

**ORDINANCE NO. 2022-05**

**AN ORDINANCE ENACTING CHAPTER 12.70 OF THE CENTERVILLE ZONING CODE REGARDING FOOD TRUCKS, AMENDING CHAPTER 12.56 OF THE SAME REGARDING TEMPORARY USES FOR FOOD TRUCKS, ENACTING CHAPTER 6.07 OF THE CENTERVILLE MUNICIPAL CODE REGARDING BUSINESS LICENSES FOR FOOD TRUCKS, AND AMENDING CHAPTER 6.01 OF THE SAME REGARDING GENERAL BUSINESS LICENSING FOR FOOD TRUCK**

**WHEREAS**, the Utah Legislature adopted S.B. 250 (2017) enacting the Food Truck Licensing and Regulation Act, as amended by S.B. 71 (2019), restricting local regulation and enforcement of food truck businesses and food truck business licensing as more particularly set forth in Utah Code § 11-56-101, et seq.; and

**WHEREAS**, the proposed amendments to the Centerville Zoning Code and Centerville Municipal Code set forth new definitions and regulations for food trucks and food truck business licensing in accordance with applicable provisions of the Food Truck Licensing and Regulation Act as more particularly provided herein; and

**WHEREAS**, the proposed amendments to the Centerville Zoning Code as set forth herein have been reviewed by the Planning Commission and the City Council and all appropriate public notices have been provided and appropriate public hearings have been held in accordance with Utah law to obtain public input regarding the proposed revisions to the Zoning Code.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, AS FOLLOWS:**

**Section 1. Enactment.** Chapter 12.70 of the Centerville Zoning Code regarding food trucks is hereby enacted to read in its entirety as set forth in **Exhibit A**, attached hereto and incorporated herein by reference.

**Section 2. Amendments.** Various sections of Chapter 12.56 of the Centerville Zoning Code regarding temporary uses for food trucks are hereby amended to read in their entirety as set forth in **Exhibit B**, attached hereto and incorporated herein by reference.

**Section 3. Enactment.** Chapter 6.07 of the Centerville Municipal Code regarding business licensing for food trucks is hereby enacted to read in its entirety as set forth in **Exhibit C**, attached hereto and incorporated herein by reference.

**Section 4. Amendments.** Various sections of Chapter 6.01 of the Centerville Municipal Code regarding general business licensing requirements for food trucks are hereby amended to read in their entirety as set forth in **Exhibit D**, attached hereto and incorporated herein by reference.

**Section 5. Severability.** If any section, part, or provision of this Ordinance is held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

**Section 6. Omission Not a Waiver.** The omission to specify or enumerate in this ordinance those provisions of general law applicable to all cities shall not be construed as a waiver of the benefits of any such provisions.

**Section 7. Effective Date.** This Ordinance shall become effective immediately upon publication or posting, or thirty (30) days after passage, whichever occurs first.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF CENTERVILLE CITY, STATE OF UTAH, ON THIS 15<sup>th</sup> DAY OF FEBRUARY, 2022.**

ATTEST:

CENTERVILLE CITY

Jennifer Hansen  
Jennifer Hansen, City Recorder

By: Clark A. Wilkinson  
Mayor Clark A. Wilkinson

Voting by the City Council:

|                          | “AYE”    | “NAY” | “ABSENT” |
|--------------------------|----------|-------|----------|
| Councilmember Hirst      | <u>X</u> | _____ | _____    |
| Councilmember Ince       | <u>X</u> | _____ | _____    |
| Councilmember McEwan     | <u>X</u> | _____ | _____    |
| Councilmember Mecham     | <u>X</u> | _____ | _____    |
| Councilmember Summerhays | _____    | _____ | <u>X</u> |

**CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING**

According to the provisions of the U.C.A. § 10-3-713, as amended, I, the municipal recorder of Centerville City, hereby certify that foregoing ordinance was duly passed by the City Council and published or posted at: (1) 250 North Main; (2) 655 North 1250 West; and (3) RB’s Gas Station, on the foregoing referenced dates.

Jennifer Hansen  
JENNIFER HANSEN, City Recorder

DATE: 2-16-2022

RECORDED this 16<sup>th</sup> day of February, 2022.

PUBLISHED OR POSTED this 16<sup>th</sup> of February, 2022.



