobile food unit while stopped between the curb lines of any public street without the motor vehicle's hazard lights being in operation and without taking all other reasonable precautions to ensure the safety of patrons.
(g) No mobile food unit shall be stored, parked or left overnight on any street or sidewalk or parked other than in a lawful parking place, in conformance with city and state parking regulations.
(h) No mobile food unit shall sound or permit the sounding of any device which produces a loud or raucous noise or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention to [of] the public. This section shall not be construed to prohibit bells, chimes or unamplified musical instruments if in compliance with all other applicable provisions of City Code including, but not limited to, Chapter 12, Article 5 (noise).
(i) No vendor vending from a mobile food unit shall conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant or create or become a public nuisance, increase traffic congestion or delay or constitute a hazard to traffic, life or property or an obstruction to adequate access to fire, police or sanitation vehicles.
(j) No vendor shall stop, stand or park a mobile food unit upon any street or permit it to remain there except on the roadway at the curb for the purpose of completing pending vending transactions therefrom.

Sec. 8-13-5. - Revocation of license.

(a) Should the owner or any employee of the mobile food unit be convicted of a crime (felony or misdemeanor) arising while in the conduct of the licensee's business, the city clerk has the authority to permanently revoke the business license or licenses on all vehicles licensed to that person or in which that person has common ownership interest as the same is defined in subsection 8-13-1(b).
(b) Should the owner or any employee of the mobile food unit violate any provision of this article, a criminal citation may be issued in addition to the business license or licenses being permanently revoked on all vehicles licensed to that person or common owner and will not be renewed.

(c) Licenses may be revoked by the action of the city clerk, after appropriate notice and opportunity for hearing. The decision of the city clerk to revoke a license may be appealed to the city council by delivering written notice of appeal to the city clerk within ten days of the clerk's decision revoking the license. An appeal shall be considered at its next regular meeting following delivery of notice of appeal.

PASSED, SIGNED, APPROVED AND ADOPTED this 13th day of September, 2016.

Tommy Roberts, Mayor

SEAL

ATTEST:

Dianne Smylie, City Clerk