

ORDINANCE NO. 442

AN ORDINANCE OF THE CITY OF BANDERA, TEXAS, AMENDING CHAPTER 4. BUSINESS REGULATION BY AMENDING BY REPEALING AND REPLACING ARTICLE 4.04 TEMPORARY OR SEASONAL MOBILE FOOD VENDORS AND ADDING 4.09 TEMPORARY TRADES OR COTTAGE FOOD BUSINESSES; PROVIDING FOR A SEVERABILITY CLAUSE; AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Texas Health and Safety Code Chapter 437 authorizes the City to establish a permit system for mobile food vendors; and

WHEREAS, the City Council desires to provide residents and visitors with dining options by allowing mobile food vendors (food trucks) to operate in the City; and

WHEREAS, the City Council seeks to promote the health, safety and general welfare of the community by establishing business regulations that will allow mobile food vendors to operate within the City in a safe and orderly manner; and

WHEREAS, Texas law allows for the operation of temporary trades and cottage food businesses;

WHEREAS, the City Council seeks to create a license and registration requirement for temporary trades and cottage food businesses that operate within the City; and

WHEREAS, the City Council seeks to promote the health, safety and general welfare of the community by establishing business regulations that will allow temporary or seasonal mobile food vendors to operate within the City in a safe and orderly manner.

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

SECTION 1. The findings set forth above are found to be true and correct and are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2. That the City Code of Ordinances of the City of Bandera is hereby amended as set forth in Exhibit A and B. Exhibit A – Article 4.04 is to be repealed and replaced. Exhibit B – Article 4.09 is to be added.

SECTION 3. The provisions of this ordinance shall be cumulative of all ordinances not repealed by this ordinance and ordinances governing or regulating the same subject matter

as that covered herein. This ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

SECTION 4. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance be severable, and, if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared invalid by judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance and the remainder of this ordinance shall be enforced as written.

SECTION 5. It is hereby officially found and determined that the meeting at which this Ordinance was passed 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 6. This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

PASSED AND APPROVED ON THIS THE _____ DAY OF _____ 2024.

Rebeca Gibson, Mayor

Attest:

Jill Shelton, City Secretary

Exhibit A

Repealed and replaced as following:

ARTICLE 4.04. TEMPORARY OR SEASONAL MOBILE FOOD VENDORS

§ 4.04.001 Definitions

Complementary extension or outlet. An MFV operating at a permanent brick-and-mortar food or alcohol establishment which is kept out of public view.

Cottage Food Vendor. An individual, operating out of the individual's home, who produces any food, excluding meat, that does not require time or temperature to prevent spoilage.

Gray Water. Wastewater that is not contaminated by fecal matter. Water that has been used domestically, commercially or industrially. Includes the leftover water generated from washing machines, bathtubs and sinks.

Mobile Food Vendor (MFV). An entity that provides prepared food for public consumption in various forms, including but not limited to, mobile food unit, cart, portable building, catering vehicle or food tent and anyone who prepares the food. Any mobile establishment where food or ice is held, processed, manufactured, packaged, prepared, displayed, served, transported or sold.

Public view. Being located at a site that is easily visible to the general public from public property or private businesses.

Seasonal food business. A commercial food business operated during the timeframe set by City Council.

Temporary food business. A commercial food business conducted for no more than 72 hours at a single location.

Western Motif. Having an appearance that is consistent with the master plan, including a historical, Old West setting and which enhances the western, cowboy image of the city.

§ 4.04.002. License required; Penalty.

- a) Anyone conducting temporary or seasonal food business operations for the purpose of selling food cooked and/or prepared on site to the public shall, before engaging in such operations, apply to the city and be granted a temporary or seasonal food business operations license, as appropriate. Issuance of a temporary or seasonal food business license by the city does not authorize the licensee to locate the food business at any particular site. The applicant shall be responsible for obtaining authorization or permission to locate the food business at a particular site from the owner or operator of the site.
- b) The license must be prominently displayed on the MFV.

- c) Any temporary or seasonal food vendor found selling within the city limits without first obtaining a permit from the City will incur a penalty of \$100.00 per day, for the first offense. Multiple offenses may result in the MFV being barred from selling within the city limits for up to 6 months.

§ 4.04.003. Application for license; fee.

The application for each type of license shall be upon such form as may be designated by the City and shall show the date of its issuance and identity of each applicant by:

- Full name
 - State issued ID
 - Telephone number
 - Permanent address
- (a) A temporary Food business license shall be valid for no more than 72 hours. The fee is on file at City Hall and is subject to periodic revision by the city. In addition to those listed above, the following are required to obtain a temporary food business license:
- Certificate of Insurance, and Texas Sales and Use Tax Permit (if applicable); and
 - Health permit issued by the State of Texas; or
 - DSHS Temporary Food Establishment Event Permit and a Food Manager's or Handler's Certificate
- (b) A seasonal Food business license shall be valid for the timeframe set by City Council and for Bandera Business Association and Chamber of Commerce Market events. The fee is on file at City Hall and is subject to periodic revision by the city. In addition to those listed above, the following are required to obtain a seasonal food business license:
- Health permit issued by the State of Texas;
 - Certificate of Insurance; and
 - Texas Sales and Use Tax Permit (if applicable)
- (c) The license shall specify the type of temporary or seasonal business in which the licensee is authorized to engage in the city.
- (d) The City may revoke the license at any time, by the City Administrator or his/her designee, for reasons including, but not limited to:
- any violation of this ordinance or any city ordinance
 - written complaints from customers

§ 4.04.004. Operation and removal of mobile food vendor (MFV).

