



**ORDINANCE NO. 23-0221-H1**

**AN ORDINANCE OF THE CITY OF ENNIS, TEXAS, AMENDING THE CODE OF THE CITY OF ENNIS BY AMENDING ARTICLE VI – FOOD SERVICE OF CHAPTER 10 - LICENSES, PERMITS AND BUSINESS REGULATIONS TO ADD DIVISION 3 – MOBILE FOOD UNITS**

**WHEREAS**, the City of Ennis, Texas, is a home rule city acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Commission of the City of Ennis (“City Commission”) has previously adopted regulations governing food services establishments, which include mobile food units, in Division 3 – Food Service Establishments of Article VI – Food Service of Chapter 10 – Licenses, Permits, and Business Regulations in the Code of the City of Ennis, in accordance with Chapter 437 of the Texas Health and Safety Code; and

**WHEREAS**, the City Commission has investigated and determined it is in the best interest of Ennis residents to adopt regulations governing mobile food units operating within the City limits by requiring mobile food unit permits to be issued by the Health Director, among other requirements; and

**WHEREAS**, the City Commission finds and determines that the adoption of this Ordinance is necessary to protect the public health, safety and welfare;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ENNIS, TX:**

**SECTION 1: Findings Incorporated.** The findings set forth above are incorporated as if fully set forth herein.

**SECTION 2: Amendment to Section 10-227.** Section 10-227 - Definitions in Chapter 10 – Licenses, Permits, and Business Regulations in the Code of the City of Ennis is amended to replace the definition of "food establishment" to read as follows:

*Food establishment* means a food service establishment, a retail food store, or roadside food vendor.

**SECTION 3: Amendment to Section 10-228.** Section 10-228 – Permits and exemptions in Chapter 10 – Licenses, Permits, and Business Regulations of the Code of the City of Ennis is amended to delete paragraph (d).

**SECTION 4: Amendment to Section 10-229.** Section 10-229 – Application for permit and fees in Chapter 10 – Licenses, Permits, and Business Regulations of the Code of the City of Ennis is amended to delete the fee for “Mobile units” from the “Food Permit Fee Schedule” in paragraph (c).

**SECTION 5: Amendment to Section 10-232.** Section 10-232 – Revocation of permit in Chapter 10 – Licenses, Permits, and Business Regulations of the Code of the City of Ennis is amended to delete paragraph (d).

**SECTION 6: Amendment to Add Division 3.** Division 3 – Mobile Food Units is added to Article VI – Food Service in Chapter 10 – Licenses, Permits, and Business Regulations of the Code of the City of Ennis to read as follows:

**DIVISION 3. - MOBILE FOOD UNITS.**

**Sec. 10-236. - Purpose.**

The purpose of this section is to establish regulations governing mobile food units. These regulations are intended to promote the health, safety, and welfare of the public, and to protect the property rights of the owners of land located adjacent to and within the vicinity of properties containing a mobile food unit.

**Sec.10-237. - Definitions.**

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

*Central preparation facility*, also known as a commissary or base of operations, means a facility that is an approved and permitted retail food establishment where:

- (1) food, containers, or supplies are kept, handled, prepared, packaged, or stored for use by a mobile food unit; and
- (2) a mobile food unit is stored, parked, serviced, cleaned, supplied, and maintained. Use of a private residence as a central preparation facility is prohibited under the Texas Food Establishment Rules (TFER).

*City* means the City of Ennis, Texas.

*Fire marshal* means the fire marshal of the City.

*Food establishment* means the food establishment defined in section 10-227 of this Code.

*Food handler certificate* means a certificate obtained by completing a food handler training program accredited by the Texas Department of State Health Services.

*Food service manager certificate* means a certificate obtained by passing a Texas Department of State Health Services approved certified food manager certification examination.

*Mobile food unit (MFU)* means a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including catering trucks and trailers) and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A mobile food unit does not mean a pushcart, food booth, or concession stand. Mobile food units are classified as follows:

- (1) *Full Service*: A commercially manufactured towed trailer or motorized self-contained food service operation upon which approved food is cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution.
- (2) *Limited Service*: A commercially manufactured towed trailer or motorized self-contained food service operation upon which approved, prepackaged foods are sold or conveyed in such a manner that no direct food contact results.

*Permit holder* means a person who possesses a valid permit to operate a food establishment.

