

1 | **Appomattox Town Council**
Regular Council Meeting
September 9, 2019

The Appomattox Town Council held a Regular Council meeting on Monday, September 9, 2019 at 7:30 p.m. at the Appomattox Municipal Building, 210 Linden Street, Appomattox, Virginia with Mayor Harvey, presiding.

Members present: James Boyce, Sr. (arrived at 7:40 p.m.), Mary Lou Spiggle, Timothy W. Garrett, Steven T. Conner and Claudia G. Puckette.

Absent: Jonathan D. Garrett

Others present: Rev. Carlton Duck, Derek Norfield, Bob Sayre, Michelle Payne, Mayor Dwayne Tuggle, Amherst; Mayor Treney Tweedy, Lynchburg; Kim Ray, Town Treasurer; Gary Shanaberger, Town Manager; Roxanne W. Casto, Clerk.

Mayor Harvey called the meeting to order and welcomed the visitors.

Rev. Carlton Duck led the prayer and Pledge of Allegiance to the Flag of the United States of America.

Public Hearing:

Mayor Harvey opened the public hearing and stated the purpose:

The purpose of this public hearing will be to receive public comments concerning adoption by the Town Council of:

Section 1. Chapter 126 of the Code of the Town of Appomattox is hereby amended to add a new section following 126-16, to be known as Mobile Food Establishment/Unit Ordinance as follows:

The intent of this Ordinance is to establish basic operational standards for mobile food establishments as well as appropriate protections of public health, safety, and welfare for their operation. Mobile food establishments are not by definition permanent fixtures to a specific property. These regulations do not apply to “meals on wheels” program vehicles or food home delivery services. As used in this Ordinance, the term “mobile food establishment” shall mean all mobile food vehicles providing retail sales of food and beverages, including food trucks, food trailers and food carts and any other mobile food devices not affixed to real property.

A complete copy of the proposed ordinance is available at the Appomattox Town Office, 210 Linden Street, Appomattox, Virginia or by calling Roxanne W. Casto, Clerk of Council at 434-352-8268.

Staff comments:

Mr. Shanaberger, Town Manager confirmed the rates as \$25.00 for a one day only permit or \$100.00 for a one-year permit. The ordinance is proposed as effective upon passage.

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There were no public comments.

Mayor Harvey closed the public hearing.

Mayor's Comments:

Due to the stormy weather, Mayor Harvey deferred his comments.

Scheduled Public Appearances:

Mayor Dwayne Tuggle, Town of Amherst & Mayor Treney Tweedy, City of Lynchburg appeared to invite Council to attend the Central Virginia Planning District Strategic Direction Roundtable 2019. At this strategic meeting, elected officials and local government officials from throughout the region will discuss and decide the next priority initiative for the Central Virginia Planning District Commission.

The Strategic Director Roundtable will be on Thursday, October 17, 2019, at the Lynchburg Regional Business Alliance building, 300 Lucado Street, Lynchburg. Reception at 5:00 p.m. and the meeting starts at 5:30 p.m.

Mayor Tuggle personally requests everyone attend. Mayor Tweedy reminded everyone that your voices will be heard.

Consent Agenda:

On a motion by Ms. Spiggle, seconded by Mr. Timothy Garrett, Council voted to adopt the consent agenda for September 9, 2019 as presented. All members present voting aye. Motion carried 5-0.

Unfinished Business:

None

New Business:

On a motion by Mr. Boyce, seconded by Mr. Conner, Council voted to amend Chapter 126 of the Code of the Town of Appomattox, by adding a new section following 126-16, to be known as Mobile Food Establishment/Unit Ordinance, effective immediately upon passage:

AN ORDINANCE TO AMEND the Code of the Town of Appomattox, Chapter 126 thereof, entitled Licensing, to add a new section providing for Mobile Food Establishment/Unit Ordinance.

