

ORDINANCE NO. 682

AN ORDINANCE OF THE CITY OF WEST COLUMBIA, TEXAS AMENDING CHAPTER 10 "LICENSES AND BUSINESS REGULATIONS" ALLOWING FOR AND REGULATING "MOBILE FOOD VENDORS" AND FEE SCHEDULE TO ESTABLISH A PERMITTING PROCESS FOR MOBILE FOOD ESTABLISHMENTS; REQUIRING A PERMIT; STATING CONDITIONS FOR ISSUANCE OR DENIAL OF THE PERMIT; PROVIDING FOR A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR A VIOLATION, WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the number of local restaurants, stores and eateries that provide food for human consumption in the City of West Columbia has increased and continues to grow; and

WHEREAS, mobile food vendors have expressed growing interest in the sale of edible food products to residents and visitors of the City; and

WHEREAS, in order to ensure the public health, safety and welfare, it is necessary to adopt rules and regulations for mobile food vendors within the City of West Columbia; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST COLUMBIA, TEXAS:

Section 1. The facts and matters set forth in the preamble to this ordinance are hereby found to be true and correct.

Section 2. Chapter 10 "Licenses and Business Regulations" is hereby amended by adding Article XII, "Mobile Food Vendors" and shall read in its entirety as follows:

"Mobile Food Vendors

Section 10-526. Definitions.

The following words, terms and phrases when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City shall mean the City of West Columbia, Texas

County shall mean Brazoria County, Texas

Edible Goods shall include, but are not limited to:

- a. Prepackaged food, including but not limited to, candy, beverages, chips and ice cream
- b. Prepared food which is prepared off-location for sale in the mobile food unit
- c. On-site prepared food which is prepared in the mobile food unit.

Mobile Food Vendors shall mean any business which sells edible goods from a non-stationary location within the City. The term shall include, but not be limited to:

- a. Mobile food trucks – a self-contained motorized unit selling items defined as edible goods.
- b. Concession trailers – vending units which are pulled by a motorized unit and has no power to move on its own.

Mobile Food Unit or Establishment, shall mean the mobile food truck, the concession trailer, or other motorized unit, including the equipment, supplies and apparatus, used on site for the sale of edible goods.

Person shall mean an individual, firm, partnership, corporation, association, organization, or other legal entity.

Special Event shall mean a temporary event (4 days or less) or gathering of ___ or more persons for a common purpose, typically held outdoors, including but not limited to

parades, bike races, marathons, carnivals, concerts or other types of festivals or outdoor activities.

Section 10-527. Food Safety Requirements

A Mobile Food Vendor shall comply with the regulations applicable to mobile food units as codified in the Texas Administrative Code, Title 25, "Health Services", Chapter 228, Texas Food Establishment Rules and the Brazoria County Health Department both as presently written or as amended.

Section 10-528. Registration and Permit Required

No Mobile Food Vendor shall operate in the City without first registering with the City in the office of the City secretary, upon showing that the Mobile Food Unit or Establishment has been inspected by the Brazoria County Health Department and displaying a current and valid permit and/or medallion issued by the County. No Person shall be issued a permit until the fees which are on file in the office of the City secretary have been paid in full.

Section 10-529. Additional Information to be Provided.

In order to operate within the City, the Mobile Food Vendor must provide the following additional information to the office of the city secretary:

- a. Legal name of business or entity;
- b. Use of Restroom Agreement;
- c. Wastewater Discharge Agreement Letter;
- d. Inspection report from City's building official;
- e. Inspection report from Brazoria County Fire Marshall;
- f. Type of business organization or corporation;
- g. Name, location and dates during which the Mobile Food Vendor proposes to sell edible goods from the Mobile Food Unit;
- h. Sales tax number, with a copy of the sales tax permit;
- i. Proposed site location and hours of operation of the Mobile Food Unit;

- j. Signed permission form from all property owners granting permission for placement of the Mobile Food Unit;
- k. Name, address, phone number, email address and photo-copy of the driver's license of the owner and operator of the Mobile Food Vendor and all employees operating on the Mobile Food Unit;
- l. Description or menu of the types of Edible Goods the Mobile Food Vendor proposes to sell from the Mobile Food Unit;
- m. Vehicle and/or unit make, model, vehicle number, and license plate number;
- n. Proof of vehicle registration, liability insurance, including motor vehicle insurance; and
- o. Copies of any current and valid mobile food vendor permits, issued by any local governmental entity, in addition to Brazoria County, for the Mobile Food Unit identified by registration.

Section 10-530. Permit Fees

All permits shall require an inspection fee. The Mobile Food Vendor Permit Fees shall be on file with the office of the City secretary. The fees are based on the classification of the mobile unit listed on the Mobile Food Vendor Permit Fee Schedule attached hereto as Exhibit A. All permit fees are nonrefundable and nontransferable. Any Person who willfully violates any provision of this ordinance is subject to revocation of the permit to operate in the City. Reinstatement of a revoked permit is subject to City council approval.

