

ORDINANCE NO. 2022-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANGLETON AMENDING THE CODE OF ORDINANCES OF THE CITY OF ANGLETON, TEXAS, BY AMENDING AND REVISING CHAPTER 8.5 FOOD AND FOOD ESTABLISHMENTS ARTICLE I. IN GENERAL, SECTION 8.5-2. DEFINITIONS, ARTICLE II. PERMIT, SECTION 8.5-10. REQUIRED, SECTION 8.5-11. DURATION, ARTICLE III. INSPECTIONS, SECTION 8.5-20. ANNUAL INSPECTIONS, REINSPECTIONS, AND NEW INSPECTIONS, ARTICLE V. TEMPORARY AND MOBILE FOOD ESTABLISHMENTS, SECTION 8.5-62. MOBILE FOOD ESTABLISHMENTS; GENERALLY AND SEC.8.5-63. UNRESTRICTED AND RESTRICTED MOBILE FOOD UNIT REGULATIONS AS CONTAINED IN “EXHIBIT A”; ADOPTING SEC 8.5-66. MOBILE FOOD COURTS AS CONTAINED IN “EXHIBIT B”; PROVIDING FOR THE REGULATION OF FOOD AND FOOD ESTABLISHMENTS; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council for the City of Angleton (“City Council”) is authorized by Chapter 54 of the Texas Local Government Code to enforce rules, ordinances and police regulation of the municipality by fine or penalty; and,

WHEREAS, as authorized under law and in the best interest of the residents, citizens and inhabitants of the City of Angleton, the City Council deems it expedient and necessary to amend and revise Chapter 8.5 Food and Food Establishments, Article I. In General, Section 8.5-2. Definitions, Article II. Permit, Section 8.5-10. Required, Section 8.5-11. Duration, Article III. Inspections, Section 8.5-20. Annual Inspections, Reinspections, and New Inspections, Article V. Temporary and Mobile Food Establishments, Section 8.5-62. Mobile Food Establishments; Generally and Sec.8.5-63. Unrestricted and Restricted Mobile Food Unit Regulations and adopt the amended ordinances as contained in “Exhibit A”; and

WHEREAS, as authorized under law and in the best interest of the residents, citizens and inhabitants of the City of Angleton, the City Council deems it expedient and necessary to adopt Chapter 8.5 Food and Food Establishments, Article V. Temporary and Mobile Food Unit Establishments, Section 8.5-66 Mobile Food Courts as contained in “Exhibit B”; and

WHEREAS, the City of Angleton is a home rule city acting pursuant to its charter and City Council now finds the need to amend and revise Chapter 8.5 to promote the public health, safety and welfare of its citizens; and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ANGLETON, TEXAS:

SECTION 1. All the facts recited in the preamble to this Ordinance are hereby found by the City Council to be true and correct and are incorporated herein by this reference and expressly made a part hereof, as if copied herein verbatim.

SECTION 2. The City of Angleton, Code of Ordinances, Chapter 8.5 Food and Food Establishments, Article I. In General, Section 8.5-2. Definitions, Article II. Permit, Section 8.5-10. Required, Section 8.5-11. Duration, Article III. Inspections, Section 8.5-20. Annual Inspections, Reinspections, and New Inspections, Article V. Temporary and Mobile Food Establishments, Section 8.5-62. Mobile Food Establishments; Generally and Sec.8.5-63. Unrestricted and Restricted Mobile Food Unit Regulations are hereby amended and revised to read as contained in “Exhibit A”.

SECTION 3. The City of Angleton adopts Chapter 8.5 Food and Food Establishments, Article V. Temporary and Mobile Food Unit Establishments, Section 8.5-66 Mobile Food Courts as contained in “Exhibit B”.

SECTION 3. Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Two Thousand and No/100 Dollars (\$2,000.00). Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense

SECTION 4. All ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

SECTION 5. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances 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 Angleton, Texas declares that it would have passed each and every part of the same notwithstanding the omission of any part this declared to be invalid or unconstitutional, or whether there be one or more parts.

