

ORDINANCE NO. 2024-8

AN ORDINANCE OF THE CITY OF GONZALES, TEXAS, AMENDING THE GONZALES CODE OF ORDINANCES CHAPTERS 14 ZONING, 6 HEALTH AND SANITATION, AND 4 BUSINESS REGULATIONS RELATED MOBILE FOOD VENDING AND MOBILE FOOD VENDING COURTS AND OTHER MATTERS IN CONNECTION THEREWITH; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; ESTABLISHING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Gonzales (City) is a Texas Home Rule Municipality and the Texas Local Government Code authorizes the City of Gonzales to exercise jurisdiction over City zoning as deemed appropriate by the City; and

WHEREAS, the City Council may from time to time choose to amend, supplement, change or modify the City's zoning regulations, boundaries, or classifications; and

WHEREAS, City Staff has reviewed the current zoning regulations and have recommended certain revisions and updates to the current zoning regulations; and

WHEREAS, on January 18, 2024, January 25, 2024, and February 1, 2024, notice of the public hearings were published in the Gonzales Inquirer; and

WHEREAS, on February 5, 2024, the Planning and Zoning Commission conducted a public hearing and after consideration, made a recommendation of approval of this amendment; and

WHEREAS, on February 8, 2024, the City Council conducted a public hearing and after consideration and recommendation by the Planning and Zoning Commission the City Council postponed the adoption of the ordinance pending additional changes; and

WHEREAS, on March 14, 2024, the City Council determined that the ordinance amendment be approved as provided herein.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GONZALES, TEXAS:

Section 1. The City Council of the City of Gonzales, Texas hereby amends the City of Gonzales Code of Ordinances Chapters 14 Zoning, 6 Health and Sanitation, and 4 Business Regulations as set forth in the attached "Exhibit A".

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 4. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 5. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 6. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

Section 8. This Ordinance shall be effective upon the date of final adoption hereof and any publication required by law.

Section 9. This Ordinance shall be cumulative of all other ordinances of the City of Gonzales, and this Ordinance shall not operate to repeal or affect any other ordinances of the City of Gonzales except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, are hereby repealed.

PASSED, ADOPTED, APPROVED, this 14th day of March, 2024.



Mayor, S.H. Sucher

ATTEST:



Kristina Vega, City Secretary

“Exhibit A”

City of Gonzales, Texas

Code of Ordinance Changes Mobile Food Vending

Exhibit A

All text which is underlined denotes addition of new text. All text which is ~~stricken~~ through denotes removal of existing text. All other text is existing, unchanged text. Any existing text which has been omitted shall be considered unchanged. All text which is both between braces { } and italicized, is for document organization and reference only and is not intended to be adopted. The City of Gonzales Code of Ordinances is hereby amended as follows:

{Addition of definitions to Section 14.201 Standard Zoning Definitions}

Section 14.201 Standard Zoning Definitions

Accessory Mobile Food Vending – A Mobile Food Vendor operating as an accessory use to a primary use established and operating with a valid certificate of occupancy on the property.

Mobile Food Unit (MFU) – (As defined by 25 TAC 228.2, as may be amended) A vehicle-mounted, self or otherwise propelled, self-contained food service operation designed to be readily movable (including catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. An MFU must completely retain its mobility at all times. An MFU does not include a stand or a booth.

Mobile Food Vendor (MFV) - Any business which sells edible goods from a Mobile Food Unit (MFU) within the city.

Mobile Food Vending Court - any parcel of land where one or more Mobile Food Vendors congregate to offer food or beverages for sale to the public. This is considered a primary land use for the property.