Be it ordained by the Council of the Town of Appomattox as follows:

Section 1. Chapter 126 of the Code of the Town of Appomattox is hereby amended to add a new section following 126-16, to be known as Mobile Food Establishment/Unit Ordinance as follows:

§126-16.1 Intent

The intent of this Ordinance is to establish basic operational standards for mobile food establishments as well as appropriate protections of public health, safety, and welfare for their operation. Mobile food establishments are not by definition permanent fixtures to a specific property. These regulations do not apply to “meals on wheels” program vehicles or food home delivery services. As used in this Ordinance, the term “mobile food establishment” shall mean all mobile food vehicles providing retail sales of food and beverages, including food trucks, food trailers and food carts and any other mobile food devices not affixed to real property.

§126-16.2 General Requirements.

- A. For the purposes of this Ordinance, the terms “permittee”, “operator”, and “vendor” all shall mean a licensed mobile food establishment, as defined hereinabove in the preamble to this Ordinance.*
- B. A mobile food establishment permit authorized by the Administrator shall be required prior to the operation of a mobile food establishment on any real property parcel within the town limits.*
- C. Mobile food establishments will be required to pay \$25 for a one day only permit or \$100 for a one-year permit. A mobile food establishment permit is valid through December 31 of the year upon which the permit was issued. The permit fee may be waived if the mobile food establishment is part of a special event.*
- D. Mobile food establishments are required to collect and remit all applicable sales, meals and other applicable taxes to the appropriate taxing entity. However, meals tax may not be required to be collected during special events such as fairs, festivals, and similar events that are approved by a temporary event permit.*
- E. No permit authorized by this Section and issued by the Administrator shall authorize a mobile food establishment to operate on or from a public street or sidewalk unless it is part of a special event and the street, and sidewalk locations, have been approved by the Administrator*
- F. Mobile food carts for the retail sale of food or beverages are not permitted on sidewalks.*
- G. A mobile food establishment permit may be revoked by the Administrator at any time due to the failure of the permit holder to comply with all requirements of this Ordinance and other applicable federal, state, and local laws. Notice of revocation shall be made in writing to the permit holder.*

§126-16.3 Application Requirements

- A. A valid permit from the Virginia Department of Health stating that the mobile food establishment meets all applicable standards. A valid health permit must be maintained for the duration of the mobile food establishment permit.*

- B. The mobile food establishment vendor must secure and provide proof of insurance to protect against liability for personal injury and property damage up to one million dollars (1,000,000). Proof of this insurance shall be maintained in the mobile food establishment and made readily available for inspection by the Administrator.*
- C. Applicants for a mobile food establishment permit authorizing the operation of the mobile food establishment on private property must provide:*
- 1. Information identifying the mobile food establishment unit including, its make, model and license plate number, together with a photograph of the mobile food establishment;*
 - 2. Written permission from the owner(s) of the private properties upon which the permittee will operate;*
 - 3. Description of the days of the week and hours of operation for proposed mobile food vending at the proposed property.*
 - 4. A sketch to be approved by the Zoning Administrator, illustrating access to the site, all parking areas, routes for ingress and egress, placement of the mobile food establishment, distance from the property lines, garbage receptacles and any other feature associated with the mobile food establishment;*
- D. A permit shall not be required for the location or setup of a mobile food establishment on private property for the catering or providing of food service to a closed private event (such as weddings, birthdays, picnics, etc.). During such an event no public mobile food vending shall be permitted.*
- E. A permit and fee may not be required for an individual mobile food establishment if the operator is participating in an approved fair, festival, or similar event approved by a temporary event permit pursuant to this Ordinance.*

§126-16.4 Grant or Denial of Application

Review and consideration of an application shall be conducted in accordance with principles of due process. Applications may be denied where an applicant fails to demonstrate that he, she or it meets the conditions and requirements of this Ordinance, or where an applicant fails to comply with applicable local, state or federal law. Any false statements, material omissions or substantially misleading information provided in an application or furnished by an applicant in connection with an application shall constitute grounds for any one or combination of the following sanctions: permit denial; refusal to renew a permit; permit revocation; permit suspension; and/or imposition of penalties.