SECTION 6. That this Ordinance shall be effective and in full force immediately upon its adoption.

PASSED AND APPROVED THIS THE 12TH DAY OF APRIL 2022.

CITY OF ANGLETON, TEXAS

Jason Perez
Mayor

ATTEST:

Frances Aguilar, TRMC, MMC
City Secretary

“EXHIBIT A”

Sec. 8.5-2. Definitions.

For purposes of this chapter, the words, terms and phrases set forth in the Texas Food Establishment Rules (TFER) as definitions shall have the meanings set forth therein. Additionally, the following words, terms and phrases shall have the meanings set forth below except where the context clearly indicates a different meaning:

Authorized agent or employee means an employee(s) of the City of Angleton.

Caterer means any person or entity that transports complete meals from an approved establishment to another location for consumption but shall not include persons operating restaurants that routinely deliver food on order or persons that deliver a product or distribute a product to vending machines.

Commissary or central preparation facility means a facility that mobile food service establishments use to dispose of waste and to obtain supplies.

Food establishment or food service establishment means an operation that stores, prepares packages, serves, vends, or otherwise provides food for human consumption as follows:

- (1) A restaurant, retail food store, satellite or catered feeding location, catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people, market, vending location, (machine), self-service food market, conveyance used to transport people, institution, or food bank;
- (2) An establishment that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout order, or delivery service that is provided by common carriers; and
- (3) Includes an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority and an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on- or off-premises; and regardless of whether there is a charge for the food.
- (4) Food establishment does not include an establishment that offers only prepackaged foods that are not time/temperature controlled for safety food, a produce stand that only offers whole, uncut fresh fruits and vegetables, a food processing plant, a cottage food industry, an area where cottage food is prepared, sold or offered for human consumption, a bed and breakfast limited facility as defined in the TFER, or a private home that receives catered or home-delivered food.

Mobile food court means a property used or developed to accommodate one or more food trucks as the primary use of the property while possibly accommodating areas on the property for entertainment or recreational opportunities. This definition shall not be interpreted to include a congregation of mobile food vendors as a secondary use, accessory use, or temporary use (less than 30 days).

Mobile food unit (MFU) means a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to, catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. Mobile ~~Food~~ ~~Units~~ must completely retain their mobility at all times. A mobile food unit does not include a stand or a booth. A roadside food vendor is classified as a MFU.

Mobile food unit - additional permit means a mobile food unit operated by an existing permitted food establishment that provides an additional source of food service and also includes multiple mobile food units operated by the same owner. The owner is legally considered to be the person holding the food establishment's permit or the food permit(s) for the multiple mobile food units.

Nonprofit organization means an incorporated organization which exists for educational or charitable reasons, and from which its shareholders or trustees do not benefit financially. Nonprofit status must be verified by submission of supporting documentation, such as an IRS form 501c.

Person in charge means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

Public property. The term "public property" shall mean any property open or devoted to public use or owned by the city, including, but not limited to, sidewalks, streets, rights-of-way, parks, and municipal buildings. This definition does not include property owned by any county entity.

Public rights-of-way. The term "public rights-of-way" shall mean the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, parkway, waterway, easement, or similar property in which the city or the State of Texas now or hereafter holds any property interest.

Regulatory authority means the City of Angleton, Texas.

Roadside Food Vendor means a person who operates a mobile retail food store from a temporary location adjacent to a public road or highway. Food is not prepared or processed by a roadside food vendor. Roadside food vendors are classified as mobile food units.

Temporary food establishment is a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration. This may include a stand or a booth.

Texas Food Establishment Rules ("TFER") means the rules promulgated by the Texas Department of State Health Services with an effective date of October 11, 2015, and set forth in 25 Texas Administrative Code, Chapter 228, Subchapters A—J, and as such rules may be hereafter amended.

Time/temperature control for safety food (TCS) means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.

Sec. 8.5-10. Required.

