

CITY OF BALCH SPRINGS, TEXAS

ORDINANCE NO. 3268-23

AN ORDINANCE OF THE CITY OF BALCH SPRINGS, TEXAS, AMENDING CHAPTER 38, HEALTH AND SANITATION, OF THE CODE OF ORDINANCES OF THE CITY OF BALCH SPRINGS, TEXAS; PROVIDING FOR ADMENDMENT TO ARTICLE IV- FOOD AND FOOD ESTABLISHMENTS, DIVISION 7 – MOBILE FOOD VENDORS AND CATERING TRUCKS – ESTABLISHING REGULATIONS FOR CATERING TRUCKS OR MOBILE FOOD VENDOR; PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR PROPER NOTICE AND MEETING.

WHEREAS, the City of Balch Springs, Texas is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to the Texas Constitution, Article 11, Section 5 and the Texas Local Government Code, Chapter 9; and

WHEREAS, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, Section 51.072(a); and

WHEREAS, a home-rule municipality may enforce ordinances necessary to protect health, life and property, and to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, Section 51.001, as amended; and

WHEREAS, the changes contained within this Ordinance are made pursuant to such authority and for the good government of the City;

WHEREAS, the City Council of the City of Balch Springs desires to implement regulations for mobile food establishments to ensure the health and safety of the general public by mobile food units - commonly referred to as "food trucks," amending the fee schedule, and establishing application and inspection requirements for mobile food units operating inside the city limits of Balch Springs; and

WHEREAS, the City Council of the City of Balch Springs desires to establish criteria for all mobile food establishments on the types of units allowed, where and how they can operate to ensure the safety of the general public and food inspections to promote food safety standards and protect the general health of the public; and

WHEREAS, the City Council of the City of Balch Springs desires to establish criteria for mobile food unit construction, general maintenance, and general operation procedures to ensure uniformity of all mobile food units; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCH SPRINGS, TEXAS, that:

SECTION 1. All of the above statements and recitals are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Chapter 38 of the Code of Ordinances of the City of Balch Springs is hereby modified with additions and shall read as follows:

CHAPTER 38, HEALTH AND SANITATION, ARTICLE IV, MOBILE FOOD VENDORS AND CATERING TRUCKS, is hereby repealed in its entirety and replaced with the following:

ARTICLE IV. – MOBILE FOOD VENDORS AND CATERING TRUCKS

Sec. 38-371. - Applicability; Temporary Use Permit required.

Sec. 38-372. -Definitions.

Sec. 38-373. -Permit required; issuance.

Sec. 38-374. -Location.

Sec. 38-375. -Hours of operation.

Sec. 38-376. -General regulations; termination of permit.

Sec. 38-377. -Maintenance; conveyance of food; condiments; waste.

Sec. 38-378. -Commissary, base of operations.

Sec. 38-379. -Servicing area and operations.

Sec. 38-380. -Reserved.

Sec. 38-371. Applicability: permit required.

- (a) This division shall apply to the sale and conveyance of food from mobile food vendors and catering trucks within the city.
- (b) All mobile food vendors and catering trucks shall have a valid food service permit, and such permit shall be maintained in the catering truck at all times. The permit shall bear the name of the company, owner or manager, the vehicle number and vehicle registration plate number (license plate). Such permit shall remain valid for a period of five (5) days for four (4) times a year as approved by our Permits Department. Mobile food vendors that are located within a Food Truck Park are exempt from the time period requirements.

Sec. 38-372. Definitions.

- (a) *Catering truck.* A mobile food vendor that sells prepackaged, single-service size, wholesome and unadulterated foods obtained from an approved source. Foods shall be hermetically sealed, labeled as to the type of food, location of preparation and date of preparation.

- (b) *Mobile food vendor (MFV)*. Any business which sells edible goods from a non-stationary location within the city, including edible goods prepared or cooked in the MTV. The term shall include:
 - (1) *Concession trailer*. A vending unit which is pulled by a motorized unit and has no power to move on its own.
 - (2) *Concession carts*. Mobile vending units that include cooked foods that must be moved by nonmotorized means.
 - (3) *Mobile food truck*. A self-contained motorized unit selling items defined as edible goods.

Sec. 38-373. Temporary Use Permit (TUP) required; issuance.

- (a) *Application*. The MFV permit application would contain the following information:
 - (1) Name of the applicant.
 - (2) Phone number and driver's license number of the business owner/operator.
 - (3) Sales tax number with a copy of the sales tax permit.
 - (4) A copy of the health department permit.
 - (5) Legal name of the business or entity.
 - (6) Signed permission from the property owner where the MFV will operate.
 - (7) Description of food being sold.
- (b) *Fee*. The application fee for a mobile food vendor (MFV) shall be as set forth in the city's fee schedule. Each mobile food vendor unit shall be permitted separately.
- (c) *Expiration*. Mobile food vendor permits are valid for a period of five days for four times a year from the date of issue.
- (d) *Occupying site prior to receiving permit*. A permit will not be issued if the MFV occupies the proposed site or sites prior to receiving a permit.
- (e) *Number of units*. No more than one MFV unit (truck, trailer, or cart) is allowed per permit.
- (f) *Issuance*. MFV permits are issued by the city manager or authorized representative.

Sec. 38-374. Location.

