

MEMORANDUM

DATE: September 13, 2022

TO: Mayor & City Council
CC: Mercy Rushing, City Manager

FROM: David Madsen

SUBJECT: **Council Meeting Agenda Item:** Amendment to Mobile Food Unit Ordinance. Article III Section 10-52 (i)

Background Information: The City was contacted by the DSHS Food Service Division regarding our mobile food unit regulations. They were concerned that we were trying to enforce their health regulations. They strongly requested that we change some wording to our ordinance after advisement from their attorney. We require that the food units have state food handler permit, state mobile unit food establishment permit, state food manager's license and a sales tax permit. The food handlers permit and food managers license are required to get the mobile unit food establishment permit. They requested that we keep the state mobile unit food establishment permit and sales tax certificate and delete the other items. They also requested that we make reference to our permit being a "vendor" permit and not just a mobile food unit permit. We can make the permit changes without council approval but will approval for the ordinance regulations changes. I have included the current ordinance with the highlighted area to be changed and the amending ordinance.

Recommendation: Staff recommends approval

Final Disposition:

ARTICLE III. MOBILE FOOD UNITS AND MOBILE FOOD PARKS

Sec. 10-51. Definitions.

- (a) *Mobile food unit* shall mean vehicle(s) that is designed to be readily movable from which food is sold or served. The term includes, but is not limited to, a commercial and manufactured vehicle that was originally manufactured for use as a food preparation vehicle.
- (b) *Mobile food park* shall mean locations designated for the operation of two or more mobile food units.

(Ord. No. 2017-06-26, § I, 6-26-2017)

Sec. 10-52. Regulations.

- (a) Any and all individual(s) and/or entity(ies) wishing to operate a mobile food unit shall first obtain a permit issued by the City of Mineola. A permit may be obtained through the Mineola City Secretary's Office. The amount for said permit shall be \$150.00 annually.
- (b) Any and all mobile food units shall be located on a site approved by the city, with said site being located in a proper zoning district as referenced in section 10-53 of this article.
- (c) Any and all mobile food units operating within the city limits must adhere to the following health and safety requirements:
 - (1) A self-closing trash receptacle must be next to each unit of sufficient size to accommodate trash and refuse that may be reasonably expected to be produced by the sale of the food product(s) produced by each mobile food unit.
 - (2) The area in and around each mobile food unit must be kept clean and free of all debris, food, drinks, and any and all trash and/or refuse which may produce an unsightly and/or unsanitary condition.
 - (3) A fire extinguisher shall be located inside each mobile food unit, with said extinguisher being approved by the City of Mineola Fire Marshal.
 - (4) Permanent restroom facilities shall be located within a distance of 300 feet from each mobile food unit. Mobile food park may have portable restrooms and portable hand washing station. The owner(s) and/or entity(ies) must provide documentation to the City of Mineola concerning the availability of such restroom facilities prior to the issuance of a permit.
 - (5) All mobile food unit(s) must be at least 100 feet from the door of a restaurant. Mobile food parks shall be measured from the park's closest property line. Should the distance be closer than 100 feet, the mobile food unit or mobile food park must have written permission from the affected restaurant.
- (d) Hours of operation for any mobile food unit(s) shall be from 7:00 a.m. to 11:00 p.m. daily. Any and all mobile food unit(s) must be removed from their location daily.
- (e) Any and all mobile food units must be located in an approved zoning area of private property or a mobile food park. Under no circumstance will a mobile food unit be allowed on any public street or public right-of-way.