- (a) *Required permit.* A food establishment, caterer, temporary food establishment, mobile food unit, child care center or group residence that provides food service shall only be operated

with a valid permit issued by the city. Permits are not transferable from place to place or person to person, except that, mobile food service establishments may retain the same license when moving from place to place as long as the vehicle remains the same. A valid permit shall be posted in public view in every establishment. Each and every food establishment, whether under one roof or not, shall be considered a separate establishment, and a permit must be obtained for each establishment. Each such establishment is subject to the requirements in this chapter. A valid permit must be posted at a clearly visible and accessible location near the entrance, or part of the premises most commonly approached by the public, of every food establishment regulated by this chapter. A permit is not required for the operation of a beverage stand operated by a child age 17 or under. Additional requirements for a mobile food unit permit are listed below in section.

- (b) *Filing of application.* Any person desiring to operate an establishment covered by this article shall make written application and pay the nonrefundable fee set out section 8.5-12, or as amended or stipulated in fee schedule approved by city council. Such application shall include, but not be limited to, the following:

- (1) The applicant's full name, post office address and street address;
- (2) Whether such applicant is an individual, firm or corporation and, if a partnership, the name of each partner and his address;
- (3) The location and type of the proposed food service establishment;
- ~~(4)~~ (i) if the permit is for a mobile food unit, in addition to the requirements listed in this section, the application must include: Dates of event for the food service establishment;
 - (A) type of vehicle to be used for the proposed mobile food unit;
 - (B) a menu listing of all food items to be sold;
 - (C) a notarized statement from the owner of a central preparation facility stating the mobile food unite uses the facility as its base of operation; and
 - (D) a copy of the most recent health inspection of the central preparation facility which must be maintained on the mobile unit at all times.
 - (E) Dates of event for the food service establishment

~~(54)~~ The signature of the applicant; and

~~(65)~~ All other information deemed necessary by the city.

~~(e)€~~ *Texas Food Establishment Rules.* All of the food uses described in this article shall be governed by all applicable Texas Food Establishment Rules.

- (d) *Filing of a food manager certificate.* A copy of the certified food manager certificate must be submitted with the license application or renewal.
- (e) *Exemption.* Temporary food establishments and establishments that serve, sell, or distribute only prepackaged non-TCS foods are exempt from this section.
- (f) *Inspection.* After the application has been submitted and all fees paid, the regulatory authority shall inspect the food service establishment for compliance with this chapter. If the establishment complies with this chapter, the regulatory authority shall issue the license.

Mobile food units must comply with all requirements listed under 25 Texas Administration Code 288.221 and under Article V of this Chapter, as amended.

- (g) *Administrative rules.* The city manager reserves the right to develop checklists, application forms, and other forms as necessary to administer the requirements of this article.

Sec. 8.5-11. Duration.

Permits shall be issued annually and shall extend from the date of issuance or renewal, as applicable. Annual renewal applications must be submitted at least 30 days prior to the expiration date of the permit. A permit shall be issued only if the establishment is in complete compliance with this chapter.

A mobile food unit (commonly known as a "food truck") permit shall be issued on an annual basis. A MFU that operates for a period of no more than three consecutive days in conjunction with a single event or celebration may obtain a temporary food establishment permit instead of a mobile food unit permit, however, a temporary food establishment permit may not be used in the place of a mobile food unit permit if the operator intends to operate their mobile food unit outside of a single event.

Sec. 8.5-20. Annual inspections, reinspections, and new inspections.

- (a) The city shall inspect each food establishment, including mobile food units, within the City of Angleton routinely on an annual basis, or as often as necessary to enforce this chapter.

Sec. 8.5-62. Mobile food establishments; generally.