*Person* means an individual, association, corporation, partnership, or other entity with ownership, care, custody, or control over a food establishment or mobile food unit, including, but not limited to the permit or license holder, employee, food employee, or person-in-charge.

*Pushcart* means a nonmotorized vehicle propelled by a human or other nonmotorized force.

*Regulatory authority* means the Director of Health Services, or designee, or any other agency charged with enforcement of regulations applicable to establishments regulated under this division.

*Site plan* means a detailed plan that includes property lines, adjacent rights-of-way, location of mobile food unit, parking areas and surface material, and any other information reasonably required by the Regulatory Authority.

*Texas Food Establishment Rules (TFER)* means the rules in 25 Tex. Admin. Code, Chapter 228, as amended.

**Sec. 10-238. - Permit required.**

It shall be unlawful for a person to engage in, transact, or conduct the business or occupation of a mobile food unit in the city without a mobile food unit permit issued by the regulatory authority or violate any provision of this division. Permits are not transferrable from one person to another or from one location to another location, except as otherwise permitted by this division. All permits expire on December 31st of the year of issuance. A valid permit must be posted in or on every mobile food unit regulated by this division.

**Sec. 10-239. - Application for permit and fees.**

- (a) Application. Any person seeking to operate a mobile food unit in the city must make a written application for a mobile food unit permit on a form provided by the responsible authority. An incomplete application will not be accepted. Permits are required on an annual basis and the same information is required for a renewal permit as for an initial permit. The following information for an application for mobile food unit permit shall be provided by the applicant:
- (1) Name, date of birth, and valid driver's license of the applicant;
  - (2) Applicant's address (both physical and mailing addresses) and telephone number;
  - (3) Applicant's email address;
  - (4) Sales tax number with a copy of sales tax permit;
  - (5) Written authorization from the owner or operator of the central preparation facility stating that the mobile food unit will use the facility as its base of operation and providing the address, food establishment permit number of the facility, and a copy of the most recent health inspection report;
  - (6) Written authorization from the property owner or landlord of each location where the mobile food unit will be stationed;
  - (7) If the mobile food unit will be placed in one location for more than one (1) hour, written authorization from an owner or operator of a business within three hundred (300) feet for employees of the mobile food unit to have use of flushable restrooms during hours of operation, portable restrooms are prohibited;
  - (8) A description of the mobile food unit which will be used under this permit. This information shall include the manufacturer, model year, color and vehicle identification number;
  - (9) Route itinerary, vending locations and times, accurate to within 30 minutes;

- (10) A site plan depicting the location of the mobile food unit on the property, if applicable;
- (11) A complete menu identifying the type of food to be sold;
- (12) Proof of current automobile insurance for the mobile food unit;
- (13) Copy of business liability insurance;
- (14) Proof of food service manager certificate for person in charge of the mobile food unit;
- (15) Proof of food handler certificate for any staff who may operate the mobile food unit;
- (16) Applicable permit fee; and
- (17) Any other information required by the regulatory authority.

(b) Permit fees.

- (1) The fees for a mobile food unit permit shall be as follows:
  - a. Full Service: \$300.00
  - b. Limited Service: \$200.00

(c) Application denial. An application may be denied by the responsible authority where:

- (1) The required information is incomplete or false or shows that the applicant is not otherwise entitled to conduct business as a mobile food unit.
- (2) The opportunity to reissue a permit has been denied due to previous violations as described in this section.

**Sec. 10-240. - Inspections.**

Prior to the issuance of a permit or renewal permit, the mobile food unit must be inspected in accordance with this section.

- (a) The regulatory authority shall inspect the mobile food unit to determine if the mobile food unit is being conducted in such a manner as to comply with the conditions of the permit, the provisions of this article, other applicable city ordinances and state and federal statutes, regulations, and rules. Said inspection shall be conducted at a time and location designated by the regulatory authority. A mobile food unit that does not comply with this division or state laws and rules regarding mobile food units will be denied a permit or a renewal permit.

- (b) The fire marshal shall conduct the fire safety inspection for all mobile food units. The fire inspection may be conducted simultaneously with the annual inspection by the regulatory authority, or prior to the regulatory authority's inspection. A mobile food unit that does not comply with the fire safety inspections will be denied a permit or renewal permit.
- (c) Additional inspections shall be performed as often as necessary for the enforcement of this division. The regulatory authority shall determine the frequency of inspections to be made under this division in accordance with the criteria set forth in the Texas Food Establishment Rules.

