

ORDINANCE NO. O-18-25

**AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS,
AMENDING CHAPTER 18, BUSINESSES, OF THE MISSOURI CITY
CODE; AMENDING REGULATIONS REGARDING MOBILE FOOD
UNITS; PROVIDING FOR REPEAL; PROVIDING A PENALTY; AND
PROVIDING FOR SEVERABILITY.**

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WHEREAS, on October 16, 2017, the City Council of the City of Missouri City adopted regulations to facilitate the provision of food to members of the public by mobile food vendors for the benefit of public health and safety; and

WHEREAS, to provide mobile food vendors with additional time to comply with the City's regulations, the City Council has determined that greater flexibility is required for the complete implementation of the mobile food unit regulations for a time certain; and

WHEREAS, the City Council of the City of Missouri City now deems it appropriate to amend regulations regarding mobile food units; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The Missouri City Code is hereby amended by deleting Sections 18-134 and 18-135 of Division 5 of Article II of Chapter 18 thereof and substituting therefor new Sections 18-134 and 18-135 of Division 5 of Article II of Chapter 18, respectively, to provide as follows:

"Chapter 18 - BUSINESSES

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ARTICLE II. - FOOD SERVICE

. . . .

DIVISION 5. - MOBILE FOOD UNITS.

. . . .

Sec. 18-134. - Applications for mobile food unit permits.

A person seeking to operate a mobile food unit in the city shall submit an application for a mobile food unit permit to the director in an application form provided by the director accompanied by the payment of a fee in the amount specified in a resolution adopted by the city council establishing a schedule of fees. The application shall include the following information:

- (1) The name, address, telephone number, and email address of the applicant, provided that if the applicant is an entity, the following information shall also be provided:
 - (a) The legal name of the entity;
 - (b) If the entity is a corporation, the full name and address of each director, officer, and each shareholder, or if the corporation has more than five shareholders, the full name and address of at least five shareholders with the most shares;
 - (c) If the entity is a partnership, the full name and address of each partner and the type of partnership;
 - (d) If the entity is an unincorporated association, the full name and address of each associate and officer of such association;
 - (e) Proof of the entity's form and current status, including, but not limited to:
 - i. A current and valid certificate of existence or certificate of authority from the state office of the secretary of state;
 - ii. A current and valid certificate of good standing from the state comptroller of accounts;
 - iii. All assumed names used and copies of all filings related to such names from the county clerk's office;
 - iv. A certificate of incorporation; and
 - v. If applicable, a determination letter issued by the Internal Revenue Service;
 - (f) The entity's federal tax identification number; and
 - (g) Documentation that the entity is not delinquent in state, local, and federal taxes;
- (2) A copy of the applicant's valid and current driver's license;
- (3) If the applicant will designate an operator to supervise the operation of the MFU, the name, address, telephone number, and email address of the operator, and a copy of the operator's valid and current driver's license;
- (4) The applicant's sales tax number and a copy of the applicant's sales tax permit;
- (5) A certificate of title showing the current true ownership of the mobile food unit, provided that if the applicant is not the owner of the mobile food unit, a copy of a written and notarized statement from the owner authorizing the applicant to operate the mobile food unit;
- (6) The vehicle identification number, license plate number, and proof of vehicle registration;

- (7) A copy of the applicant's liability insurance policy, insurance endorsement or evidence of self-insurance on the MFU;
- (8) A copy of a current and valid food protection manager certification;
- (9) A written standard operation procedure of how the applicant plans to operate the mobile food unit, that includes, but is not limited to, whether food will be prepackaged, hours of operation, methods of serving food to customers, the MFU's waste water disposal site and process, and other servicing operations details;
- (10) Plans drawn to reasonable scale that clearly specify and address the proposed layout of the MFU, the identity, number, and capacity of food equipment, the location and sizes of plumbing fixtures and connections, food preparation, storage and service window areas, construction material of the inside of the MFU, and location of the LP-gas appliances, LP-gas container storage, and fire extinguishers;
- (11) A description or menu of the types of food that the applicant proposes to sell or offer for sale from the mobile food unit;
- (12) The location(s) where the mobile food unit will be in operation and a site plan drawn to reasonable scale showing the location of the mobile food unit on the parcel on which it will be placed and the distance from any building, vehicle, or structure from each edge of the MFU when parked;
- (13) Proof of ownership of a central preparation facility, other fixed food establishment or service area, as applicable, or if the applicant is not the owner of the central preparation facility, other fixed food establishment or service area, a signed and notarized statement on the letterhead of the central preparation facility, other fixed food establishment or service area, as applicable, authorizing the applicant to use the central preparation facility, other fixed food establishment or service area as its base of operation;
- (14) If the central preparation facility, other fixed food establishment or service area that the applicant proposes to use as its base of operation is located outside the jurisdiction of the city, a copy of the most current health inspection report obtained from the regulatory authority having jurisdiction over such central preparation facility, other fixed food establishment or service area;
- (15) For a mobile food unit that will be operated on private property, proof of ownership of the property or, if the applicant is not the owner of the property, a signed and notarized written statement from the property owner or the property owner's authorized agent granting the applicant permission to operate a mobile food unit on the property;
- (16) For a mobile food unit that will operate at one location for more than two hours, a signed and notarized statement from the owner or the authorized agent of the owner of a business establishment with a restroom with a flushable toilet, a hand wash sink with hot and cold running water, and

soap and hand-drying provisions, located within a reasonable distance from the location where the mobile food unit will be in operation, granting employees of the mobile food unit permission to use such restroom during the business establishment's hours of operation or documentation providing an alternative proposal to satisfy the requirements of this subdivision;

- (17) A description of the signage that will be affixed on the mobile food unit; and
- (18) Any other information that may be requested by the director to fully evaluate and review the application.

Sec. 18-135. - Review and approval of applications.

- (a) Upon receipt of a complete application for a permit, the director will review the application and grant a mobile food unit permit unless one or more of the following conditions is met:
 - (1) The application contains false or misleading information, or required information is omitted;
 - (2) The application or the mobile food unit does not comply with all applicable laws, including the requirements of this chapter; or
 - (3) Operation of the mobile food unit constitutes a substantial hazard to public health or public safety.
- (b) Notwithstanding any provision contained in this division, the director may grant a permit for a MFU that generally complies with the requirements of this division, provided that:
 - (1) The director notifies the applicant, in writing, of the deficiencies in the applicant's application for a permit before the permit is issued;
 - (2) The application does not contain false or misleading information, or omit required information; and
 - (3) Operation of the mobile food unit will not constitute a substantial hazard to public health or public safety.
- (c) Subsections (b) and (c) of this section 18-135 shall remain in effect until September 30, 2019."

Section 3. *Repeal.* All ordinances or parts of ordinances in conflict herewith, if any, shall be and are hereby repealed only to the extent of such conflict.

Section 4. Penalty. Any person who violates, or any person who causes or allows another person to violate, any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each occurrence of any violation of this Ordinance shall constitute a separate offense. Each day in which any violation of this Ordinance occurs shall constitute a separate offense.

Section 5. Severability. In the event any 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 Missouri City, 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 APPROVED on first reading this 4th day of September, 2018.

PASSED, APPROVED and ADOPTED on second and final reading this 17th day of September, 2018.

/s/Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

/s/Maria Jackson, City Secretary

/s/E. Joyce Iyamu, City Attorney