

ORDINANCE NO. 1118

AN ORDINANCE OF THE CITY OF STAFFORD, TEXAS RE-NUMBERING AND RE-NAMING A CITY OF STAFFORD ORDINANCE IN ACCORDANCE WITH THE CITY OF STAFFORD CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING A SAVINGS CLAUSE

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

Section 1. City of Stafford Number Ordinance 1116 is hereby re-numbered in accordance with the City of Stafford Code of Ordinances.

Section 2. City of Stafford Ordinance Number 1116 is hereby re-named in accordance with the City of Stafford Code of Ordinances.

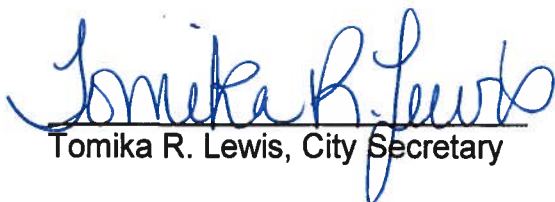
Section 3. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it is the intention of the City Council that the invalidity or unconstitutionality of the one or more parts shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision other than the part declared to be invalid or unconstitutional; and the City Council of the City of Stafford, 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, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED on this 18th day of July 2018.



Leonard Scarcella, Mayor

ATTEST:



Tomika R. Lewis, City Secretary

CITY OF STAFFORD ORDINANCE NUMBER 1116

ORDINANCE NO. 1116

AN ORDINANCE OF THE CITY OF STAFFORD, TEXAS AMENDING THE CODE OF ORDINANCES, ARTICLE 6.05 "FOOD AND FOOD ESTABLISHMENTS" OF CHAPTER 6 "HEALTH AND SANITATION", BY ADDING DIVISION 3, "MOBILE FOOD VENDORS"; REQUIRING A PERMIT; STATING CONDITIONS FOR ISSUANCE OR DENIAL OF THE PERMIT; PROVIDING FOR A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR A VIOLATION, WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; AND PROVIDING FOR SEVERABILITY.

WHEREAS, the number of local restaurants, stores and eateries that provide food for human consumption in the City of Stafford has increased and continues to grow; and

WHEREAS, mobile food vendors have expressed growing interest in the sale of edible food products to residents and visitors of the City; and

WHEREAS, in order to ensure the public health, safety and welfare, it is necessary to adopt rules and regulations for mobile food vendors within the City of Stafford; now, therefore

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

Section 1. The facts and matters set forth in the preamble to this ordinance are hereby found to be true and correct.

Section 2. Article 6.05 "Food and Food Establishments" of Chapter 6 "Health and Sanitation " is hereby amended by adding Division 3, "Mobile Food Vendors" and shall read in its entirety as follows:

Division 3

Mobile Food Vendors

Section _____ - Definitions.

The following words, terms and phrases when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant shall mean a person, as defined herein, who has filed a written application for a mobile food vendor permit

Chief of Police shall mean the Chief of the Police Department for the City of Stafford, Texas

City shall mean the City of Stafford, Texas

Department shall mean the Police Department of the City of Stafford, Texas

Edible goods shall include, but are not limited to:

- a. Prepackaged food, including but not limited to, candy, beverages, chips and ice cream
- b. Prepared food which is prepared off-location for sale in the mobile food unit
- c. On-site prepared food which is prepared in the mobile food unit

Mobile shall mean the state of being active, but not necessarily continuous, movement

Mobile food vendors shall mean any business which sells edible goods from a non-stationary location within the City. The term shall include, but not be limited to:

- a. Mobile food trucks – a self-contained motorized unit selling items defined as edible goods.
- b. Concession trailers – vending units which are pulled by a motorized unit and has no power to move on its own

Mobile Food Vendor Permit or Permit shall mean the City's written authorization to operate a mobile food truck, concession trailer, or other vending unit. The permit may impose terms and conditions, with written authorization being subject to the guidelines of the permit.

Mobile Food Unit, or MFU, shall mean the mobile food truck, the concession trailer, or other motorized unit, including the equipment, supplies and apparatus, used on site for the sale of edible goods.

