

## ORDINANCE

**AN ORDINANCE OF THE CITY OF ARANSAS PASS, TEXAS AMENDING ORDINANCE NO. 1308, ZONING ORDINANCE BY AMENDING SECTION 610.2, REGISTRATION-PERMIT REQUIREMENTS; SECTION 610.3, PERMIT FEES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Aransas Pass, Texas (City) 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 Texas Local Government Code;

**WHEREAS**, the City Council seeks to protect the public health, safety and welfare through a comprehensive regulatory program that includes food safety standards; and

**WHEREAS**, with these regulations, the City Council addresses potential health risks posed by Mobile Food Vendors and the applicability of certain state and local health codes; and

**WHEREAS**, the City Council has assessed potential traffic safety threats, the utility needs of Mobile stores in terms of water, wastewater, electricity, gas, and telecommunications, and how those demands correspond to the community's utility plans and infrastructure; and

**WHEREAS**, the City Council is authorized to regulate Mobile Food Vendors by virtue of the Texas Constitution, the Texas Health and Safety Code, the Texas Administrative Code, the city's police power and by Chapters 51, 54, 211, 212, 214, 216 and 217 of the Texas Local Government Code; and

**WHEREAS**, the City Council not adopts the appropriate administrative and regulatory amendments, rules and procedures.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARANSAS PASS, TEXAS:**

SECTION 1. **FINDINGS OF FACT.** The foregoing recitals are incorporated into this ordinance by reference as findings of fact as if expressly set forth herein.

SECTION 2. Zoning Ordinance No. 1308, Part II, Section 10-206(76.5), Food and Beverage Service shall be amended to read as follows:

Section 10-206(76.5) Mobile Food Establishment: A food establishment licensed by the health authority and permits within the City that is contained within or mounted on a motor vehicle for the purpose of selling food and other edible or potable substances directly from the vehicle to the customers who come to the vehicle.

SECTION 3. The City further hereby deletes Zoning Ordinance No. 1308, Part III, Section 12-MFV-Mobile Food Vendor, Mobile Food Vendor Special Requirements and replaces it with Section 12-MFE-Mobile Food Establishment as follows:

-610 **DEFINITIONS.** The following words, terms or phrases, when used in this Ordinance shall have the meaning ascribed to them in this section, except where

the context clearly indicates a different meaning:

Ice cream truck means a motor vehicle in which ice cream, popsicles, ice sherbets, or other frozen desserts of any kind or carried for the purpose of retail sale on the streets of the city.

Mobile food establishment means an operator of a vehicle mounted, self or otherwise propelled, self-contained food service operation designed to be readily moveable (including, but not limited to, catering trucks, trailers, push carts, and roadside vendors) used to store, prepare, display, serve or sell food that requires temperature control. The mobility of a mobile food establishment unit must be completely maintained at all time. No drive-through service shall be permitted from a mobile food establishment.

-610.1

**Scope**

This ordinance shall regulate all mobile food establishments operating within the city's corporate limits.

-610.2

**Registration-Permit Requirements**

- (a) No person shall operate a mobile food establishment who does not possess a valid, current mobile food establishment permit.
- (b) A mobile food establishment shall make application on a form provided by the Building Department and shall provide all of the information listed in subsection (b)(1)-(7) as part of this application:
  - (1) The name and address of the owner and/or operator
  - (2) If the applicant represents a corporation, association, or partnership, the names and addresses of the officers or partners;
  - (3) Name which the food vending operation will operate;
  - (4) State sales tax identification number;
  - ~~(5) A description of the type of food or the specific foods to be vended;~~
  - (6) A description of the vehicle to be used in the mobile food vending operation along with the license or registration and vehicle identification number of the vehicle;
  - (7) Proof of food vending general liability insurance;
  - (8) The proposed schedule for the mobile food establishment, including dates, and starting and ending times of the vending period;
  - (9) Except ice cream trucks, the locations within the city where the mobile food establishments will operate. Should such locations not yet be established, an updated list of locations shall be provided to the Planning department at the time of issuance of permit;
  - (10) A site plan for each proposed location;
  - ~~(11) Proposed signage;~~
  - (12) A maintenance plan, including litter pick up and cleaning in the vicinity of where the mobile food establishment will operate;
  - (13) An original written instrument, executed by each real property owner, verifying that the mobile food establishment is authorized to operate at such location or locations. Should the mobile food establishment acquire additional locations, an updated list shall be provided to the code enforcement along with written permission from the real property owner;
  - ~~(14) Any person applying for a mobile food court permit or mobile food establishment permit must submit a background check of that person's criminal record by the City of Aransas Pass, Texas;~~
  - (15) Any person who has not been convicted of a misdemeanor