§126-16.5 Location Requirements

- A. *Mobile food establishments shall only be permitted in B-1 and B-2 districts that permit a restaurant by-right. In District M-1 Industrial, mobile food establishments may be allowed if approved by the Administrator. For special events, in districts other than B-1 and B-2, mobile food establishments may be allowed if approved by the Administrator.*
- B. *All mobile food establishments must be located at the designated location that has been requested on the application and approved by the Administrator. Location “freelancing” and changes of location are not permitted unless approved in writing by the Administrator.*
- C. *Mobile food establishments may be located on off-street parking lots in locations that do not block any drive aisles, ingress and egress routes from the property, or designated fire lanes. In no event shall vendors be permitted to operate on grass, dirt or other non-improved parking surfaces unless approved by the Administrator.*
- D. *Mobile food establishments and trailers shall be located a minimum distance of 15 feet from the edge of any driveway, utility box or vaults, handicapped ramp, building entrance, exit or emergency access/exit, emergency call box or fire hydrant.*
- E. *Mobile food establishments shall not be located within any area of the lot or parcel that impedes, endangers, or interferes with pedestrian or vehicular traffic.*
- F. *Mobile food establishment shall not occupy any parking spaces required to fulfill the minimum requirements of the principal business use, unless the principal business’ hours of operation do not coincide with those of the mobile food establishment. Nor shall any mobile food establishment occupy parking spaces that may be leased to another business and used to fulfill its minimum parking requirements.*
- G. *Mobile food establishments shall not occupy or limit access to any handicap accessible parking space.*

§126-16.5 Operation Requirements

- A. *No freestanding signage, banners, flags, pennants, or audio amplification shall be permitted as part of the mobile food establishments operations.*
- B. *No mobile food establishment shall use flashing or moving lights as part of its operation. Auxiliary or temporary lighting is not allowed.*
- C. *Two picnic tables with umbrellas with seating capacity of 6 people per table may be set up for patron’s use. No tents or additional chairs are permitted.*
- D. *Outside of its regular business hours, the mobile food establishment shall not be stored on the site of its operation unless pre-approved by the Administrator.*

- E. The vendor is responsible for the proper disposal of waste and trash associated with the operation of the mobile food establishment. Town trash receptacles are not to be used for this purpose. Vendors shall provide portable trash receptacles and remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. The vendor shall keep all areas of the permitted lot free and clean of grease, trash, paper, cups, cans or other materials associated with operation of the mobile food establishment.*
- F. No liquid waste or grease is to be disposed on the ground, in tree pits, storm drains, on sidewalks, streets, or other public space. Under no circumstances shall grease be released or disposed of in the Town's sanitary sewer system. Failure to comply with this section will result in an immediate revocation of the permit and potential liability for damages and remediation costs.*
- G. All equipment required for the operation of the mobile food establishment shall be contained within, attached to, or within 20 feet of the mobile food establishment. All food preparation, storage, and sales-distribution shall comply with all applicable Town, State, and Federal Health Department sanitary and other applicable regulations.*
- H. Only food and non-alcoholic beverages incidental to the permitted vendor shall be sold from the mobile food establishment. Retail sales of merchandise are permitted as an accessory use to the primary use of food sales.*
- I. Signage:
 - (1) Signage may be imprinted on the exterior body of a licensed mobile food establishment and include the use of an attached or detached menu board.*
 - (2) Advertisements for businesses other than the mobile food establishment may not be utilized.**
- J. The operator of a permitted mobile food establishment must conspicuously display all approved permits and licenses for public inspection. Proof of commercial general liability insurance for the mobile food establishment is required to be with the mobile food unit at all times.*
- K. All required taxes must be collected and paid to the appropriate entities.*
- L. A three-foot wide clearance area must be maintained around the mobile food establishment.*

Section 2. Effective date.