- (a) *General requirements.*

- (1) *Designation of a central preparation facility.* Mobile food service establishments, including caterers and mobile food units that serve TCS foods shall operate from a central preparation facility, commissary, or other fixed food service establishment that is permitted and regularly inspected by the city or some other regulatory authority.
- (2) *Central preparation facility authorization.* A signed letter of authorization is required, to verify the facility use and to confirm that food and drink items will be provided to the operator for sale if the central preparation facility is not owned by the mobile unit operator.
- (3) *Central preparation facility inspection report.* A copy of the most current health inspection of the central preparation facility must be maintained on the mobile unit at all times.
- (4) *Food preparation.* Food prepared in a private home may not be used or offered for human consumption from a mobile food service establishment.
- (5) *Vehicle registration and insurance.* Mobile food service establishments must comply with all state and local laws pertaining to vehicle registration and insurance.
- (6) *Certified food manager.* Mobile food service establishments must have a certified food manager on site when preparing or selling food. Limited service mobile food units, as classified below, are exempt from this requirement.

(7) *Readily Movable.* Mobile food units must be mobile at all times. A MFU shall not be set on cinder blocks, have any flat tires, or be permanently attached to any outside equipment unless the equipment is for the specific purpose of fixing said MFU to make it readily movable once again.

Sec. 8.5-63. Unrestricted and restricted mobile food unit regulations.

(a) *Unrestricted mobile food units.* The following requirements apply to all unrestricted mobile food units:

(1) *Location.* Unrestricted mobile food ~~establishments~~units may operate at the following locations:

- a. At any construction site in any zoning districts as a mobile meal and snack commissary with periodic brief stops at construction sites;
- b. At school and church carnivals, special event, or conferences;
- c. At any catered event;
- d. On properties zoned Commercial-General (C-G), Commercial/Office Retail (C-OR), Central Business District (CBD), and Light Industrial (LI); and
- e. At public parks and other public facilities, subject to the approval of the parks and recreation director, city manager, as applicable, or their designee, and upon the execution of an agreement that would indemnify the City of Angleton and would assign the operator responsibility for any damages that may occur to city property, facilities, and to the health and well-being of the general public.

f. At a mobile food court in compliance with the zoning requirements in subsection (a)(1)(d) of this section.

(2) *Operation.*

- a. Mobile Food Units may operate Monday through Saturday at any time except between the hours of 11pm-5am, subject to the restrictions in section (a)(1) of this section.
- b. A mobile food unit must have a written agreement from a business within 150 feet for employees of the mobile food unit to have use of flushable restrooms (or other facilities as approve by the city) during hours of operation.
- c. All mobile food units must be removed daily, unless otherwise stated in this subsection, and report to their central preparation facility for daily supplying, cleaning, or servicing operations.

(3) *Duration of events.* Unrestricted mobile food units ~~establishments are generally classified as a temporary use, except as specified below~~ permitted to operate under a temporary food establishment permit must operate in accordance with the following:

- a. Events may last for up to five hours before being removed from the site and are permitted for up to ~~two~~three days per week; unless the exception criteria spelled out below are applicable;

- b. The unit must be removed from the site daily and may not become a permanent use unless the use complies with all subdivision and zoning requirements that would regulate the establishment of a permanent use;
 - c. The only exceptions to the duration of event requirements are:
 - 1. A multi-day special event hosted by the City of Angleton, or by a church, a school, or a charitable organization, subject to the approval of a site plan that demonstrates that a multi-day event can be conducted in a manner that would comply with all requirements of this article and not disrupt adjoining businesses or properties; and
 - 2. At a block party, a special street event conducted in a public right-of-way upon, a national holiday, or at any other function that is not expressly permitted in this article by the city council.
- (b) *Restricted mobile food units* shall be subject to:
- (1) All of the requirements set out in section 8.5-63, subsection (a), with respect to location, operating hours, duration, of events, and approval criteria.
 - (2) All of the requirements set out in section 8.5-63, subsection (a)(4)d, fire protection requirements for unrestricted mobile food units, shall be applicable to the degree that they pertain to the operation of any restricted mobile food units.

“Exhibit B”**Secs. 8.5-66. Mobile Food Courts.****(a) Mobile Food Court Requirements.**

(1) Mobile food court site shall be designed and intended for the use of mobile food units as the primary use of the property.