**EXHIBIT A**

Enactment - Centerville Zoning Code – Chapter 12.70 (Food Trucks)

## Proposed New Zoning Code Chapter 12.70 (Food Trucks)

### 12.70. Food Trucks

- 12.70.010 Purpose
- 12.70.020 Scope
- 12.70.030 Definitions
- 12.70.040 Food Truck Business Licensing
- 12.70.050 Prohibited Food Truck Regulations
- 12.70.060 Food Truck Regulations
- 12.70.070 Food Truck Events

#### 12.70.010 Purpose

The purpose of this Chapter is to provide zoning regulations for food trucks and food truck businesses in accordance with the Food Truck Licensing and Regulation Act as set forth in Utah Code §§ 11-56-101, et seq.

#### 12.70.020 Scope

The provisions of this Chapter shall apply to food trucks and food truck businesses conducted within the City. Such requirements shall not be construed to prohibit or limit other applicable provisions of this Title, the Centerville Municipal Code, or other laws, ordinances, or regulations.

#### 12.70.030 Definitions

Certain words and phrases in this Chapter are defined in CZC 12.12 (Definitions). In addition to the terms defined in CZC 12.12 (Definitions), the following terms as defined in Utah Code § 11-56-102 and used in this Chapter shall be defined as follows:

- (a) Food Cart: A cart that is not motorized and that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.
- (b) Food Truck: A fully encased food service establishment on a motor vehicle or on a trailer that a motor vehicle pulls to transport and from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption. Food truck does not include a food cart or ice cream truck as those terms are defined herein.
- (c) Food Truck Business: A person who operates a food truck or, under the same business, multiple food trucks.
- (d) Food Truck Event: An event where an individual has ordered or commissioned the operation of more than one food truck at a private or public gathering.
- (e) Food Truck Operator: A person who owns, manages, or controls, or who has the duty to manage or control, the food truck business.

- (f) Food Truck Vendor: A person who sells, cooks, or serves food or beverages from a food truck.
- (g) Health Department Food Truck Permit: A document that a local health department issues to authorize a person to operate a food truck within the jurisdiction of the local health department.
- (h) Ice Cream Truck: A fully encased food service establishment on a motor vehicle or on a trailer that a motor vehicle pulls to transport from which a vendor, from within the frame of the vehicle, serves ice cream that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including playing music and that may stop to serve ice cream at the signal of a patron.
- (i) Location or Same Location: Location or same location shall mean that a food truck is parked, located, or operated on the same lot or parcel number.

**12.70.040 Food Truck Business Licensing**

Any food truck business operated within the City shall be required to obtain a business license in accordance with provisions CMC 6 (Business Licenses). Licensing of food trucks and food truck businesses shall be subject to restrictions and limitations set forth in Utah Code § 11-56-103.

**12.70.050 Prohibited Food Truck Regulations**

Pursuant to the Food Truck Licensing Act, the City is prohibited from regulating the following with respect to food trucks operating within the City.

- (a) The City may not entirely or constructively prohibit food trucks in a zone in which a food establishment is a permitted or conditional use.
- (b) The City may not prohibit the operation of a food truck within a given distance of a restaurant.
- (c) The City may not restrict the total number of days a food truck business may operate a food truck within the City during a calendar year.
- (d) The City may not require the food truck business to provide to the City the date, time, or duration that a food truck will operate within the City.
- (e) The City may not require a food truck business to obtain and pay for a land use permit for each location and time during which a food truck operates.
- (f) If the food truck business has the consent of a private property owner to operate a food truck on the private property, the City cannot:
  - (1) Limit the number of days the food truck may operate on the private property;
  - (2) Require that the food truck operator provide to the City or keep on files in the food truck the private property owner's written consent; or
  - (3) Require a site plan for the operation of the food truck on the private property where the food truck operates in the same location for less than 10 hours per week.

**12.70.060 Food Truck Regulations**

The following zoning regulations shall apply to food trucks and food truck businesses operating within the City.

- (a) Food trucks are not permitted to operate in any public rights-of-way within the City.
- (b) Food trucks operating on public or private property at the same location for more than 10 hours per week shall be required to obtain a temporary use permit in accordance with CZC 12.56 (Temporary Uses).
- (c) Food trucks operating on public property shall require agent authorization from the applicable governmental entity.

**12.70.070 Food Truck Events**

The organizer of any food truck event within the City shall be required to obtain a conditional use permit for the event in accordance with CZC 12.21.100 (Conditional Use Permits). The conditional use permit obtained by the food truck event organizer shall be deemed an event permit on behalf of the food trucks that service the event. Pursuant to Utah Code § 11-56-105, the City shall not require any food truck business to pay any fee or obtain any permit from the City to operate a food truck at a food truck event that takes place on private property within the City. So long as the food truck business operating at the food truck event has a business license from a political subdivision in the State in accordance with CMC 6.07.050 (Food Truck Reciprocal Licensing), the City will not require the food truck business to pay any fee or obtain an additional business license or permit from the City to operate a food truck at a food truck event that takes place on private property within the City.