{Addition of Mobile Food Vending Park land use in Zoning Ordinance Section 14.403 Use Chart}

Section 14.403 Use Chart

	SF-6	SF-8	SF-10	SF-A	MF	MH	NOS	C1	C2	LI	HI	AO	DMU	OT
<u>Mobile Food Vending Court</u>							<u>S</u>	<u>P-16</u>	<u>P-16</u>					
<u>Accessory Mobile Food Vending</u>							<u>S</u>	<u>P-17</u>	<u>P-17</u>				<u>S</u>	

{Addition of conditional development standards to Zoning Ordinance Section 14.404 Conditional Development Standards}

Section 14.404 Conditional Development Standards

16. Mobile Food Vending Court. All Mobile Food Vending Court land uses, except as provided herein, shall comply with the following requirements; however, all Mobile Food Vendors in a Mobile Food Vending Court are also subject to state law provisions applicable to Mobile Food Units and as provided

in 25 Texas Administrative Code Chapters 228 & 229 and Texas Health and Safety Code Chapters 437 & 438, as all may be amended (“State Law”). In the event of a conflict between this Section and State Law, State Law shall govern.

- (1) Maximum number of Mobile Food Vendors. There shall be a maximum of ten (10) Mobile Food Vendors allowed in a Mobile Food Vending Court. A Specific Use Permit may be granted by the City Council to allow more than ten (10) Mobile Food Vendors in a Mobile Food Vending Court.
 - (2) Location. All activities associated with a Mobile Food Vending Court must be located at least fifty (50) feet away from any single-family residential use or residential zoning district. A Specific Use Permit may be granted by the City Council to reduce the fifty (50) foot setback.
 - (3) Fire Lanes. Fire lanes and adequate fire protection shall be provided to serve the Mobile Food Vending Court as required by applicable city, state, or international regulations or codes.
 - (4) No Mobile Food Vendor nor any associated seating areas are allowed to be located in any required zoning setback, buffer yard, easement, or fire lane.
 - (5) Utility Connections. Electricity, water, and sanitary sewer temporary connections may be provided to each Mobile Food Vendor site but are not required. Electricity to the Mobile Food Vendor may be provided through the use of portable generators in compliance with applicable noise nuisance ordinances.
 - (6) Restrooms. Restroom facilities are required and may be provided using either of the following options:
 - 1) A permanent restroom building equipped with flush type toilets and properly plumbed to a sanitary sewage system with sufficient capacity to meet the needs of the Mobile Food Vending Court's Mobile Food Units and customers shall be conveniently located on the property and accessible to employees and customers. Restrooms shall also be compliant with city building codes and 25 TAC 228, as may be amended.
 - 2) Portable restroom facility conveniently located on the property and accessible to employees and customers with a contract for weekly maintenance with a company duly licensed to perform the service.
 - 3) In-lieu of a permanent restroom building or portable restroom facility, written proof of availability of restrooms with flushable toilets connected to a public water and wastewater system for the use of the Mobile Food Vendors' employees and customers located in a business establishment within 500 feet.
 - (7) Seating and eating areas. All Mobile Food Vending Courts may provide shaded seating and eating areas.
 - (8) All Mobile Food Vendors shall be parked on designated locations paved with a durable hard surface treatment including asphalt, concrete, pavers, chip seal, caliche, decomposed granite, or other similar material customarily used for parking vehicles.
 - (9) Drive-Through Service. Vehicular drive-through service of food and/or beverages shall not be permitted except through a Specific Use Permit granted by the City Council.
 - (10) Trash enclosure. All Mobile Food Vending Courts shall provide trash and refuse containers and shall be screened in accordance with this Chapter.
 - (11) All existing lots operating as Mobile Food Vending Courts and holding a valid itinerant merchant permit on March 14, 2024, shall be considered legal nonconforming lots and subject to the nonconforming regulations of this chapter. Mobile Food Units shall be subject to all applicable city, county and state health and food safety regulations.
17. Accessory Mobile Food Vending. All Accessory Mobile Food Vending land uses shall comply with the following requirements; however, all Accessory Mobile Food Vending is also subject to state law provisions applicable to Mobile Food Units and as provided in 25 Texas Administrative Code Chapters 228 & 229 and Texas Health and Safety Code Chapters 437 & 438, as all may be amended (“State Law”). In the event of a conflict between this Section and State Law, State Law shall govern.