- (a) Temporary food business. A licensee for a temporary food business must remove the MFV within 24 hours of the license expiring. If the MFV is not removed within 24 hours, further licenses may be denied, and the City may declare the MFV a nuisance and proceed with the penalties and processes outlined in § 1.01.009 of this code.
- (b) Seasonal food business. A licensee for a seasonal food business must remove the MFV within seven (7) days of the license expiring. If the MFV is not removed within seven (7) days, license for the following season may be denied, and the City may declare the MFV a nuisance and proceed with the penalties and processes outlined in § 1.01.009 of this code.
- (c) A western motif is highly encouraged for seasonal MFVs.
- (d) MFVs shall provide an exterior trash receptacle (30 gallon minimum) for their customer's use.
- (e) Solid and liquid waste shall be held, stored and disposed of in a receptacle approved by the county health authority and in compliance with applicable code requirements. At no time shall an Owner/Operator of an MFV discharge grey water on the ground within city limits.
- (f) An MFV shall maintain the area around the mobile food trailer, keeping it clear of litter and debris at all times.
- (g) An MFV is required to acquire and display on the mobile food unit the proper city-issued and state (DSHS) permits and licenses in order to operate within the city limits.
- (h) An MFV is subject to onsite inspections by the city and/or county.
- (i) An MFV is allowed to operate in Zones P4, P5 & P6.

§ 4.04.005. Cottage Food Vendors.

- a) See article § 4.09

§ 4.04.006 Catered events.

- a) An MFV operating on private property only as a caterer under a contract for the sale of food to the property owner, and who does not sell to any person other than the property owner, is exempt from this ordinance.

§ 4.04.007 MFV Operating as a complementary extension or outlet.

- a) The MFV shall only operate during the regular business hours of the permanent food or alcohol establishment.
- b) Access to the MFV can only be made through entry to the permanent food or alcohol establishment.
- c) The MFV must always be kept out of public view.

- d) Are not affected by the Seasonal timeframe restrictions set for MFV.
- e) There is no permit fee but all application requirements still apply per §4.04.003.

Exhibit B

ARTICLE 4.09. TEMPORARY TRADES OR COTTAGE FOOD BUSINESSES

§4.09.001 Definitions.

Cottage Food Vendor. An individual, operating out of the individual's home, who produces any food, excluding meat, that does not require time or temperature to prevent spoilage.

Temporary Trades business. A commercial activity conducted for no more than thirty (30) consecutive days without reference to a fixed, year-round location in the city which includes but is not limited to selling produce from vehicles, making and taking orders for photographs at a temporary location, and the renting of a motel room for taking orders for products such as clothing.

Vendor Booth. A small space, usually 10 feet by 10 feet in size, within a vendor market. They provide space for vendors to display and sell their products and attract customers.

§4.09.002. License required; Penalty

- a) Anyone conducting temporary trades business operations for the purpose of selling any goods, services or cottage food to the public shall, before engaging in such operations apply to the city and be granted a temporary or seasonal trades license, as appropriate. Issuance of a temporary or seasonal trades license by the city does not authorize the licensee to locate the trades business at any particular site. The applicant shall be responsible for obtaining authorization or permission to locate the trades business at a particular site from the owner or operator of the site.
- b) The city issued license must be prominently displayed at the sales location.
- c) Any temporary trades vendor found selling within the city limits without first obtaining a permit from the City will incur a penalty of \$100 per day, for the first offense. Multiple offenses may result in the vendor being barred from selling within the city limits.

§4.09.003. Application for license; fee

- a) The application for each type of license shall be upon such form as designated by the City and shall show the date of its issuance and identity of each applicant by:
 - Full name
 - State issued ID
 - Telephone number
 - Permanent address
- b) In addition to those listed above, the following documents are required to obtain a Cottage Food license:
 - Texas Sales and Use Tax Permit (if applicable)
 - Food Handler's Card

- Certificate of Insurance
- c) In addition to those listed above, the following documents are required to obtain a Trades vendor license:
 - Texas Sales and Use Tax Permit (if applicable)
- d) A temporary trades business license shall be valid for a period of no more than thirty (30) consecutive days from the date of issuance. The fee is on file at City Hall and is subject to periodic revision by the city.
- e) The license shall specify the type of temporary trades business in which the licensee is authorized to engage in the city.

§4.09.004. Operation and removal during periods of non-operation

- a) Temporary Trades business. A licensee for a temporary trades business must remove their vendor booth and all other associated items, equipment, etc from the sales location within 24 hours of the license expiring. If the vendor booth is not removed within 24 hours, further licenses may be denied, and the City may declare the MFV a nuisance and proceed with the penalties and processes outlined in § 1.01.009 of this code.