involving moral turpitude within the 3-year period immediately preceding the date of that person's application for registration shall be ineligible to receive a mobile food establishment permit or mobile food court permit. IN these circumstances, the building department shall reject the application and shall not issue a permit to that permit;

- (16) Payment of application fee for mobile food establishment permit; and
  - (17) Any other information reasonable required by the Planning Director
- (c) If the application is rejected for any reason, the applicant must wait 12 months from date of denial before a subsequent application can be filed.
  - (d) Upon receiving a completed application for a mobile food court permit or mobile food establishment permit, the administrator may make appropriate inspection of the location, equipment, vehicle, and other reasonable inspections concerned and shall issue a permit only if:
    - (1) The application complies with subsection (b) and
    - (2) Any inspection reveals compliance with the applicable requirements of all federal and state statutes and regulations, and city ordinances governing the proposed mobile food establishment operation.

-610.3

#### **Permit Fees**

Applicants are required to pay a non-refundable mobile food establishment permit fee.

- (a) The annual permit fee shall be \$150 per mobile food establishment unit. An annual permit may be renewed every 12 months.
- (b) A permit to operate for 1 to 7 days shall be \$25 per mobile food establishment unit.
- (c) ~~A permit to operate for 1 week shall be \$50 per mobile food establishment unit.~~
- (d) ~~A permit to operate for 3 days shall be \$25 per mobile food establishment unit.~~
- (e) ~~A permit to operate for 1 day shall be \$15 per mobile food establishment unit.~~
- (f) ~~Additional charges:~~
  - (1) ~~If an inspection is required for the connection to utilities, there is a \$150 inspection fee per mobile food establishment unit.~~
  - (2) ~~Background check prior to issuance of permit is \$10 per applicant.~~

-620

#### **Permit Issuance, Display and Renewal**

- (a) Once the permit is approved by the Planning Department, Building Department, and Fire Marshall, a permit sticker will be displayed.
- (b) Permit sticker shall be prominently displayed in a conspicuous place visible to the general public at all times.
- (c) A mobile food establishment assessment must be conducted and approved by the Building Official and Fire Marshall or their appointed designee prior to permit issuance or renewal.
  - (1) Inspections. Mobile food establishment shall comply with the:
    - (A) National Fire Protection Association ("NFPA") 96-2017 Edition;
    - (B) 2018 International Plumbing Code, if applicable;
    - (C) 2017 National Electric Code, if applicable
- (d) The City may inspect a mobile food establishment during regular business hours and at other reasonable times to determine compliance with this ordinance. After conducting an inspection, the City shall inform the mobile

food establishment of its findings. If a violation is found, the City shall close the unit or prescribe a reasonable time period for correction of any violation. Reinspections at prescribed intervals will be conducted to determine whether required corrections have been made.

- (e) Permit is issued for location designated in application.
- (f) A permit may not be transferred or assigned to another person or entity without written permission from the City.

-630

**Allowed Areas of Operation**

- (a) Mobile food establishment located in authorized residential districts are only allowed in designated public open spaces, such as a park.
- (b) Restrictions include that a mobile food establishment:
  - (1) May not be located within 100 feet of residential use.
  - (2) May not be located within 50 feet of street intersections.
  - (3) May not be located within 500 feet of any school.
  - (4) May not cause any obstruction to the smooth flow of pedestrian or vehicular traffic within a street or parking lot.
  - (5) May not occupy a required parking space of a permanent business.
  - (6) A mobile food establishment unit shall be separated from existing buildings and other mobile food establishment units by a minimum of 10 feet. Vendors may not set up in a fire land.