Operator shall mean an individual who is designated by an Applicant for a permit or a permit holder to supervise the operation of a mobile food unit.

Permit holder shall mean a person who has been issued a mobile food vendor permit.

Person shall mean an individual, firm, partnership, corporation, association, organization, or other legal entity.

Servicing record shall mean a record that is issued to a permit holder by a central preparation facility, other fixed food services establishment or servicing area that serves as the MFU's base of operation and that documents all of the MFU's visits to such central preparation facility, other fixed food services establishment or servicing area.

Stationary location shall mean the position of the mobile food unit when not in motion and addressing the public for the purpose of selling or offering food for sale.

Texas Food Establishment Rules shall mean those regulations adopted by the State of Texas as codified in Texas Administrative Code, Title 25. "Health Services", Chapter 228, "Texas Food Establishment Rules".

Section _____ - Permit Required

No person shall operate as a mobile food vendor in the City of Stafford without a current and valid mobile food vendor permit issued by the City. Every permit must be displayed at all times in a conspicuous place on the mobile food vendor's truck or concession trailer so that it can be read by the general public.

Section _____ - Application

Mobile Food vendor permits are issued by the Police Department. An application for a mobile food vendor permit may be obtained from the Police Department or as otherwise provided by the Department. An Applicant for a permit must provide the following information:

- a. Name, address, telephone number and email address of Applicant
- b. Legal name of business or entity
- c. Type of business organization or corporation
- d. If applicable, copy of charter or articles of incorporation and current listing of partners, officers, shareholders or principles
- e. Sales tax number, with a copy of the sales tax permit
- f. Documentation that the entity is not delinquent in federal, state and local taxes
- g. Signed permission form from all private property owners granting permission for placement of the mobile food unit
- h. Site plan where the mobile food unit will be located on the property
- i. Name, address, phone number, email address and photo-copy of the driver's license of the Applicant and all employees operating on the mobile food unit
- j. Description or menu of the types of edible goods the Applicant proposes to sell from the mobile food unit
- k. Written standard operating procedures of how the Applicant plans to operate the mobile food unit, that includes, but is not limited to, whether food will be pre-packaged, hours of operation, methods of serving food to customers, waste water disposal site and process, and other servicing operation details
- l. Vehicle and/or unit make, model, vehicle number, and license plate number
- m. A certificate of title showing the current true ownership of the mobile food unit, provided that if the applicant is not the owner, then a copy of a written and notarized statement from the owner authorizing the applicant to operate the mobile food unit.

- n. Proof of liability insurance, including motor vehicle insurance
- o. Copies of any current and valid mobile food vendor permits, issued by any other local governmental entity, for the mobile food vending unit identified in the application

Section _____ - Inspection Fee

- A. An applicant for a mobile food unit permit or renewal of a permit, as applicable, shall deliver or cause to be delivered the mobile food unit for which a permit is sought to a location designated by the Department for an inspection and shall pay a non-refundable fee of \$50.00 for each inspection.
- B. Prior to the approval of an application for a permit or an application for renewal of a permit, the Department will inspect the mobile food unit to determine compliance with the requirements of this chapter and applicable city ordinances.
- C. At the time of inspection, the mobile food unit shall be completely operable and in full working order.

Section _____ - Permit Fee

- A. The Applicant must pay a non-refundable fee of \$200.00 for each mobile food vendor permit. Each mobile food unit will be permitted separately.
- B. Mobile food vendor permits are valid for one year from the date of permit issuance.
- C. A permit holder shall notify the Department in writing, during the term of the permit, of any change to the information submitted in the permit holder's application for a permit, including but not limited to, a change in the name, address or telephone number of the permit holder or operator and the vehicle's registrations within ten (10) calendar days of such change.
- D. Upon renewal, the Applicant shall pay a non-refundable renewal fee of \$200.00 and update any changes in the permitting document. The Applicant must submit the application for renewal and the renewal fee within 15 days before expiration of the permit or must reapply as a new applicant.
- E. Permits are non-transferrable. A change of ownership of a mobile food unit, including a change of the legal form of the entity, shall require submission of a new

application for a mobile food unit permit and inspection of the mobile food unit. A mobile food unit permit shall become void upon the closing of the sale of the mobile food unit for which a permit was issued.

