

ORDINANCE 2019 -1782

AN ORDINANCE AMENDING CITY OF MURRAY CODE OF ORDINANCES CHAPTER 115: SOLICITORS AND PEDDLERS, SPECIFICALLY TO INCLUDE NECESSARY LANGUAGE FOR CLARITY IN §115.02 USING STREETS OR PUBLIC PREMISES; EXCEPTION; §115.06 MOBILE FOOD VENDOR PILOT PROGRAM, SPECIFICALLY (A) DEFINITIONS, PARAGRAPH FIVE (5); (C) LOCATION OF MOBILE VENDING, PARAGRAPH ELEVEN (11), (D) MOBILE FOOD VENDOR PERMITS, PARAGRAPH THREE (3); (E) MODIFICATION OF PILOT PROGRAM; (F) INDEMNITY FOR BENEFIT OF THE CITY & INSURANCE, PARAGRAPH TWO (2) AND (G) INSURANCE, PARAGRAPHS TWO (2) AND FIVE (5). THIS ORDINANCE SHALL BE EFFECTIVE AS OF JUNE 1, 2019.

WHEREAS, the City of Murray wishes to amend Chapter 115, Solicitors And Peddlers, specifically in include necessary language for clarity in §115.02 Using Streets Or Public Premises; Exception; §115.06 Mobile Food Vendor Pilot Program, Specifically (A) Definitions, Paragraph Five (5); (C) Location of Mobile Vending, Paragraph Eleven (11), (D) Mobile Food Vendor Permits, Paragraph Three (3); (E) Modification Of Pilot Program, (F) Indemnity For Benefit Of The City & Insurance, Paragraph Two (2); and (G) Insurance, Paragraphs Two (2) and Five (5);

WHEREAS, the Murray City Council has reviewed and discussed the following proposed changes to Chapter 115 of the City of Murray Code of Ordinances and believes that the proposed changes are reasonable and necessary.

BE IT ORDAINED by the City Council of the City of Murray, as follows:

AMENDMENT I. ADDITIONS, ASSERTIONS & CHANGES:

City of Murray Code of Ordinances, Chapter 115, specifically §115.02 is amended as follows:

§115.02 USING STREETS OR PUBLIC PREMISES; EXCEPTION.

The practice of using streets of the city, the court house or the court house yard, or other public premises, for the purpose of soliciting orders for the sale of goods, wares, merchandise, or services, or for the purpose of disposing of or peddling or hawking the same is declared to be a nuisance and punishable as such nuisance as a misdemeanor. However, the area from the railroad tracks to Seventh Street and from Olive Street to Elm Street and any right of way adjacent to a government zoning district may be utilized by permitted Mobile Food Vendors, in such areas as designated by the City.

AMENDMENT II. ADDITIONS, ASSERTIONS & CHANGES:

City of Murray Code of Ordinances, Chapter 115, specifically §115.06 is amended as follows:

§115.06 MOBILE FOOD VENDOR PILOT PROGRAM POLICY.

(A) DEFINITIONS.

5. "Designated Operation Area" means the public area or areas designated by the City situated between the railroad tracks to Seventh Street and from Olive Street to Elm Street and any right of way adjacent to a government zoning district, and any other area or areas specifically identified on the Vendor Permit, EXCLUDING public areas (unless otherwise permitted by Owner) and all residential areas.

(C) LOCATION OF MOBILE VENDING.

911. Area as Temporary. The use, marking, or designation of spaces for Mobile Food Vendors does not grant Vendors a vested right or property interest in any specific space. The area may be adjusted or removed if such adjustment or removal is determined to be in the interest of public health, safety, and welfare.

(D) MOBILE FOOD VENDOR PERMITS

3. Issuance of Permit. Once the Application is complete, the City of Murray Planning Department will review same and shall issue the Vendor Permit to the qualified vendor within fourteen (14) business days. The Vendor Permit shall be valid for ~~either one (1) calendar year from the date of issuance, or until the cessation of the Pilot Program, whichever date occurs first.~~ the specific time period set forth in Chapter 110, General License Requirements. In the event a Vendor is determined to be unqualified for a permit, the City shall advise the Vendor within fourteen (14) business days.

(E) MODIFICATION OF THE PILOT PROGRAM

During the Pilot Program, the Mobile Food Vending Program may be modified by the City based on evaluative information received and approved by the ~~Planning Commission~~ City Council. This modification may include, but is not limited to, the expansion or contraction of the Designated Operational Area. Notification of changes to the Pilot Program will be emailed to current permit holders and posted on the City's website.

(F) INDEMNITY FOR BENEFIT OF THE CITY & INSURANCE

~~2. The Vendor shall assume and take over the defense of the City of Murray in any such claim, demand, suit, or cause of action involving an Indemnified Claim upon written notice and demand for same by the City. The Vendor will have the right to defend the City with counsel of its choice that is satisfactory to the City, and the City will provide reasonable cooperation in the defense as the Vendor may request. The Vendor will not consent to the entry of any judgment or enter into any settlement with respect to an Indemnified Claim without the prior written consent of the City, such consent not to be unreasonably withheld or delayed. The City shall have the right to participate in the defense against an Indemnified Claim with counsel of its choice at its own expense. The Vendor shall save, indemnify and hold City harmless and pay judgments that shall be rendered in any such actions, suits, claims or demands against City with respect to any Indemnified Claim. The indemnification and hold harmless provisions required by this Pilot Program shall survive termination of the pilot.~~

(G) INSURANCE

2. Commercial General and Umbrella Liability Insurance; occurrence version commercial general liability insurance, and if necessary umbrella liability insurance, with a limit of not less than \$2,000,000 each occurrence for bodily injury, personal injury, property damage, and products and completed operations. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this pilot or be no less than \$2,000,000. Such insurance shall:

~~a. Contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the vendor including food products, materials, parts, or equipment sold, furnished or utilized in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds. Proof of additional insured status up to and including copies of endorsements and/or policy wording will be required.~~

b.a. For any claims related to this project, Vendor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering the City, its officials, officers, employees, and volunteers shall be excess of Contractor's insurance and shall not contribute with it.

5. Other Insurance Requirements; The Vendor shall:

- a. Prior to commencement of operations, furnish the City with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on thirty (30) days' prior written notice to the City. Proof of policy provisions regarding notice of cancellation will be required.
- b. Upon the City's request, provide certified copies of endorsements in addition to certificates of Insurance.
- c. Replace certificates and endorsements for any such insurance expiring prior to completion of operations.
- d. Maintain such insurance at all times during its operations. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a violation of these guidelines.
- e. Disclose any deductibles and/or self-insured retentions greater than \$10,000, which must be approved by the City of Murray prior to the commencement of services. Use of large deductibles and/or self-insured retentions will require proof of financial ability as determined by the City.
- ~~f. Agree, through its insurer, to waive all rights of subrogation against the City, its officers,~~

~~officials, and employees for losses arising from the Vendor's operations. Proof of waiver of subrogation up to and including copies of endorsements and/or policy wording will be required.~~

Nothing in this Ordinance hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Ordinance.

All other sections and provisions of the Ordinances for the City of Murray, not specifically amended herein shall remain in full force and effect and shall not be considered amended and shall be incorporated by reference as if fully stated herein.

BOB ROGERS, MAYOR
CITY OF MURRAY, KENTUCKY

ATTEST:

DANNETTA CLAYTON, CITY CLERK

Introduced by the City Council on _____, 2019.

Adopted by the City Council on _____, 2019.

Published in the Murray Ledger and Times on _____, 2019.