**EXHIBIT B**

Amendments - Centerville Zoning Code – Chapter 12.56 (Temporary Uses)

## Proposed Amendments to Zoning Code Chapter 12.56 (Temporary Uses)

### 12.56.020 Scope

The provisions of this Chapter shall apply to the temporary uses enumerated herein. Any use not conforming to the requirements of this Chapter shall be deemed a permanent use and shall be allowed only if the use is a permitted or conditional use in the zone where the use is located. The requirements of this Chapter shall not be construed to prohibit or limit other applicable provisions of this Title, the Centerville Municipal Code, or other laws. This Chapter shall not apply to activities lawfully conducted by a government agency.

### 12.56.040 Permitted Uses

(a) Temporary Use Permit Required. Any person may sponsor or conduct for profit or nonprofit purposes any use set forth below subject to the issuance of a temporary use permit pursuant to the requirements of CZC 12.21.170 and the development standards set forth in CZC 12.56.050:

- (1) Auction;
- (2) Christmas tree sales;
- (3) Farmers market;
- (4) Fireworks stand;
- (5) Model home;
- (6) Motor vehicle sales by a licensed dealer;
- (7) Produce stand, located on premises other than where the produce is grown;
- (8) Temporary construction office; ~~and~~
- (9) Temporary retail sales, not exceeding 200 square feet, and not associated with retail sales activities of the owner or lessee of the property where the temporary retail sales are conducted; and
- (9)(10) Food truck operating on public or private property at the same location for more than 10 hours per week.

(b) No Temporary Use Permit Required. No temporary use permit shall be required for the following temporary uses:

- (1) Garage/yard sale, up to four times during a calendar year;
- (2) Produce stand, located on premises where the produce is grown; ~~and~~
- (3) Temporary outdoor retail sales associated with a general retail sales establishment or garden center; and
- (3)(4) Food truck event as more particularly defined in CZC 12.70 (Food Trucks) which requires a conditional use permit under CZC 12.70.070.

**EXHIBIT C**

Enactment - Centerville Municipal Code – Chapter 6.07 (Food Trucks)

## Proposed New Municipal Code Chapter 6.07 (Food Trucks)

### 6.07 Food Trucks

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| 6.07.010 | Purpose                             |
| 6.07.020 | Scope                               |
| 6.07.030 | Definitions                         |
| 6.07.040 | Food Truck Business Licensing       |
| 6.07.050 | Food Truck Reciprocal Licensing     |
| 6.07.060 | Food Truck Licensing Fees           |
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| 6.07.080 | Food Truck Health Department Permit |
| 6.07.090 | Food Truck Fire Safety Inspection   |
| 6.07.100 | Food Truck Events                   |
| 6.07.110 | Food Truck Zoning Regulations       |
| 6.07.120 | Revocation of Food Truck License    |

#### 6.07.010 Purpose

The purpose of this Chapter is to provide business licensing regulations for food trucks and food truck businesses in accordance with the Food Truck Licensing and Regulation Act (“Food Truck Licensing Act”) as set forth in Utah Code §§ 11-56-101, et seq.

#### 6.07.020 Scope

The provisions of this Chapter shall apply to food trucks and food truck businesses conducted within the City. Such requirements shall not be construed to prohibit or limit other applicable provisions of this Title, the Centerville Zoning Code, or other laws, ordinances, or regulations.

#### 6.07.030 Definitions

Certain words and phrases in this Chapter are defined in CZC 12.12 (Definitions), CZC 12.70.030, and applicable provisions of the Food Truck Act as set forth in Utah Code § 11-56-102.

#### 6.07.040 Food Truck Business Licensing

- (a) Food trucks and food truck businesses shall require a business license in accordance with provisions of this Title.
- (b) Business licensing of food trucks and food truck business shall be subject to restrictions and limitations of the Food Truck Act as set forth in Utah Code § 11-56-103.
- (c) Food truck businesses shall be licensed with a primary business license or a reciprocal license. For purposes of food truck business licensing, “primary business license” shall mean that the original or initial business license for the food truck business is issued by the City. “Reciprocal business license” shall mean that the business license for the food truck business is issued by another jurisdiction that the City reciprocally recognizes in accordance with CMC 6.01.190, CMC 6.07.050, and Utah Code § 11-56-103.

- (d) Pursuant to the Food Truck Licensing Act, the City can only require a primary or reciprocal business license for food truck businesses to operate within the City regardless of how many food trucks the food truck business operates at various locations within the City and regardless of how many days the food truck business operates food trucks within the City.