Section _____ - Permit Denial, Suspension or Revocation

- A. An application for a mobile food vendor permit may be denied for any of the following reasons:
- a) Failure to provide all required information
 - b) Providing false, misleading or inaccurate information
 - c) The Applicant's record of any past violations of city ordinances, or violations of the health, safety or environmental laws of any other governmental entity
 - d) Failed vehicle inspection
 - e) Operation of the mobile food unit constitutes a hazard to public health or public safety
- B. A permit may be immediately suspended or revoked for any of the following reasons:
- a) Violation of any provision of this ordinance, or any other laws or regulations of the City
 - b) Failure to comply with the application location specifications or requirements
 - c) The Department determines that operations or management methods are no longer adequate for the safe and efficient provision of services
 - d) Operation of the mobile food unit constitutes a hazard to public health or public safety
 - e) Failure to comply with the applicable provisions of the Texas Food Establishment Rules.
- C. Upon suspension or revocation of a mobile food unit permit, the Department shall notify the permit holder or the operator, in writing, of the suspension or revocation and the reason(s) therefor. A permit holder whose permit is revoked or suspended shall immediately cease operating the mobile food unit for which a permit has been revoked or suspended.

Section _____ - Appeal

If the Department denies the issuance of a permit, or suspends or revokes a permit, the Department shall issue written notice of the denial, suspension or revocation and of the right to an appeal. The Applicant or Permittee may appeal the decision of the Department to the Mayor of the City of Stafford within five (5) days after the date of the denial, suspension or revocation. The appeal shall be decided by the Mayor within (5) days after the date of a timely filed appeal, and the decision of the Mayor shall be final.

Section _____ - Zoning and Location Restrictions

- A. No mobile food unit shall be located on any private property without written permission to do so, and must comply if asked to leave by the property owner or city official. A copy of the written permission to operate in a specific location, signed by the private property owner, shall be kept within the mobile food unit at all times.
- B. A mobile food vendor shall not conduct sales on any public street or in congested areas where the operation impedes vehicular or pedestrian traffic
- C. A mobile food vendor shall conduct business only in zoning districts where the use of land as a restaurant, café or other similar commercial enterprise is a permitted use.
- D. No mobile food vendor shall conduct business within any single-family residential district unless otherwise approved in writing by the City Council.
- E. A mobile food unit may not be located within 100 feet of the primary entrance of an open and operating fixed-location food service or eating establishment, except during City sponsored events.
- F. A mobile food vendor may not conduct sales at a stationary location:
 - (1) For a duration longer than four (4) hours per day, per location, if the mobile food unit has no interior toilet or hand-washing facilities, and there is no access to an adjacent toilet or hand-washing facilities for use by mobile food unit employees

(2) For a duration longer than eight (8) hours per day, per location, if the mobile food unit has interior toilet and hand-washing facilities, or is located on private property and has received written permission from the property owner for use of adjacent toilet and hand-washing facilities for the mobile food unit employees.

Section _____ - Food Safety Requirements

A person operating a mobile food unit within the City shall comply with the regulations applicable to mobile food units as codified in the Texas Administrative Code, Title 25, "Health Services", Chapter 228, Texas Food Establishment Rules.