- (a) MFVs are allowed in areas zoned as commercial, retail, central business district, industrial, or at construction sites.
- (b) MFVs are not allowed in any area zoned as single-family residential, two-family residential, multifamily residential, manufactured home residential, or office district. Exceptions to this prohibition are for ice cream carts and trucks.
- (d) MFVs are not allowed on any public right-of-way, state highway easement, or state property.

- (e) MFVs are not allowed on any property unless specific written permission is provided prior to the occupancy of the site.

Sec. 38-375. Hours of operation.

Operation only between the hours of 7:00 a.m. and 7:00 p.m.

Sec. 38-376. General regulations; termination of permit.

- (a) The MFV may not occupy the approved site location except on the days of actual operation.
- (b) All persons who work at and are involved in the preparation, storage, or service of food at an MFV shall have and maintain valid a food handler certification card issued by an accredited training provider.
- (c) Excessive noise generation of any kind is not allowed from MFVs.
- (d) The MFV unit must not unreasonably reduce or restrict parking spaces, fire lanes or traffic flow.
- (e) The MFV applicant must remove all trash daily, and not allow any trash to accumulate at any time.
- (f) The MFV is not permitted or allowed to connect to any permanent utilities except for electricity and water. Any connection to the domestic water supply must be protected by an approved backflow device and only be connected when water is flowing to fill on-board water tanks. The connection to the domestic water supply must be disconnected at any time the water is not actually flowing to the MFV unit.
- (g) The permit must be displayed in a conspicuous place where it can be read by the general public on the MFV unit.
- (h) Violation of any MFV regulation, application and permit process, hours of operation, or duration of operation is cause for immediate termination of the MFV permit. Any applicant or MFV unit permit which is terminated for cause may not apply for re-issuance until the basis for termination of the previous permit is resolved.

Sec. 38-377. Maintenance; conveyance of food; condiments; waste.

- (a) *Food storage areas.* All food storage areas in MTVs within the city shall be maintained free of rust and corrosion and shall be clean and protected from contamination.
- (b) *Food items.* All foods conveyed from catering trucks shall be prepackaged, single-service size, wholesome and unadulterated. All foods shall be obtained from an approved source. Potentially hazardous foods shall be hermetically sealed, labeled as to the type of food, location of preparation and date of preparation. All potentially hazardous food shall be disposed of at the end of each day of operation. Sale of certain foods, such as boiled eggs, may be prohibited during months in which daily temperatures exceed 90 degrees Fahrenheit.

- (c) *Condiments.* All condiments shall be served from MTVs in single-service containers, or approved, commercially-filled, dispenser-type containers. Bulk dispensers, bottles or other containers shall not be permitted for conveyance from catering trucks of any condiment.
- (d) *Food handling.* All potentially hazardous food shall be disposed of at the end of each day of operation. Sale of certain foods, such as boiled eggs, may be prohibited during months in which daily temperatures exceed 90 degrees Fahrenheit. All hot potentially hazardous foods shall be maintained at 135 degrees Fahrenheit or above in a mechanical warming oven. All cold potentially hazardous food shall be maintained at 41 degrees Fahrenheit or below.
- (e) *Waste retention.* If liquid waste results from the operation of a MTV, the waste shall be stored in a permanently installed retention tank that is at least 15 percent larger capacity than the water supply tank. Liquid waste shall not be discharged from the retention tank when the catering truck waste disposal facilities shall be of a different size or type than those used for supplying potable water to the catering truck. The waste connection shall be located lower than the water inlet connection in order to preclude contamination of the potable water system.

Sec. 38-378. Commissary, base of operations.

- (a) Catering trucks within the city shall operate from a commissary or other fixed food service establishment permitted to sell food at the wholesale level and shall report at least daily to such location for all supplies and cleaning and servicing operations.
- (b) The commissary or other fixed food service establishment used as a base of operation for catering trucks shall be constructed and operated in compliance with the requirements of this division.

Sec. 38-379. Servicing area and operations.

- (a) *Servicing area.*
 - (1) A catering truck servicing area within the city shall be provided at the commissary and shall provide overhead protection for any supplying, cleaning or servicing operation. Within the servicing area, a location shall be provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and the loading and unloading of food and related supplies. A servicing area shall not be required where only packaged food is placed on the catering truck or where catering trucks do not contain waste retention tanks.
 - (2) The surface of the servicing area shall be constructed of a smooth, nonabsorbent material, such as concrete or machine-laid asphalt, and shall be maintained in good repair, kept clean and be graded to drain.
- (b) *Servicing operations.*
 - (1) Potable water servicing equipment shall be installed in MTVs according to law and shall be stored and handled in a manner which protects the water and equipment from contamination.

- (2) A MTV liquid waste retention tank, when used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewerage disposal system in accordance with section 38-312.

Secs. 38-380—38-400. Reserved.

SECTION 3. All provisions of the ordinances of the City of Balch Springs in conflict with the provisions of this ordinance be and the same are hereby repealed to the extent of such conflict, and all other provisions of the ordinances of the City of Balch Springs not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 4. Should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 5. This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

SECTION 6. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 7. Penalty. Any person, firm, entity or corporation who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction therefore, shall be fined in a sum not exceeding One Hundred and No/100 Dollars (\$100.00). Each continuing day's violation shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

DULY PASSED AND ADOPTED by the City Council of the City of Balch Springs, Texas, on the 14th day of August 2023.

APPROVED:

Carrie F. Gordon, PhD, Mayor

ATTEST:

Cindy Gross, City Secretary