- (1) Accessory use only. Accessory Mobile Food Vending shall only permitted as an accessory use when a primary use of the property is established and operating with a valid certificate of occupancy.
- (2) Maximum number of Accessory Mobile Food Vendors. There shall be a maximum of one (1) accessory Mobile Food Vendor per site. A Specific Use Permit may be granted by the City Council to allow more than one (1) Accessory Mobile Food Vendor per site.
- (3) Location. All activities associated with Accessory Mobile Food Vending must be located at least fifty (50) feet away from any single-family residential use or residential zoning district. A Specific Use Permit may be granted by the City Council to reduce the fifty (50) foot setback.
- (4) Mobile Food Vendors shall be parked on designated locations paved with a durable hard surface treatment including asphalt, concrete, pavers, chip seal, caliche, decomposed granite, or other similar material customarily used for parking vehicles.
- (5) Mobile Food Vendors shall not be placed in required parking spaces nor block or impede the safe and orderly flow of traffic through the site.
- (6) No Mobile Food Vendor nor any seating areas are allowed to be located in any required zoning setback, buffer yard, easement, or fire lane.
- (7) Utility Connections. Electricity, water, and sanitary sewer temporary connections may be provided to the Mobile Food Vendor site but are not required. Electricity to the Mobile Food Vendor may be provided through the use of portable generators in compliance with applicable noise nuisance ordinances.
- (8) Restrooms. Restrooms are not required to be provided.
- (9) Drive-Through Service. Vehicular drive-through service of food and/or beverages shall not be permitted except through a Specific Use Permit granted by the City Council.
- (10) All existing lots operating with an Accessory Mobile Food Vending land use and holding a valid itinerant merchants permit on March 14, 2024, shall be considered legal nonconforming lots and subject to the nonconforming regulations of this chapter. Individual Mobile Food Vendors shall be subject to all applicable City and State health and food safety regulations.

{Addition of parking requirements for mobile food vending to Section 14.604, Table 6.3 Schedule of Off-Street Parking Requirements}

Section 14.604, Table 6.3 Schedule of Off-Street Parking Requirements

Use Type	Parking Requirement
Mobile Food Vending Court	One (1) parking spaces for every mobile food vendor space

{Addition of health and sanitation requirements to Code of Ordinances Chapter 6 Health and Sanitation}

Article 6.700 Mobile Food Vendors

Section 6.701 Mobile Food Vendors.

Mobile Food Vendors are prohibited within the City except as otherwise provided for herein. All Mobile Food Vendors shall comply with the following requirements; however, all Mobile Food Vendors are also subject to state law provisions provided in 25 Texas Administrative Code Chapters 228 and 229; and Texas Health and Safety Code Chapters 437 and 438; as they may be amended (“State Law”). In the event of a conflict between this Article and State Law, State Law shall govern.

Section 6.702 Definitions.

Terms used in this ordinance which are not defined herein shall be construed as in ordinary, common usage.

Certified Food Manager - A person who has demonstrated that he or she has the knowledge, skills and abilities required to protect the public from foodborne illness by means of successfully completing a certified food manager examination and becoming certified as described in Chapter 438 of the Texas Health and Safety Code and 25 Texas Administrative Code Chapter 229, as may be amended.

Mobile Food Unit (MFU) – (As defined by 25 TAC 228.2, as may be amended) A vehicle-mounted, self- or otherwise propelled, self-contained food service operation designed to be readily movable (including catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. An MFU must completely retain its mobility at all times. An MFU does not include a stand or a booth. A roadside food vendor is classified as an MFU.

Mobile food vendors (MFV). Any business which sells edible goods from a Mobile Food Unit (MFU) within the city.

Owner. As used herein, and for the purpose of obtaining permits or receiving citations, includes any persons or persons with apparent care, custody, or control of the MFU or property upon which it is located.

Section 6.703 Permit Required.

It shall be unlawful for any person to operate a Mobile Food Unit without having obtained a permit issued by the city. Permits may be acquired for various durations from the date of issuance. Permits are not transferrable. Permits must be posted in or on every Mobile Food Unit.