**6.07.050 Food Truck Reciprocal Licensing**

- (a) Pursuant to the Food Truck Licensing Act, the City is required to grant a business license to a food truck business to operate a food truck within the City if that food truck business has obtained and currently retains a business license to operate a food truck in another political subdivision in the State of Utah and the food truck business submits the required documentation as provided in Subsection (b).
- (b) In order to qualify for a reciprocal business license for operation of a food truck in the City, the food truck business shall provide the following to the business licensing official:
  - (1) A current business license from another political subdivision in the State of Utah;
  - (2) For each food truck that the food truck business operates, a current health department food truck permit from the applicable local health department with jurisdiction; and
  - (3) For each food truck that the food truck business operates, a current approval from another political subdivision in the State of Utah that shows that the food truck passed a fire safety inspection that the other political subdivision conducted in accordance with the Food Truck Licensing Act.
- (c) If the food truck business provides the required documents set forth in Subsection (b) to the business licensing official, the City may not impose additional license qualification requirements on the food truck business before issuing a business license to operate in the City, other than charging a fee in accordance with the Food Truck Licensing Act.
- (d) The term of the reciprocal business license issued by the City shall be the same term as the original and current business license from the other political subdivision within the State of Utah. The City is prohibited by the Food Truck Licensing Act to require the reciprocal business license to expire on a date earlier or later than the day on which the primary business license from the other jurisdiction expires.

**6.07.060 Food Truck Licensing Fees**

Except as otherwise provided herein, food trucks and food truck businesses shall be required to pay the applicable business licensing fee as set forth in the Centerville Fee Schedule. Pursuant to the Food Truck Licensing Act, the following business licensing fee exceptions shall apply to food trucks and food truck businesses.

- (a) The City cannot require a fee for each employee the food truck business employs;
- (b) For an initial business license for a food truck business, the City may only charge a licensing fee in an amount that reimburses the City for the actual cost of processing the business license; and
- (c) For a reciprocal business license for a food truck business, the City must reduce the amount of the business license fee to an amount that accounts for the actual administrative burden on the City for processing the reciprocal license.

**6.07.070 Food Truck Licensing Exceptions**

Pursuant to the Food Truck Licensing Act, the City cannot require a food truck business

to provide any of the following as part of the business licensing qualification process:

- (a) The City cannot require the food truck operator or food truck vendor to submit to or offer proof of a criminal background check.
- (b) The City cannot require the food truck operator or food truck vendor to demonstrate how the operation of the food truck business will comply with land use or zoning ordinances at the time the business applies for the business license.

#### **6.07.080 Food Truck Health Department Permit**

Every food truck business is required to obtain, for each food truck the business operates, an annual health department food truck permit from a local health department in accordance with applicable provisions of the Food Truck Licensing Act, including, but not limited to Utah Code 11-56-104. Evidence of an annual and current health department food truck permit for each food truck the business operates in the City shall be provided by the food truck business to the Business License Official as a condition of annual business license renewal by the City.

#### **6.07.090 Food Truck Fire Safety Inspection**

Every food truck business is required to obtain, for each food truck the business operates, an annual fire safety inspection based on the Utah Fire Prevention Board criteria and recommendations as set forth in Utah Code 53-7-204. If the City business license for the food truck business is the primary business license for the business, the City shall cause to be conducted the annual fire safety inspection in accordance with applicable fire safety regulations. If the business license for the food truck business is a reciprocal business license, the City shall accept as valid a fire safety inspection from another political subdivision in the State of Utah that shows the food truck passed a fire safety inspection that the other political subdivision conducted. Evidence of an annual and current fire safety inspection for all food trucks operated within the City shall be provided by the food truck business to the Business License Official as a condition of annual business license renewal by the City. The City may not require that a food truck pass a fire safety inspection in a given calendar year if the food truck business presents to the City an approved fire safety inspection issued from another jurisdiction in the same calendar year.

#### **6.07.100 Food Truck Events**

As long as the food truck business has a valid business license from any political subdivision within the State of Utah, the City is prohibited from requiring a food truck business to pay any fee or obtain any permit from the City to operate a food truck at a food truck event that takes place on private property within the City. This prohibition on fee and permit requirements for food trucks operating at a food truck event held on private property is applicable regardless of whether the food truck event is open or closed to the public. If the food truck business has a valid business license from any political subdivision in the State of Utah, the City is also prohibited from requiring the food truck business to pay any fee or obtain an additional business license from the City to operate a food truck at a food truck event that takes place on private property and is not open to the public. The food truck event operator shall be required to obtain a conditional use permit for the food truck event on behalf of the food trucks that service the event in accordance with CZC 12.70.070. Any regulation of food truck events is subject to applicable provisions of the Food Truck Licensing Act, including, but not limited to Utah Code § 11-56-105. Food truck events that meet the definition of mass gathering may be required to obtain a temporary mass gathering permit from the Davis County Health Department.

