

ORDINANCE NO. 2019-1001-28

**AN ORDINANCE TO AMEND CHAPTER 13 OF THE CODE OF ORDINANCES OF
THE TOWN OF APEX**

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Apex as follows:

Section 1. Section 13-62 of the Code of Ordinances of the Town of Apex is hereby amended as follows:

Sec. 13-62 – Location Standards.

Transient and mobile food vendors are allowed to operate only at locations that are in accordance with the following standards:

- (1) On private property with written permission from the property owner to operate on the owner's property;
- (2) On town-owned, public property as designated in this article with the prior written approval of the town manager or designee. Persons vending in town parks must also comply with sections 13-52(13) and 13-53(b) of the Town Code of Ordinances;
- (3) Mobile food vendors are prohibited from vending in any residentially zoned area;
- (4) No transient or mobile food vendor shall operate from, or leave a mobile food unit unattended on, any public right-of-way, required buffer, paved or traveled portion of a street, handicapped space, or fire lane, unless a Right-of-Way Use Permit is also obtained in accordance with Section 13-62.1;
- (5) No vendor shall locate within any area in such a way as to impede or interfere with pedestrian or vehicular traffic and shall not obstruct or block the entrance or exit of any building. Vendors shall observe all regulations established by the Americans with Disabilities Act.

Section 2. Chapter 13 of the Code of Ordinances of the Town of Apex is hereby amended by the addition of a new Section to read as follows:

Sec. 13-62.1 – Location Standards for Public Right of Way.

- (a) *Right of Way use Limited, Permit Required.* No mobile food vendor may utilize the right-of-way to serve customers without obtaining a permit for mobile food vendors within the right of way. This shall not apply to special events approved by the Town. A vendor may obtain a permit to serve customers from the right-of-way, provided all standards identified in this Section are met.
- (b) *Standards to Serve from Right-of-Way.* A mobile food vendor providing service from the right-of-way must meet all of the following standards:
- a. The mobile food vendor may only be parked within the permitted area designated on the permit.
 - b. No mobile food vendor may be parked in a location that prohibits or restricts access to a private property. A minimum of fifteen (15) feet of spacing is required from any driveway.
 - c. The mobile food vendor must be located at least five (5) feet from any utility box, utility vault, handicapped ramp, or emergency call box. The mobile food vendor must be located at least fifteen (15) feet from a fire hydrant. The mobile food vendor must be located at least fifteen (15) feet from any crosswalk or intersection where pedestrians typically cross.
 - d. Mobile food vendors serving from the right-of-way shall be located on the side of the street which minimizes pedestrian traffic across that street, and must serve towards the curb side.
 - e. No mobile food vendor may be granted a permit to operate from a right-of-way located in the Small Town Character Overlay District, as indicated on the Official Zoning District Map.
 - f. The mobile food vendor must possess a valid insurance policy through an insurance carrier authorized or eligible to do business in the State of North Carolina for any damage to the public right-of-way and for any damages for which the Town might incur liability because of property damage or personal injury arising out of the use of the public right-of-way. The minimum liability limit of the policy shall be one million dollars (\$1,000,000.00). The Town of Apex shall be listed as an additional insured as its interests may appear on all Certificates of Insurance.

- g. The mobile food vendor shall hold the Town, its officers, council members, and employees harmless and indemnify them for any loss, liability, damage and costs and expenses arising from its operations.

Section 3. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. If any part of this ordinance shall be adjudged invalid, such adjudication shall apply only to such part so adjudged and the remainder of the ordinance shall be deemed valid and effective.

Section 4. This ordinance shall be effective upon enactment.

Introduced by Council Member _____

Seconded by Council Member _____

Attest:

TOWN OF APEX, NORTH CAROLINA

Donna B. Hosch, MMC, NCCMC
Town Clerk

Lance Olive
Mayor

Approved As To Form:

Laurie L. Hohe
Town Attorney