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- (f) Any unauthorized connection to the City of Mineola's public water system and/or the dumping or release of grease into the City of Mineola's sanitary sewer system shall be prohibited. Any such act shall be a violation of this article, and shall be subject to the issuance of a citation and/or injunctive relief by a court of competent jurisdiction.
 - (g) All mobile food units may be provided electricity or may use portable generators as long as it does not create noise issues within the area it's located.
 - (h) Any and all individual(s) and/or entity(ies) operating a mobile food unit on private property or any city park must have a written agreement authorizing such operation with the landowner or city. Each individual and/or entity operating a mobile food unit shall maintain a copy of the written agreement at their location and produce said agreement to any city official upon request.
 - (i) Any and all mobile food units operating within the City of Mineola city limits shall have a **state food handler permit**, state mobile unit food establishment permit, **state food manager's license** and a sales tax permit.
 - (j) The operation of any mobile food unit located in the City of Mineola city limits shall be subject to inspections by city officials at any time.
 - (k) Any individual(s) and/or entity(ies) obtaining a permit to operate a mobile food unit within the city limits of Mineola is prohibited from transferring any such permit received.
 - (l) One advertising sign shall be allowed for each mobile food unit.
 - (m) Any individual(s) and/or entity(ies) operating a mobile food unit must have passed all Texas Department of State Health Services inspections prior to the issuance of any city permit. Evidence of up-to-date and valid inspections must be maintained and produced should the renewal of a mobile food unit city permit be requested and/or desired.
 - (n) A certificate of occupancy issued by the City of Mineola must be obtained prior to operating any mobile food unit park.
 - (o) Any mobile food park operating inside the city limits shall, at all times, have a manager and/or an individual with authority to speak and make decisions on behalf of the mobile food park and any and all vendors operating within said park.
 - (p) A mobile food park shall be allowed one advertising sign for the mobile food park.
 - (q) A mobile food park shall provide a shaded eating area for patrons.
 - (r) City approved events will be exempt from this article.
- (Ord. No. 2017-06-26, § II, 6-26-2017)

Sec. 10-53. Zoning and location.

- (a) Any and all mobile food units and/or mobile food parks shall operate within the following zoning districts for the City of Mineola:
 - (1) C-1 - (Local Business);
 - (2) C-2 - (General Business);
 - (3) I - (Industrial).
- (b) The operation of a mobile food park shall require a specific use permit issued by the City of Mineola.
- (c) An approved site plan by the city shall be required for any mobile food park operating within the city limits.

(d) Any mobile food units and/or mobile food parks located within the Heritage Preservation Overlay District must obtain approval from the Mineola Landmark Commission prior to operation.

(Ord. No. 2017-06-26, § III, 6-26-2017)

Sec. 10-54. Penalty.

Any individual(s) and/or entity(ies) that violates any regulation, term or condition of this article may receive a citation, which shall be a Class C misdemeanor. Should the individual(s) and/or entity(ies) receiving such citation be found guilty of said violation, a fine not to exceed \$2,000.00 may be imposed.

(Ord. No. 2017-06-26, § IV, 6-26-2017)

Secs. 10-55—10-75. Reserved.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF MINEOLA, TEXAS AMENDING CHAPTER 10 (BUSINESS AND BUSINESS REGULATIONS), ARTICLE 3 (MOBILE FOOD UNITS AND MOBILE FOOD PARKS), SECTION 10-52(i) (REGULATIONS) CONCERNING MOBILE FOOD UNITS AND MOBILE FOOD PARKS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council for the City of Mineola, Texas (“City”) has previously passed regulations concerning Mobile Food Units and Mobile Food Parks; and

WHEREAS, said regulations passed by the City Council by Ordinance have been codified in Chapter 10 (Business and Business Regulations), Article 3 (Mobile Food Units and Mobile Food Parks) in the City of Mineola’s Code of Ordinances; and

WHEREAS, the City Council, by the passing of this Ordinance, desires to amend Section 10-52(i) (Regulations).

NOW, THEREFORE, BE IT ORDAINED by the City Council for the City of Mineola, Texas as follows:

**I.
AMENDMENT**

- Section 10-52(i) (Regulations) is hereby amended as follows:

Any and all Mobile Food Units operating within the City of Minola city limits shall have a State Mobile Food Unit Establishment Permit and a Sales Tax Permit.

**II.
REPEALER**

Any and all Ordinances of the City of Mineola, Texas in conflict with the provisions of this Ordinance shall be and the same are hereby repealed, and all other provisions of the Ordinances of the City of Mineola not in conflict with the provisions of this Ordinance shall remain in full force and effect.

**III.
SEVERABILITY**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, subsections and phrases of this Ordinance are severable, and if any phrase, clause,

sentence, paragraph, subsection or section of this Ordinance shall be declared unconstitutional by the judgment or decree of any court of competent jurisdiction, such unconstitutionality or illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional or illegal phrase, clause, sentence, paragraph, subsection or section.

**IV.
EFFECTIVE DATE**

This Ordinance shall become effective immediately upon its passage and approval by the City Council for the City of Mineola, Texas.

PASSED and APPROVED by the City Council for the City of Mineola, Texas this _____ day of _____, 2022.

APPROVED BY:

Jayne Lankford, Mayor

ATTEST:

Cindy Karch, City Secretary