Section 6.704 Permit Application and Inspections.

- (a) Application requirements. Any request for a Mobile Food Vending Permit shall be accompanied by an application and supporting documents prepared in accordance with the requirements of the City. The City Manager or his/her designee shall be responsible for determining the form and content of the Mobile Food Vending Permit application.
- (b) Processing of Application and Decision.
 - (1) Submittal. An application for a Mobile Food Vending Permit shall be submitted to the City Manager or his/her designee.
 - (2) Decision by the City Manager. The City Manager or his/her designee may approve, approve with conditions, or deny the Mobile Food Vending Permit.
 - (3) Inspections.
 - (A) Mobile food units must pass a health inspection for the mobile food unit or submit a copy of a valid mobile food vending health inspection from another municipal, county, or State of Texas health inspection agency.
 - (B) Mobile food units must pass a fire safety inspection or submit a copy of a valid fire safety inspection from another municipal, county, or State of Texas agency duly authorized to perform fire safety inspections.
 - (C) Mobile Food Units may be inspected at any time by the code enforcement officer, fire marshal, or county health authority.
 - (4) Appeals. Any person aggrieved by any decision of the City Manager or his/her designee, or any taxpayer or any officer, department, or board of the City may appeal the decision of the City Manager or his/her designee to the City Council.

Section 6.705 Locations permitted

- (a) Private property zoned for MFV. A MFV may only locate on property zoned for Mobile Food Vending Court or Accessory Mobile Food Vending as set forth in Chapter 14 Zoning.
- (b) Temporary. A MFV may only locate temporarily on non-residentially zoned property for less than 8 consecutive hours and no more than two times in a consecutive 7 day period.
- (c) No public streets. A MFV is prohibited from operating on a public street or within the public right of way except in conjunction with an approved special event permit or authorization granted by City Council.
- (d) Special event exception. A MFV permit may be issued by the city manager or his/her designee for temporarily locating within the public right of way, within a public park or facility, or in the absence of a Specific Use Permit when such issuance is in conjunction with a special event of limited duration.

Section 6.706 Certified Food Manager Required.

A Certified Food Manager must be present at the Mobile Food Unit during each day of operation.

Section 6.707 Food Protection.

- (a) The provisions of 25 TAC 228, 25 TAC 229, and Texas Health and Safety Code Chapters 437 and 438, as amended, are adopted and incorporated into this ordinance as if fully set out herein, and govern all requirements for food storage, temperature, protection and preparation; water, ice, and wastewater facilities and provision; insect and rodent control; general sanitation and ventilation; and other matters relating to mobile vending of food.

Sec. 6.708 Vehicle or unit requirements.

- (a) All Mobile Food Units shall be readily identifiable by business name, printed in bold letters not less than 3 inches in height, not less than one and one-half inches in width, permanently affixed, and prominently displayed upon at least 2 sides of the unit.
- (b) All Mobile Food Units shall maintain a current state motor vehicle inspection sticker and a current state motor vehicle license plate registration sticker.
- (c) All Mobile Food Units must be readily movable (capable of moving immediately upon the request of the City Manager or their designee).

Sec. 6.709 Trash and other facilities.

- (a) Restroom access and trash receptacles. MFVs who prepare food on their Mobile Food Units shall:
 - (1) Provide one or more trash receptacles for disposal of waste from customers, and shall provide for the disposal of such waste; and
 - (2) Provide access to restroom facilities for employees and customers in accordance with Chapter 14 Zoning.

Sec. 6.710 Penalties

In addition to the general penalties established for violations of the city code as set forth in Sec. 1.109, any violation of this article may result in immediate revocation of any MFV permit. Any citation may be issued to either the operator of the MFV or the owner of the property upon which the MFV is located in violation of this article.

{Modification to remove mobile food vendor from the Itinerant Merchant or Street Vendor definition in Sec.4.401}

Section 4.401 Definition.

Itinerant Merchant or Street Vendor. An individual or business ~~including mobile food vendors~~, who desires to do business from a fixed location without traveling from place to place, house to house, or street to street.