

ORDINANCE NO. 2022-029

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF HITCHCOCK, TEXAS AMENDING TITLE XI ENTITLED “BUSINESS REGULATIONS” BY ADDING CHAPTER 124 ENTITLED “MOBILE FOOD UNITS” AND PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE

WHEREAS, the City of Hitchcock is authorized to regulate ordinances pursuant to Texas Local Government Code;

WHEREAS, the City Council of the City of Hitchcock, Texas needs to amend the Code of Ordinance Title XI Entitled “Business Regulations” by adding Chapter 124 Entitled “Mobile Food Units”; and

WHEREAS, the City Council determines that amending Title XI, Chapter 110, Section 110.06, will promote the health, safety and welfare of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HITCHCOCK, TEXAS:

Section 1. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council hereby further finds and determines that the rules, regulations, terms, conditions, provisions, and requirements of this ordinance are reasonable and necessary to protect the public health, safety, and quality of life. The City of Hitchcock’s Code of Ordinances, Title XI is hereby amended by adding Chapter 124 as follows:

Chapter 124 – MOBILE FOOD UNITS

ARTICLE 1. MOBILE FOOD UNITS

Sec. 124.01. - Definitions.

For the purpose of this article the following definitions will apply:

Mobile food vendor is a person or persons owning, operating, or working in a mobile food vending unit and is the permit holder and person in charge of a mobile vending or food unit.

Mobile food unit is a food establishment that is mounted on wheels readily movable from place to place during operation and shall include but not limited to pushcarts, trailers, truck, or vans. The unit, all operations, and all equipment must be integral to and be within or attached to the unit.

Fixed location means being at one location or site that is used or intend to be used for an extended period of time and will not be moved on a daily basis.

Sec. 124.02. - In general.

In addition to other requirements set forth in this chapter and applicable state law, a mobile food unit shall be subject to and shall comply with the provisions set forth in this article. The City's Building Official and/or Fire Marshal, or their designees, may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation and may prohibit the sale of some or all potentially hazardous foods.

Sec. 124.03. -Mobile food unit regulations and permits.

The following regulations shall apply to mobile food units:

(A) Permit process. The permit application must be completed by the mobile food vendor with required information as follows:

- (1) A copy of the central preparation facility license, if applicable.
- (2) A copy of the agreement or contract with a waste disposal company.
- (3) A copy of the certified food manager's license.
- (4) A notarized letter from the property owner authorizing the unit to be operated on private property if the mobile unit will be at a fixed location.
- (5) A notarized restroom availability letter if the mobile unit will be at a fixed location.
- (6) A copy of the Galveston County Health Department Food Service Permit.
- (7) A copy of the menu or list of items to be sold.
- (8) A site plan of where the mobile unit will be placed on the property if the mobile unit will be at a fixed location.
- (9) A plan or layout describing the mobile unit.
- (1) A copy of a current and valid sales tax certificate.

(B) Plan submission. Plans must be submitted to the Building Official and/or Fire Marshal at the time of permit application prior to operation of a mobile food unit. Plans shall show the signage, layout, arrangement of equipment, and construction material of the inside of the mobile food unit including food preparation, storage, and service window areas. Plans and permits will be approved by the Fire Marshal and/or Building Official.

(C) Fixed location.

- (1) A mobile food unit operating from a fixed location shall obtain written permission from the property owner to operate on the property owner's premises. A copy of such letter must be provided to the city with the permit application. The operator of a fixed location mobile food unit shall notify the city each time the mobile food unit changes location of operation no later than twenty-four (24) hours after the change has taken place and provide written permission to operate at such location.

- (2) A mobile food unit operating from a fixed location cannot set up within twenty-five (25) feet of the roadway or the public easement.
- (3) The mobile food unit must be placed on a hard surface and cannot set up on a grassy or greenspace area.
- (4) The location the mobile food unit is placed must provide parking for customers.
- (5) The location must also provide a safe area to the customer to wait for the product.