Section _____ - Mobile Food Unit Requirements

- A. The following regulations shall apply to mobile food units at any location:
- a) Each mobile food unit shall be equipped with a portable trash receptacle, and shall be responsible for proper disposal of solid waste and waste water in the sanitation facility legally accessed by the food service establishment. All disturbed areas must be cleaned following each stop to a minimum of 20 feet of the sales location
 - b) Waste generated from washing or maintenance of the mobile unit shall be done in a manner to prevent release on public or private property.
 - c) An approved portable type 2A-10BC fire extinguisher tagged by a licensed company shall be kept accessible as directed by the City fire marshal or designee. A portable type K fire extinguisher is also required in the kitchen area for cooking operations.
 - d) All cooking appliances shall be UL approved appliances.
- B. For a mobile food unit that utilizes liquefied petroleum (LP) gas, the following requirements shall apply:
- a) The mobile food unit shall not be located or operated within 15 feet of another mobile food unit, a vehicle or a structure
 - b) The mobile food unit shall be limited to a maximum of one individual LP-gas container with a maximum capacity of 100 pounds aggregate water capacity

- c) The mobile food unit's LP-gas supply system, including the LP-gas container, shall be installed either on the outside of the MFU or in a storage compartment inside the MFU, provided that such system shall be accessible from and vented to the outside, with the vents located near the top and bottom of the storage compartment and shall be located three (3) feet horizontally, when measured from any opening into the MFU below the vents.
 - d) The LP-gas container shall be mounted securely on the MFU or within a storage compartment, in an upright position, in a manner as not to fall over, and in a manner that reduces the exposure of the LP-gas container to vehicle impact.
 - e) The LP-gas containers shall not be located on the roof of the MFU, ahead of the front axle, beyond the rear bumper, below the lowest part of the mobile food unit frame, or inside truck bends or passenger compartments of the MFU; and
 - d) A LP-gas container valves, appurtenances and connections shall be protected to prevent damage.
- C. A "No Smoking" sign shall be posted next to the order window or area or near any LP-gas container
- D. A Type I hood and approved fire suppression system shall be installed on a mobile food unit that produces grease laden particles within the mobile food unit,
- E. Except as provided herein, use of permanent extension cords is prohibited. Use of a permanent extension cord is allowed for a small and relocatable portable appliance such as a fan, power tool or similar appliance, provided that such extension cord shall not be affixed to structures, extended through walls, ceilings or floors or under doors or floor coverings or in areas where such extension cord would be subject to environmental or physical impact that could create an electrical hazard. Appliances such as refrigerators are not considered to be small and relocatable appliances regardless of the size of the appliance.
- F. Any cooking appliance in the MFU shall be listed and labeled for its intended use and shall be used only in accordance with such intended use.

Section _____ - Servicing Records

- A. The owner or operator of a central preparation facility, other fixed food establishment or servicing area from which a mobile food unit operates shall issue and maintain servicing records for each mobile food unit for which a permit is issued in a manner and form prescribed by the Department for a period of one year from the date of servicing or until retrieved by the Department, whichever comes first.
- B. A permit holder shall keep and maintain, in the MFU, servicing records for each MFU for which a permit is issued for a period of one year from the date of servicing.
- C. The Department may promulgate rules and procedures regarding maintenance of servicing records by a central preparation facility, other fixed food establishment, servicing area, and permit holder.
- D. Servicing records maintained under subsections A and B or this section shall be made available to any peace officer or the Police Chief for inspection and copying during normal business hours of the central preparation facility, other fixed food establishment, servicing area or mobile food unit .

Section _____ - Utility Connections

Utility connections, if any, shall be limited to quick-connect electrical and telephone services and shall be in full compliance with the Electrical Code of the City of Stafford, Texas, as adopted and amended from time to time. Except as otherwise provided in this ordinance, utility connections for water, sewer, and gas are prohibited.

Section _____ - Prohibited Conduct

The conduct listed below, by any Person, directly or through an agent or employee of another regulated under this ordinance, is prohibited:

