

ORDINANCE NO. 200505-1

TEMPORARY FOOD ESTABLISHMENTS, MOBILE FOOD UNITS AND ROADSIDE FOOD VENDORS

AN ORDINANCE OF THE CITY OF BIG LAKE, TEXAS, REGARDING THE REGULATION OF FOOD ESTABLISHMENTS INCLUDING TEMPORARY FOOD ESTABLISHMENTS, MOBILE FOOD UNITS, AND ROADSIDE FOOD VENDORS WITHIN THE CITY LIMITS OF BIG LAKE, TEXAS; REPEALING ORDINANCE #15-09-15-1, PROVIDING FOR: A FINDINGS OF FACT; A POPULAR NAME AND NUMBER SYSTEM; PURPOSE; DEFINITIONS; REQUIREMENTS; INVESTIGATION AND NOTICE OF VIOLATIONS; ABATEMENT; ENFORCEMENT INCLUDING MAXIMUM FINE OF \$500.00 FOR ORDINANCE VIOLATIONS UNLESS THE VIOLATION IS RELATED TO FIRE SAFETY, HEALTH AND PUBLIC SANITATION IN WHICH THE MAXIMUM FINE IS \$2000.00 PER DAY PER VIOLATION; SEVERABILITY; SAVINGS CLAUSE; EFFECTIVE DATE AND PROPER NOTICE AND MEETING.

SECTION 1 - ADOPTION OF TEXAS FOOD ESTABLISHMENT RULES

A. The City of Big Lake, Texas adopts by reference the provisions of the current rules or rules as amended by the Texas Board of Health found in 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and 173 through 175 regarding the regulation of food establishments in this jurisdiction.

B. Definitions:

The term “authorized agent or employee” means the employees of the regulatory authority.

The term “edible goods” means all food products designed for human consumption.

The term “food service establishment” means any business that sells edible goods from a fixed location and has been inspected and approved by the Environmental Health Department, and shall specifically exclude accessory or self-serve retail food sales.

The term “food truck court”, (aka: food truck park or food truck plaza) means any commercial establishment designed specifically to accommodate two (2) or more mobile food vendor units with water, sewer, and electrical hook ups and also possesses a current food truck court permit from the City.

The word “mobile” means the state of being in active, but not necessarily continuous movement; capable of being moved and not permanently fixed or placed.

The term “mobile food vendor” means any person that sells edible goods from a mobile unit within the city, except a person who has been issued a permit to operate an ice cream sales vehicle.

The term "mobile unit" means and includes:

1. A mobile food truck: self-contained motorized unit from which a mobile food vendor offers for sale or sells edible goods to the public;
2. A concession cart: a mobile vending unit that must be moved by non-motorized means from which a mobile food vendor offers for sale or sells edible goods to the public; or:
3. A concession trailer: a vending unit that is pulled by a motorized unit and has no power to move on its own from which a mobile food vendor offers for sale or sells edible goods to the public.
4. The term "stationary location" means position of the mobile unit when not in motion and addressing the public for the purpose of sales.
5. The term "municipality of Big Lake" or "City" in this ordinance shall be understood to refer to the City of Big Lake.
6. The term "state rules" means the state rules found at 25 Texas Administrative Code, Chapter 229, Sections 161 through 171 and Sections 173 through 175. These rules are also known as the Texas Food Establishment Rules.
7. The term "regulatory authority" means the City of Big Lake.

SECTION 2 - PERMITS AND EXEMPTIONS

- A. A person may not operate a food establishment without a health permit issued by the regulatory authority. Permits are not transferrable from one person to another or from one location to another location, except as otherwise permitted by this ordinance. A valid permit must be posted in or on every food establishment regulated by this ordinance.
- B. A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this ordinance, but is not exempt from compliance with state rules. The regulatory authority may require any information necessary to determine whether an organization is nonprofit for purposes of this exemption.

SECTION 3 - PERMIT AND FEES

- A. Any person desiring to operate a food establishment must make a request for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit.

- B. Prior to the approval of an initial permit or the renewal of an existing permit, the regulatory authority shall inspect the proposed food establishment in accordance with the City of Big Lake Retail Food Establishment Inspection Report and Section 6 of this ordinance to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules will be denied a permit or the renewal of a permit.
- C. The following fee schedule applies to permits issued under this ordinance.

Permit Fee Schedule:

Daily Permit:	\$25.00
Weekly Permit:	\$100.00
Yearly Permit	\$300.00

SECTION 4 - PERMITTED LOCATIONS AND DISTANCE REGULATIONS

- A. Subject to the provisions of this article, mobile food vendors shall be permitted to conduct business in the following zoning districts: Commercial and Industrial
- B. Mobile food vendors shall comply with the following distance regulations:
1. A mobile food vendor shall not conduct business within any residential or apartment zoning district. A mobile food vendor shall not conduct business within two hundred (200) feet of the boundary line of any residential or apartment zoning district.
 2. A mobile food vendor shall not conduct business within two hundred (200) feet of the primary entrance of an open and operating permanent structure food service establishment. This buffer may be reduced upon receiving written, notarized permission from the owner of said establishment.
 3. If a new permanent structure food service establishment opens within the two hundred (200) foot buffer of a mobile food vendor as set forth in subsection (2) above, the mobile food vendor must receive written, notarized permission from the new establishment's owner to continue operating at that location.
 4. A mobile food vendor shall not locate closer than fifteen (15) feet to any front property line (adjacent to any street) or any rear property line (adjacent to any alley). The mobile food vendor shall not locate a mobile unit in such a manner or location that obstructs or causes to be obstructed the passage of any sidewalk, street or alley or any other public place, by causing people to congregate at or near the mobile unit.
 5. A mobile food vendor shall not locate on any private property without written permission to do so and must comply and leave the property if asked to leave by the property owner. A copy of the owner's written and notarized permission to operate in a specific location signed by the owner shall be kept within the mobile unit at all times.