(D) Identification of mobile food units. Every mobile food unit must be readily identifiable by the business name which must be printed, permanently affixed, and prominently displayed upon at least two (2) sides of such units in letters not less than three (3) inches in height.

(E) Sanitation requirements. The following additional sanitation requirements shall apply:

- (1) Any accident involving a mobile food unit shall be reported in writing, to the Building Official and/or Fire Marshal within twenty-four (24) hours from the time the accident occurred, and before operation of mobile food unit resumes if such accident results in damage to the water system, waste retention tank, food service equipment, or any facility which may result in the contamination of the food being carried. Such report shall be made by the holder of the mobile food unit permit.
- (2) In the event that the permit issued under this chapter to any food establishment that has agreed to be a central preparation facility for a mobile food unit has been revoked, suspended, or without timely renewal, the permit for the same mobile food unit shall be automatically suspended until and unless the permit for the food establishment is restored to valid status.

Sec. 124.04. - Collection of sales tax.

All mobile vendors or units are required under this ordinance to produce a current and valid Texas Sales and Tax Use Permit from the Texas Comptroller of Public Accounts upon the request of a permit. The sales tax must be collected by the seller and remitted to state and local authorities.

Sec. 124.05. - Expiration and fees.

A permit for a mobile food unit shall be valid for a period of one year from its date of issuance. The fee is addressed within the comprehensive fee schedule approved by City Council. The fee shall be doubled in the event that a mobile food unit is being operated before permits are approved. Permits that are suspended by the Fire Marshal, Building Official, or designees, shall not be extended beyond the original expiration date. The expiration date remains the same. Permits that are revoked shall not be refunded. The applicant can reapply for another permit when compliance is met and pay all fees associated

with a new permit. This will result in a new permit being issued with a new expiration date.

Sec. 124.06. - Inspections.

The Fire Marshal and or Building Official, and or designees, will conduct an initial inspection and annual inspections to the mobile unit to include and not limited to gas tests, current proof of vehicle inspections, registrations, and current Galveston County Health Department certifications.

Sec. 124.07. - Exemptions.

A permit is not required for a mobile food unit if the unit is involved in an approved event that a mass gathering permit is issued for.

Sec. 124.08. - Adopted codes.

Mobile food units must comply with all adopted codes and ordinances.

Sec. 124.09. - Penalties and enforcement.

The failure to comply with any of the provisions of this article, or any rules, regulations, or codes established hereunder shall be grounds for the revocation or suspension of the permit, or the refusal to issue, or renew any permit required. Permits may be suspended until compliance is met and inspections are complete, however long this may be. This decision shall be made by the Fire Marshal and/or Building Official, or designees. City officials may also make a report to the Galveston County Health District when necessary.


Section 2. This ordinance shall be cumulative of all provisions of the City of Hitchcock, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event the more restrictive provision(s) shall apply.

Section 3. It is hereby declared to be the intention of the City Council of the City of Hitchcock, Texas that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance should be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance, since the same would have been enacted by the City Council without incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 4. All rights and privileges of the City of Hitchcock, Texas are expressly saved as to any and all violations of the provisions of any Ordinances affecting land use or development, which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 5. This Ordinance shall be effective immediately upon the passage, approval and publication as required by law.

PASSED AND APPROVED this the 14th day of November, 2022.



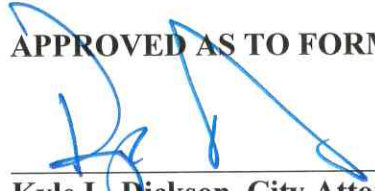
Christopher E. Armacost, Mayor
City of Hitchcock

ATTEST:

APPROVED AS TO FORM:



Ruth Ann Sorrell, City Secretary
City of Hitchcock



Kyle L. Dickson, City Attorney
City of Hitchcock