**Sec. 10-241. - Permit suspension.**

- (a) The regulatory authority may, without warning, notice, or hearing suspend any permits to operate a mobile food unit if the operation of the mobile food unit constitutes an imminent hazard to public health. Suspension is effective upon service of the notice required by section 10-241(b) of this division. When a permit is suspended, operations shall immediately cease. Whenever a permit is suspended, the permit holder shall be afforded an opportunity for a hearing within twenty (20) days of receipt of a request for a hearing.
- (b) Whenever a permit is suspended, the permit holder 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 permit holder 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.
- (c) Refusal of a permit holder or the person in charge to allow the regulatory authority or authorized agent to inspect any permitted mobile food unit therein during normal business hours will result in an immediate suspension of the permit, requiring all permitted activities to halt. Operations cannot resume without written approval from the regulatory authority.

**Sec. 10-242. - Permit revocation.**

- (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 permit holder or the person in charge, in writing, of 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 hearing is filed with the regulatory authority by the permit holder within such ten (10) day period.

- (b) To request reinstatement of a revoked permit, the permit holder may request reinspection and pay a fifty-dollar (\$50.00) reinspection fee. The regulatory authority will arrange a time with permit holder to perform a reinspection. If permit holder has complied with the requirements of these regulations, the permit shall be reinstated.

**Sec. 10-243. - Hearings.**

The hearing provided for in this division shall be conducted by the city manager at a time and place so designated. Based upon the recorded evidence of such hearing, the city manager 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 permit holder by the city manager.

**Sec. 10-244. - Requirements applicable to all mobile food units.**

All mobile food units operating in the city shall comply with the following requirements:

- (a) A central preparation facility is required for a mobile food unit to operate in the city.
- (b) Mobile food units shall report to their designated central preparation facility at least once per day for food, supplies, cleaning, and servicing.
- (c) Mobile food units shall operate in a manner that does not violate any existing laws or ordinances of the city.
- (d) Mobile food units shall comply with all sanitation and construction regulations as outlined in the Texas Food Establishment Rules (TFER), as amended.
- (e) Mobile food units shall display at all times in a conspicuous place where it can be read by the general public:
  - (1) A mobile food unit permit issued under this division; and
  - (2) A copy of a Texas sales tax and use certificate.
- (f) Mobile food units shall meet the following plumbing standards:
  - (1) All liquid waste shall be discharged to an approved sanitary sewage disposal system at the central preparation facility or through an authorized service provider. All used fats, oil, or grease shall be discharged to an approved grease interceptor at the central preparation facility or through an authorized service provider. Used fats, oils or grease shall not be discharged to any unauthorized food establishment grease interceptor.

- (2) Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion, open to the public or in the process of preparing food.
  - (3) The waste connection shall be located below the water connection to preclude contamination of the potable water system.
  - (4) Connection to a water or sewage system on site is prohibited.
- (g) Mobile food units shall meet the following electrical standards:
- (1) Extension cords shall not be utilized, nor are they a substitute for permanent wiring.
  - (2) Appliances shall be plugged directly into electrical outlets.
  - (3) All electrical outlets within six (6) feet of a wet location shall be ground fault circuit interrupter (hereinafter GFCI) protected. All exterior outlets shall be GFCI protected.
- (h) Mobile food units shall include fire extinguishers that comply with the following:
- (1) All fire extinguishers require an annual inspection by a Texas licensed fire extinguisher company. Required extinguishers must be properly mounted and readily accessible.
  - (2) At least one (1) portable extinguisher of the 2A10BC rating shall be accessible to the interior of the mobile food unit.
  - (3) Mobile food units utilizing oil/grease fryers are required to have a Class K fire extinguisher on the unit.
- (i) Mobile food units shall include a fire suppression system that complies with the following:
- (1) Mobile food units which perform cooking operations that produce grease laden vapors shall have a Type 1 hood with ventilation.
  - (2) Type 1 hoods shall be protected by a UL 3200 or UL 300A fixed fire extinguishing system.
  - (3) An annual system inspection is required for all fire suppression systems by a Texas licensed fire suppression company.
- (j) Mobile food units shall not operate on or within a public park, public right-of-way, or publicly owned property, unless an approved license or permit has been issued by the city in conjunction with an approved event.