SECTION 5 - HOURS OF OPERATION

No mobile food vendor shall operate between the hours of 1:00 a.m. and 5:00 a.m.

SECTION 6 - MOBILE FOOD VENDOR REQUIREMENTS

The following regulations shall apply to mobile food vendors:

- A. The mobile food vendor shall be responsible for proper disposal of solid waste and shall be required to obtain sanitation services through the City of Big Lake to ensure proper solid waste disposal. Each mobile food vendor shall be required to set up an account with the City of Big Lake for a solid waste receptacle (dumpster) and provide a \$75.00 deposit. Each mobile food vendor will be billed at a monthly rate of \$25.00 for sanitation services.
- B. The mobile food vendor shall be responsible for proper disposal of wastewater in compliance with the Code of Ordinances of the City. If the mobile food vendor elects to tie-in to an existing sewer service, they will be billed at a monthly rate of \$10.00 per month. No additional deposit shall be required.
- C. Standard tapping fees will apply and existing deposit amounts will be required for mobile food vendors wishing to set up full utility services with the City of Big Lake, including water, sewer and sanitation.
- D. No noise which is loud or noxious shall project from the mobile unit.
- E. A mobile unit shall not block any fire lane or drive aisle.
- F. No mobile unit may park on a lot without a primary structure, unless the mobile unit is conducting business in the central business district. Any parking lot in the central business district occupied by a mobile unit shall comply with the Section 4 B. above.
- G. No mobile food vendor shall conduct business in the public right-of-way and shall not block access to any parcel or alley.
- H. No mobile unit shall locate in such a manner as to cause any obstruction within a visibility triangle.
 - 1. Intersection visibility triangle shall mean a triangle sight area, at all intersections, which shall include that portion of public right-of-way and any corner lot within a triangle formed by a diagonal line extending through points on the two (2) property lines twenty-five (25) feet from the street corner intersection of the property lines (or that point of intersection of the property lines extended) and intersecting the curb lines.

- I. It shall be unlawful for any person to operate as a mobile food vendor without complying with the Texas Food Establishment Rules as amended from time to time.
- J. A mobile unit shall be inspected by the City's Code Enforcement Officer prior to the issuance of a mobile food vending permit in accordance with Section 3 B. above. The inspection shall also include the following:
 1. A valid driver's license and current Texas Department of Public Safety license plates and state inspection sticker, except for a concession cart which is not required to have license plates or an inspection sticker. The mobile unit must be in good working order.
 2. A mobile unit must have a 2A:10B:C sized extinguisher with an annual inspection tag from a Texas licensed inspection company or a receipt indicating purchase within the past year. If frying media (grease) is used, a class K extinguisher shall be required in the mobile unit. Any mobile unit equipped with an automatic extinguishing system shall have a current (bi-annual) inspection tag from a Texas licensed inspection company. All mobile units shall maintain ten (10) feet of clearance for access.
 3. All cooking appliances in the mobile unit shall be of an approved type, listed and labeled, for the use intended. Appliances shall be installed in accordance with the manufacturer's instructions. Coleman, camp stoves or the equivalent shall be prohibited. All cooking appliances shall have an approved, labeled and listed on-off valve.
 4. All propane and natural gas appliances shall be pressure tested annually and have only approved listed parts and no rubber hoses shall be allowed. All piping shall be in accordance with Natural Fire Protection Association 58 and be protected from physical damage. Mounting and placement of containers shall comply with Natural Fire Protection Association 58 and Texas Department of Transportation regulations. The capacity limit of propane and natural gas containers or cylinders shall be determined by the fire marshal's office after consideration of features that secure and protect the container.
 5. Cooking surfaces in the mobile unit shall be kept clean of grease build-up. Trash containers and debris shall be emptied regularly. Extension cords shall not be utilized for appliances. Appliances shall be plugged directly into electrical outlets.

SECTION 7 - SUSPENSION OF PERMIT

- A. The regulatory authority may, without warning, notice, or hearing suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon service of the notice required by Paragraph 7 B. of this ordinance. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing.

- B. Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit within ten (10) days. If no written request for hearing is filed within ten (10) days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

SECTION 8 - REVOCATION OF PERMIT

- A. The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, or the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten (10) days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such ten (10) day period.
- B. If no request for hearing is filed within the ten (10) day period, the revocation of the permit becomes final.

SECTION 9 - ADMINISTRATIVE PROCESS

- A. A notice as required in these rules is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the regulatory authority.
- B. The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the regulatory authority.

SECTION 10 - REMEDIES

- A. Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a mobile food service establishment that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be fined not more than Two Hundred (\$200.00) dollars.
- B. The regulatory authority may seek to enjoin violations of these rules.

SECTION 11 - SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 12 - EFFECTIVE DATE

The provisions of this ordinance shall take effect ten (10) days from adoption by the municipality.

INTRODUCED, READ AND PASSED BY AN AFFIRMATIVE VOTE BY THE BIG LAKE CITY COUNCIL ON THIS 5 DAY OF MAY, 2020.

CITY OF BIG LAKE



Phil Pool, Mayor

Attest:



Sheri Benson, City Secretary