This ordinance shall become effective immediately upon passage.

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All members present voting aye. Motion carried 5-0.

On a motion by Mr. Conner, seconded by Mr. Timothy Garrett, Council voted to authorize execution of the MCSJ contract with Edmunds & Associates, Inc. for computer system software and/or hardware and to further authorize a budget resolution amending the FY 2020 Budget for funding in the amount of \$52,443.00.

- 1. Consideration to adopt a resolution amending the FY 2020 Operating Budget for the General, Water, and Sewer Fund for the purchase and conversion of financial and utility software and hardware*

WHEREAS, Section 15.2-2507, Code of Virginia, allows that a governing body may amend the budget from time to time

NOW THEREFORE, BE IT RESOLVED, that the Appomattox Town Council does hereby amend the FY 2020 Operating Budget for the General, Water, and Sewer Fund for Computer Hardware and Software.

General Fund Expenditures

10-4100-5526 – Computers – Administrative Department \$42,835

Water Fund Expenditures

30-6000-5526 – Computer Expense – Water Department \$ 4,804

Sewer Fund Expenditures

31-7000-5526 – Computer Expense – Sewer Department \$ 4,804

Total Net Increase in Expenditure Budget \$52,443

General Fund Revenues

10-3901-0000 Transfer from Reserves \$42,835

Water Fund Revenues

30-3901-0000 Use of Fund Balance \$ 4,804

Sewer Fund Revenues

31-5901-0000 Use of Beginning Balance \$ 4,804

Total Net Increase in Revenue Budget \$52,443

SECTION XIII:

*BE IT FURTHER RESOLVED, by the Town Council of Appomattox, Virginia that the Fiscal Year 2020 budget amendments are hereby adopted, and the monies necessary to fund it are hereby appropriated and shall be certified by the Clerk of Council and maintained as an archive document with the official minutes of the Town Council of Appomattox, Virginia.
Amended this 9th day of September 2019.*

Attest:

Roxanne Casto, Town Clerk

All members present voting aye. Motion carried 5-0.

Standing Committee Reports:

None

Citizen Comment Period:

None

Town Manager's Report:

Mr. Shanaberger reported on the following:

- There will be a meeting of the Town and the contractor for the Meadowlark drainage project on Thursday, September 12, 2019. The project should be completed by the end of December 2019.
- Mr. Shanaberger has received one quote for the 4th of July fireworks. Companies charge a premium for fireworks on July 4th. It could cost \$20,000 for a 15-20-minute show.
- The necessary paperwork will be submitted to the Department of Historic Resources regarding tax credits for the train depot.
- The final Historic Structures Report and renderings will be submitted to the Town by the middle of November, before Thanksgiving.
- The Appomattox Downtown Revitalization committee will meet on September 11, 2019 at 5:30 p.m. at the Appomattox Train Depot to begin discussing the timeline for the grant project.
- The Town EDA will meet next week, September 17, 2019.
- Mr. Shanaberger will also reach out to Katie Conner with the Virginia Tourism Corporation to expedite the information gathered at the community meeting on August 8, 2019.

Council Concerns:

Mr. Conner stated that Council needs to act on the request to open a Welcome Center at the American Civil War Museum before there is nothing to get. Mayor Harvey concurred state we need to do something to capture the market. We are losing numbers every year. Mrs. Puckette stated the concept is the most economical. The American Civil War Museum is a centralized location.

Mr. Conner would like to see the flagpole painted at the Town Office and the flags taken down nightly.

Mrs. Puckette expressed concerns of the deer population in Town. One of her neighbors in particular is having a problem with them. Mr. Shanaberger will discuss with USDA.

Adjournment:

On a motion by Mr. Conner, seconded by Mr. James Boyce, Council voted to adjourn at 7:55 pm. All members present voting aye. Motion carried 5-0.

Roxanne W. Casto
Clerk of Council

Paul D. Harvey, Mayor