### **6.07.110 Food Truck Zoning Regulations**

Nothing in this Chapter or in the Food Truck Licensing Act prevents the City from enforcing the City's land use, zoning, and other ordinances in relation to the operation of a food truck within the City to the extent that such regulations and ordinances do not conflict with the Food Truck Licensing Act. Food trucks and food truck businesses shall comply with all applicable City land use, zoning, and other regulations to the extent such regulations do not conflict with the Food Truck Licensing Act, including, but not limited to, the land use and zoning regulations set forth in CZC 12.70 (Food Trucks).

### **6.07.120 Revocation of Food Truck License**

The City is authorized to regulate, enforce, and revoke a business license for a food truck business for violations of the terms of the license in accordance with applicable provisions of CMC 6.03 (Regulation and Enforcement) regarding the regulation and enforcement of business licenses.

**EXHIBIT A**

Amendments - Centerville Municipal Code – Chapter 6.01 (Business Licensing)

## Proposed Amendments to Municipal Code Title 6 (Business Licensing)

### 6.01.040 Separate License Required

Except as otherwise expressly provided, a separate license shall be required for each type of business defined herein and for each place of business. A separate license must be obtained for each place of business, branch establishment or location of business engaged in, within the City, as if such place of business, branch establishment or location were a separate business, and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license. ~~\_, provided, that w~~ Warehouses and distributing places used in connection with or incident to a business licensed under this Chapter shall not be deemed to be separate places of business or branch establishments. Exceptions apply for food trucks in accordance with provisions of Chapter 6.07 (Food Trucks).

### 6.01.120 Term Of Business License

Except as otherwise expressly provided, the business license year for City business licenses is the calendar year. All business licenses shall be effective from the date of issuance and shall expire each year on December 31. Each business license must be renewed in accordance with the provisions of this Title and all applicable renewal fees must be paid by January 2 in order to avoid expiration of the business license. Exceptions apply for food trucks in accordance with provisions of Chapter 6.07 (Food Trucks).

### 6.01.140 License Change Name Or Location

- (a) Except as otherwise provided, aAny person to whom a business license has been issued to transact or carry on some business, calling, trade or profession at a definite location in the City may make application for the change of his/her business license for the sole purpose of transacting or carrying on the same business, calling, trade or profession as is therein mentioned at some other definite location in the City by himself or herself by filing said application with the License Official, together with the applicable address change fee. Exceptions apply for food trucks in accordance with provisions of Chapter 6.07 (Food Trucks).
- (b) Any person who wishes to change his/her business name shall also make application for the change of name of such person's business license, for the sole purpose of transacting or carrying on the same business, calling, trade or profession as is therein mentioned under a new name, by filing an application with the License Official, along with the applicable name change fee.
- (c) If the business in question has any other licenses which are required under this Title, or its successor, additional fees shall apply for such changes.
- (d) The change fee shall be nonrefundable regardless of whether the application is granted or denied.

### 6.01.190 Reciprocal Recognition Of Business Licenses

- (a) A business license shall not be required for operation of any vehicle or equipment in the City when:
- (1) Such vehicle is merely passing through the City; or
  - (2) Such vehicle is used exclusively in interstate commerce.
- (b) A business license shall not be required of any person whose only business activity in the City is the mere delivery in the City of property sold at a regular place of business maintained outside the City where:
- (1) Such person's business is at the time of such delivery licensed by the Utah city or county in which such place of business is situated; and
  - (2) The authority licensing such business grants to licensees of the city making deliveries within its jurisdiction the same privileges, upon substantially the same terms as are granted by this Section; and
  - (3) Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of the City for compliance with health or sanitary standards prescribed by the City; and
  - (4) The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued by the licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.
- (c) Except as otherwise provided herein, a business license shall not be required of any person who is duly licensed in another county or another city in Utah, has no business location in the City, and the county or other licensing city would also reciprocate if the same business were located in the City. Before reciprocity is granted, the person must fill out a business license application and show proof of a valid business license in a qualifying city or county. Additional reciprocity exceptions apply for food trucks in accordance with provisions of Chapter 6.07 (Food Trucks).
- (d) The Business License Official shall, at the request of any person, upon payment of copying and postage costs, certify a copy of this Section to any city or county of the State of Utah.