Section 10-531. Removal from City

Any Mobile Food Unit or Establishment shall be required to move out of the City to protect the health, safety, and general welfare of the public upon receiving written notice from the building official, city manager, chief of police, or chief of fire department. Certain events that warrant removal include, without limitation, natural disaster as declared by state or federal authorities, code or health violations, failure to observe good business practices, and / or acting or displaying crude, vulgar, or offensive gestures, speech, or signs.

Section 10-532. Location Restrictions

- A. No Mobile Food Vendor shall be located on any property without written permission to do so and must comply if asked to leave by the property owner or City official. A copy of the written permission to operate in a specific location, signed by the property owner, shall be kept within the Mobile Food Vendor at all times.
- B. A Mobile Food Vendor shall not conduct sales on any public street or in congested areas where the operation impedes vehicular or pedestrian traffic.
- C. No Mobile Food Vendor shall conduct business within any single-family residential district unless otherwise approved by the City council.

Section 10-533. Additional Regulations

- 1. All outdoor furniture or decorations must be securely stored at the end of each day. This includes garbage and trash receptacles.
- 2. Trash receptacles/cans/barrels shall be emptied daily by the Mobile Food Vendor.
- 3. Mobile Food Vendor shall be responsible for cleaning or clearing trash or debris within fifty (50) feet of the Mobile Food Unit.

Section 10-534. Grandfather Clause

Any Mobile Food Unit or Establishment existing or currently permitted will be allowed one (1) year, from the date of adoption, to comply with this ordinance. Any Person not in compliance at the first anniversary from the date of adoption of this ordinance, shall have the permit revoked.

Section 10-535. Prohibited Conduct

The conduct listed below, by any Person, directly or through an agent or employee of another regulated under this ordinance, is prohibited:

- A. Utility connections are prohibited (i.e., sewer, water, gas). All Mobile Food Vendors must remain mobile.

- B. No receptacles, barrels, dumps used for the collection of used fats, oils, or grease.
- C. No permanent structures allowed (i.e., canopies, carports, walkways, patios, decks, etc).
- D. No permanent furniture or decorations. All outdoor equipment, furniture, or decorations shall be easily moved by one (1) person.
- E. Selling Edible Goods within the corporate limits of the City without a permit and registration.
- F. Selling Edible Goods while displaying or presenting a registration issued by the City in the name of another person, individual, organization or entity.
- G. Misrepresenting on the registration form any acts that are regulated under this ordinance.

- D. Selling or offering for sale any edible goods not described in the Mobile Food Unit registration.

- E. Selling or offering for sale any non-food item from a Mobile Food Unit.

Section 10-536. Penalty

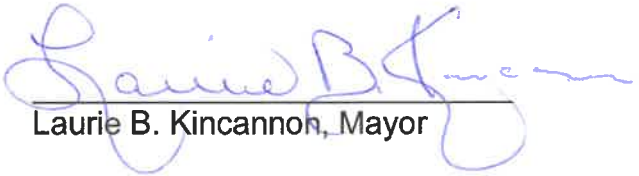
A person who violates any provision of this ordinance is guilty of a separate offense for each day or part of a day during which the violation is committed or continues. Upon conviction, each offense is punishable by a fine not to exceed \$2,000.00 per occurrence.”

Section 3. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 4. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional, and the City Council of the City of West Columbia, Texas declares that it would have passed each and every part of the same notwithstanding the omission of

any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and ADOPTED this 8th day of November 2020.


Laurie B. Kincannon, Mayor

ATTEST:


Kelli R. Kuban, City Secretary

APPROVED AS TO FORM:



Katie Rutherford, City Attorney

EXHIBIT A

MOBILE FOOD VENDOR PERMIT FEE SCHEDULE

1. **Class I** - This vehicle shall be a commercially manufactured motorized mobile food establishment from which only prepackaged foods and beverages are sold. Only pre-wrapped, bottled, canned, or properly labeled packaged foods in individual servings and non-potentially hazardous beverages in covered urns may be vended. No on-site preparation or cooking. \$100.00 annual fee, \$75.00 renewal fee for Texas Comptroller Registration outside the city limits of West Columbia; \$50 annual fee, \$35 renewal fee for Texas Comptroller Registration inside the city limits of West Columbia
2. **Class II** - This vehicle shall be a commercially manufactured, motorized mobile food unit in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution. \$200.00 annual fee, \$150.00 renewal fee for Texas Comptroller Registration outside the city limits of West Columbia; \$100 annual fee, \$75 renewal fee for Texas Comptroller Registration inside the city limits of West Columbia
3. **Class III** - This vehicle shall be commercially manufactured unit without the ability for self-transport (i.e. a trailer). \$200.00 annual fee, \$150.00 renewal fee for Texas Comptroller Registration outside the city limits of West Columbia; \$100 annual fee, \$75 renewal fee for Texas Comptroller Registration inside the city limits of West Columbia.