- (k) Mobile food units that sell prepackage food or prepare food within the unit must keep a manifest of all food supply with purchasing sources for inspection at any time.
- (l) Any accident involving a mobile food unit that results in damage to the water system, waste retention tank, food service equipment, or any facility that may result in the contamination of the food being transported or any damage that results in a violation of this division must be reported to the regulatory authority within 24 hours of the time the accident occurred. All reports must be made by the permit holder.
- (m) Mobile food units shall operate only during the business hours of the primary business on the property.
- (n) Food and beverages must be prepared, served, stored, and displayed within the mobile food unit itself; and shall not have any external operational support equipment on the property including, but not limited to, tables, chairs, tents, overhead coverings, refrigeration, freezers, generators, or dry storage units.
- (o) Mobile food units shall be parked on an improved surface.
- (p) Mobile food units shall be movable by motorized or non-motorized means and may not be permanently affixed to a foundation or pad site.
- (q) A “No Smoking” sign must be posted on the mobile food unit next to the order window area.
- (r) Mobile food units shall provide covered waste containers for customers at such times when the unit is parked.
- (s) Mobile food units shall be clearly marked with the business's name or a distinctive identifying symbol and shall display the name while in service in the city.
- (t) All persons operating and/or driving the mobile food unit must have a valid driver’s license and have current automobile liability insurance for the mobile food unit.
- (u) Drive-thru service from mobile food units is prohibited.
- (v) Portable stoves, grills, or equivalents are prohibited.
- (w) Food prepared or packaged in a private home shall not be used or offered for human consumption. Food must comply with all labeling laws as required by the Texas Food Establishment Rules.

**Sec. 10-245. - Location and operational requirements.**

- (a) Mobile food units are allowed to be located or parked on a parcel of land that is in a zoning district that permits restaurants, as defined by the City's Unified Development Ordinance.
- (b) Mobile food units must be located or parked on a parcel that contains an existing permanent business operating in a building with a valid certificate of occupancy.
- (c) No mobile food units shall be parked on a vacant lot.
- (d) Mobile food units shall not be parked on public streets or in public parking lots.
- (e) For subdivisions or sites in any zoning districts that are actively under construction and have not yet been issued a Certificate of Occupancy, mobile food units shall be parked for not more than one (1) hour.
- (f) Mobile food units shall be parked a minimum of fifteen (15) feet from fire hydrants and five (5) feet from any utility box, accessibility ramp, or building entrance.
- (g) Mobile food units, including associated customer-queueing area, shall not be set up or parked in a way that obstructs or interferes with fire lanes, traffic lanes, or parking spaces that are required for by an existing business or businesses.
- (h) Mobile food units, including merchandise or advertising, shall not be set up or parked in a way that obscures traffic sight visibility.

**Sec. 10-246. - Exceptions.**

- (a) These regulations in this division do not apply to mobile food units that operate:
  - (1) In conjunction with a single event or celebration; or
  - (2) As a vendor at a properly permitted farmers' market for which the mobile food unit has rented space from the farmers' market and/or its organizer(s).

**Section 7. Penalty Clause.** Any person, firm, or corporation who intentionally, knowingly or recklessly violates any provision of this Ordinance shall be subject to a fine not to exceed the sum of five hundred dollars (\$500.00) for each offense, and each and every day any such offense shall continue shall be deemed to constitute a separate offense, provided, however, that in all cases involving violation of any provision of this Ordinance governing the fire safety, zoning, or public health and sanitation shall be subject to a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense.

**Section 8. Savings Clause.** All rights and remedies of the City of Ennis, Texas, are expressly saved as to any and all violations of the provisions of the Ordinance or any other ordinance which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations

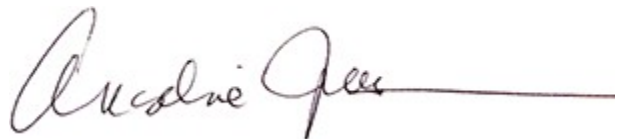
and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

**Section 9. Cumulative/Repealer Clause.** This Ordinance shall be cumulative of all provisions of state or federal law and other ordinances of the City of Ennis, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**Section 10. Severability Clause.** It is hereby declared to be the intention of the City Commission 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 shall 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 and sections of this Ordinance, since the same would have been enacted by the City Commission without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

**Section 11. Effective Date.** This Ordinance shall take effect from its passage and publication as required by Texas law and the City Charter.

**PASSED AND APPROVED** by the City Commission of the City of Ennis, Texas on this 21st day of February, 2023.



ANGELINE JUENEMANN, Mayor

ATTEST:



ANGIE WADE, City Secretary