- A. Selling edible goods within the corporate limits of the City unless its principal or employer has received a valid mobile food unit permit .**
- B. Selling edible goods while displaying a valid permit issued by the City in the name of another person, individual, organization or entity.**
- C. Selling edible goods within the corporate limits of the City after expiration of the permit issued by the City under this ordinance.**
- D. Failing to have a permit holder or operator present at the mobile food unit during all hours of the MFU's operation in the City**
- E. Misrepresenting on the permit application any acts that are regulated under this ordinance.**
- F. Representing that the issuance of a permit by the City constitutes the City's endorsement or approval of the product for sale.**
- G. Selling or offering for sale any edible goods not described in the mobile food unit permit**
- H. Selling or offering for sale any non-food item from a mobile food unit**
- I. Storing, preparing, displaying or serving any edible goods outside of the mobile food unit itself**
- J. Operating a mobile food unit that is not readily moveable at all times**
- K. Altering, removing, attaching, adding, or changing anything in, under, or upon the mobile food unit that would prevent or otherwise reduce ready mobility**
- L. Operating a mobile food unit without a valid servicing record**
- M. Issuing a servicing record for a mobile food unit without first verifying that such mobile food unit has complied with all servicing requirements**
- N. Presenting a false, fraudulent, or untruthful servicing record for the purpose of demonstrating compliance with the provisions of this ordinance**
- O. Transferring, assigning or attempting to transfer or assign a permit**
- P. Parking a mobile food unit on any highway, street, roadway, sidewalk or any area between a street and a sidewalk or any public right-of-way without the express written permission of the person that controls such highway, street, roadway, sidewalk or other public right-of-way.**

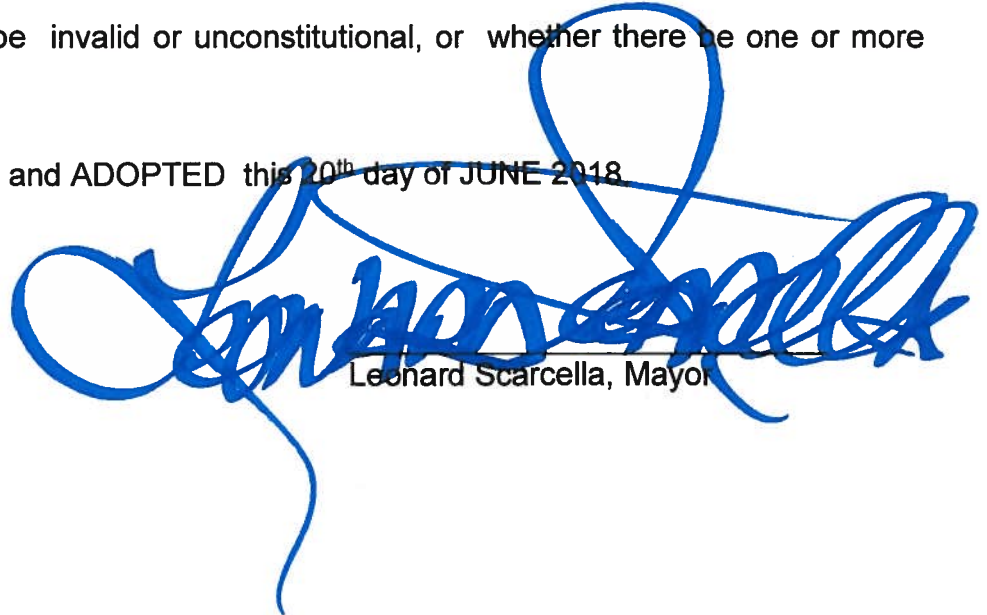
Q. Operating a mobile food unit that is not in compliance with the applicable provisions of the Texas Food Establishment Rules, as amended from time to time, or which does not meet the requirements of this ordinance.

Section ____ - Penalty

A person who violates a provision of this ordinance or a requirement of a mobile food vendor permit is guilty of a separate offense for each day or part of a day during which the violation is committed or continues. Upon conviction, each offense is punishable by a fine not to exceed \$2,000 per occurrence.

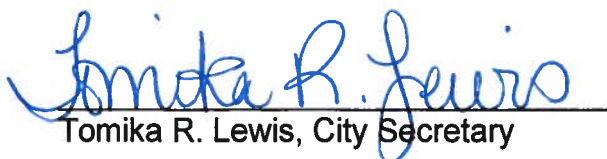
Section 3. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not 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 Stafford, 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 ADOPTED this 20th day of JUNE 2018.



Leonard Scarcella, Mayor

ATTEST:



Tomika R. Lewis, City Secretary