-640

**Hours of Operation**

A mobile food establishment may not operate between 10:00 p.m. - 7:00 a.m. in a residential zoned area, unless otherwise authorized by the City to do so.

-650

**Signage**

Signage for a mobile food establishment:

- (a) Shall not extend beyond vehicle or unit edges;
- (b) Must identify the vehicle with character at a minimum of 3 inches high the name of the mobile food establishment and a brief description of the nature of the business if not included in the name; and
- (c) Shall display at all times in a conspicuous place where it can be read by the general public a copy of a Texas sales and use tax certificate.

-660

**Structural Requirements for a Mobile Food Establishment**

- (a) A mobile food establishment shall:
  - (1) Maintain the vehicle in a clean, undamaged condition, both inside and outside, and in good working order;
  - (2) Display on the vehicle its current license plates and registration;
  - (3) Not be equipped with any sound amplification device;
  - (4) Be equipped with four-way hazard lights; and
  - (5) The left and right outside rear mirrors must be equipped with two outside wide-angle mirrors, one located on the front of the vehicle and one location on the rear of the vehicle.
- (b) The operator is responsible for maintaining the area of operation in a neat and clean condition. Trash receptacle must be provided within 20 feet for use by customers and at least a 20-gallon capacity and composed of a leak-proof, nonabsorbent material.
- (c) Seating areas cannot occupy required parking spaces of a permanent business or obstruct the flow of traffic or a right-of-way

-670

**Overnight Parking**

A mobile food establishment must be removed daily, unless authorized by

property owner, but may be allowed to remain on-site during the week hours (Friday evening at 5:00 p.m. to Monday morning at 8:00 a.m.), provided any and all health concerns would be addressed.

-680 **Noise Level**

A mobile food establishment must comply with the City's noise ordinance as stated in Section 18-1 through Section 1-3 of the Aransas Pass Code of Ordinances.

-680.5 **Permit Revocation**

Nothing in this ordinance shall prevent the City from immediately revoking a mobile food establishment permit should such vendor be in violation of this ordinance.

-690 **Penalty**

Any person, firm or corporation who violates, disobeys, neglects, or refuses to comply with or who resist the enforcement of any of the provisions of this Ordinance shall be fined not more than One Thousand Dollars (\$1,000.00) per violation.

SECTION 4. **Repeal Conflicting Ordinances.**

All ordinances, orders or resolutions heretofore passed and adopted by the City Council of the City of Aransas Pass, Texas are hereby repealed to the extent that said ordinances, orders or resolutions or parts thereof, are in conflict herewith.

SECTION 5. **Savings Clause.**

This Ordinance, as amended, will remain in full force and effect, and save and except as amended by this Ordinance.

SECTION 6. **Severability Clause.**

Should any part, sentence or phrase of this Ordinance is determined to be unlawful, void, or unenforceable, the validity of the remaining portions of this Ordinance shall not be adversely affected. No portion of this Ordinance shall fail or become inoperative by reason of the invalidity of any other part. All provisions of this Ordinance are declared to be severable.

SECTION 7. **Publication.**

The City Secretary is hereby directed to publish this Ordinance, or its caption and penalty clause, in the official newspaper as required by the Texas Local Government Code.

SECTION 8. **Effective Date.**

This Ordinance shall be in full force and effect from and after its passage and publication as required by law.

**FINALLY ENACTED THIS** \_\_\_\_day of \_\_\_\_\_, 2022 at a regular meeting of the Elective Council of the City of Aransas Pass, Texas at which a quorum was present and which was held in accordance with TEXAS GOVERNMENT CODE, TITLE 5, SUBTITLE A, CHAPTER 551.

**CITY OF ARANSAS PASS , TEXAS**

BY: \_\_\_\_\_  
Ramiro Gomez, Mayor

**ATTEST:**

\_\_\_\_\_  
Mary Juarez, City Secretary

**APPROVED AS TO FORM ONLY:**

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Roxann Pais Cotroneo, City Attorney