(2) Each site at the mobile food court on which a mobile food unit will be located and operated shall be provided hookups for electricity and potable water. Each individual food truck is not permitted to operate a generator at the site unless emergency circumstances necessitate the need for the use of a generator on a temporary basis not to exceed two hours within any given six-hour period of time.

(3) Permanent restrooms located within a permitted building or structure must be provided on-site within the food truck court for the use of the mobile food unit's and the mobile food court's customers, operators and employees. Alternatively, the mobile food court may have a written agreement from a business within 150 feet for use of flushable restrooms (or other facilities as approved by the city). A written agreement must be on file with the City.

a. All restrooms must be kept in sanitary and healthy conditions and must be equipped with sinks, soap, paper towels, toilet paper and running water. Such restroom(s) must remain open and available for use at all times during which the mobile food court is being used.

(4) The owner of the mobile food court and the operator of a mobile food unit must enter into a written agreement for the use of the mobile food court. Said agreement must be filed with the City prior to the mobile food unit's operation in the mobile food court.

(5) Mobile food courts shall only be allowed to engage in sales operations Monday through Sunday, between the hours of 8:00pm to 11:00 pm, unless otherwise granted permission by the City Manager or their designee.

(6) All mobile food units participating in a mobile food court shall remain fully mobile and operational.

(7) Mobile food courts shall be subject to the noise requirements of Chapter 13 of the Code of Ordinances and no amplified sound shall be permitted after 10:00 pm, unless otherwise granted permission by the City Manager or their designee.

(8) Mobile food courts shall provide containers of sufficient size and number for the disposal of trash and recyclables resulting from the mobile food court's operation and sales. The containers shall be identified as being for the disposal of trash and recyclables.

(9) Mobile food courts must be finished with concrete or asphaltic materials on which any mobile food trucks may park and operate. Customer parking must also be finished with concrete or asphaltic surface materials.

(10) Mobile food units shall be separated from existing buildings, parking lots and other mobile food units by a minimum of ten (10) feet, or as otherwise determined by the Fire Marshal.

(11) Mobile food courts must adhere to the City's zoning and commercial regulations.

(12) Any permanent structure will require a site plan amendment, building permit and be subject to any applicable ordinances and regulations.

(13) Seating for customers may be provided but may not be within 10 feet of any road, parked cars, structures on the property or mobile food units.

(b) *Inspections.* Mobile food courts and mobile food units operating on the property may be inspected from time to time by appropriate city personnel. Mobile food courts and mobile food units shall immediately be made available for inspection upon request of such city personnel.

(c) *Alcohol.* No alcohol sales shall be permitted on the property unless a permanent structure is constructed on the property and is in compliance with all TABC, zoning and food establishments rules, in addition to any other requirements as determined by the City Manager or their designee.

(d) *Permits.* Each mobile food court shall be required to receive a permit to operate from the City Manager or their designee. As part of the request for a permit, the following information, at a minimum, shall be provided:

(1) The name and address of the owner and operator;

(2) A legal description of the property to be used as a mobile food court;

(3) If the applicant represents a corporation, association, partnership or any other business entity, the names and addresses of the officers, partners or principals;

(4) The address and name under which the mobile food court will be operated; and

(5) Any other information reasonably required by the City Manager or their designee to document the use and operation of the mobile food court.

(e) *Duration of Permit.* A permit to operate a mobile food court shall remain valid only up to a maximum of six (6) months unless otherwise granted written permission from the City Manager or their designee. A mobile food court permit may be revoked at any time prior to its expiration for failure to adhere to any and all required city, county, state or federal laws and ordinances or for any other reason the City Manager or their designee believes to be in the best interest of the public health, safety and welfare of its citizens.

(f) *Responsibility of Owner.* Mobile food courts shall be responsible for identifying and obtaining all applicable permits and shall be responsible for conforming to all applicable city, county, state and federal regulations. The owners of the mobile food courts shall be responsible for ensuring

that any mobile food unit which operates as part of the mobile food court obtains all necessary permits prior to operation and conforms to all applicable city, county, state and federal regulations.

Sec. 8.5-67—**8.5-79. Reserved.**