

CITY OF JOSHUA, TEXAS

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, REPEALING EXISTING SECTION 5.07, "FOOD TRUCKS," OF ARTICLE 5, "PERMITTED USES," OF THE CITY'S ZONING ORDINANCE, FOUND IN CHAPTER 14, "ZONING," OF THE CODE OF ORDINANCES OF THE CITY OF JOSHUA, TEXAS, AND ADOPTING NEW FOOD TRUCK REGULATIONS BY ADDING A NEW ARTICLE 1.10, "FOOD TRUCKS," TO CHAPTER 1, "GENERAL PROVISIONS," OF THE CODE OF ORDINANCES OF THE CITY OF JOSHUA, TEXAS, GENERALLY PROVIDING FOR THE REGULATION OF FOOD TRUCKS; MAKING FINDINGS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Joshua, Texas, is a home rule municipality acting under its charter, which was adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, in recent years, the number of restaurants and other establishments which provide food for human consumption in the City of Joshua has increased and continues to increase; and

WHEREAS, the City has seen an interest from food truck vendors desiring to offer edible food products to local citizens and visitors to the City of Joshua, particularly at special events; and

WHEREAS, the City Council desires to allow food trucks to operate in the City of Joshua, with certain licensing and operational requirements in accordance with applicable state public health and safety requirements.

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

SECTION 1

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Joshua and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2

From and after the effective date of this Ordinance, Section 5.7, "Food Trucks," of Article 5, "Permitted Uses," of the City's Zoning Ordinance, found in Chapter 14, "Zoning," of the Code of Ordinances of the City of Joshua, Texas, is hereby repealed in its entirety and said Section 5.7 shall now read as follows:

“ARTICLE 5 PERMITTED USES

* * *

§ 5.7 RESERVED.

* * *

SECTION 3

From and after the effective date of this Ordinance, Chapter 1, “General Provisions,” of the Code of Ordinances of the City of Joshua, Texas, is hereby amended by adding a new Article 1.10, “Food Trucks,” to read as follows:

“ARTICLE 1.10 FOOD TRUCKS

Sec. 1.10.001 Definitions

Edible Goods. A type of goods sold for human consumption that includes, but is not limited to:

- (1) Prepackaged food, including, but not limited to candy, beverages, chips, popsicles and ice cream; and/or
- (2) Prepared food, including, but not limited to shaved ice, sandwiches, pizza, barbecue, tacos, and desserts.

Food Truck. A truck, cart, trailer or kitchen mounted on a chassis and that is capable of being moved with a motorized or non-motorized unit, including without limitation, a self-contained motorized unit that sells Edible Goods.

Food truck vendor. An individual or entity that sells Edible Goods for human consumption from a food truck.

Sell. The act of exchanging a good for a profit or in return for a donation.

Sec. 1.10.002 Adoption of Texas Food Establishment Rules

The City of Joshua hereby adopts by reference the provisions of the current rules, or rules as may be amended from time to time, by the Executive Commissioner of the State Health and Human Services Commission, found in 25 Texas Administrative Code, Section 228.221, as amended, regarding the regulation of food trucks.

Sec. 1.10.003 Permit and Application

(a) Permit. A Food Truck Vendor shall have a valid food truck permit (“Permit”) that has been issued by the City in order to sell Edible Goods within the City.

(b) Application. A Food Truck Vendor must apply for a Permit on a form promulgated by the City. A Food Truck Vendor must apply separately for each Food Truck it intends to operate within the City. Once the City Manager or his or her designee (“City Manager”) determines that the Permit application is complete, the City Manager must review the application and notify the applicant if the Permit application meets the requirements of this article within ten (10) business days.

(c) Permit form. A Permit application must include the following information to be complete:

- (1) Payment of the Permit fee.
- (2) Name of Applicant, address and telephone number or other contact information.
- (3) Sales tax number with a copy of sales tax permit.
- (4) If applicable, a signed permission or notarized affidavit from the private property owner granting permission for the application to locate a mobile food unit(s) on his or her property.
- (5) Name, phone number and driver’s license number of business owner and any employee managing the mobile food unit.
- (6) Description of Edible Goods to be sold.

(d) Permit Application Process. The Permit application shall be processed as follows:

- (1) The Permit application shall be submitted to the City.
- (2) The Permit application shall be reviewed by the City Manager to determine whether the application is complete and eligible for review. The City Manager shall review a complete Permit application to determine whether it meets the requirements of this section.
- (3) The City Manager shall approve a Permit application that meets the mobile food vendor requirements set forth in this section.
- (4) The City Manager shall deny a Permit application that does not meet the mobile food vendor requirements set forth in this section.

Sec. 1.10.004 Permit Fee

(a) The fee for a Permit shall be Twenty-Five Dollars (\$25.00). A Food Truck Vendor must obtain a separate Permit for each food truck it operates within the City.

(b) A Permit shall be valid for no longer than seventy-two (72) hours.

Sec. 1.10.005 Food Truck Requirements

The following regulations shall apply to a Permit holder operating a food truck within the City:

(a) Location.

(1) All food trucks must be located on a parcel which is appropriately zoned for commercial development.

(2) Food truck vendors shall provide the City with a copy of written permission from the property owner to allow the operation of a food truck and to allow the food truck and their customers access to a commercially plumbed public restroom on-site.

(3) A food truck vendor shall submit a site plan depicting the location of the food truck on the property; and shall secure a current food handler card(s) from Johnson or Tarrant County, providing copies of these documents to the City of Joshua.

(4) Food trucks shall be located within five hundred feet (500') of an entrance of a primary building that holds the certificate of occupancy.

(5) No food trucks, their merchandise, advertising, or seating shall obscure traffic sight visibility.

(6) No food trucks operating under this article shall be allowed to sell or service food on any public street, sidewalk, or other public right-of-way unless approved in writing by the City of Joshua.

(7) Food trucks shall not operate in driveways or fire lanes.

(8) Food trucks, including any applicable seating may operate in parking spaces in a commercially zoned individual property, parcel, tract or platted lot, if the required parking for the center remains in compliance with the City's parking regulations. A site plan indicating the specific location is required.

(9) Food trucks shall not remain on any parcel for more than seventy-two (72) hours.

(b) Licensing.

All food trucks shall have a valid vehicle registration, motor vehicle operator's license, proof of vehicle liability insurance, a Texas Sales Tax Permit and meet all other state law licensing requirements.

(c) Operational Issues.

(1) A drive-through is not permitted in conjunction with the food truck and shall not provide a drive-through service of any kind.

(2) Food trucks shall be equipped with a self-closing lidded, trash receptacle. The trash receptacle must be placed outside next to the food truck for use by the patrons of the truck. The area around the food truck shall be kept clean and free from litter, garbage, and debris.

(3) Temporary connections to potable water are prohibited. Water shall be from an internal tank, and electricity shall be from a generator or an electrical outlet via a portable cord that is in conformance with the Electrical Code as adopted by the City of Joshua.

(4) Except as otherwise limited by the City of Joshua Code of Ordinances, or other City codes, a food truck may utilize outside seating consisting of a portable table and a seating capacity of not to exceed four (4).

Sec. 1.10.006 Offenses

(a) It shall be unlawful for a Food Truck Vendor directly or through an agent or employee to sell Edible Goods from a Food Truck within the corporate limits of the City unless it holds a valid Permit.

(b) It shall be unlawful for a Food Truck Vendor directly or through an agent or employee to misrepresent on the Permit application any acts that are regulated under this article.

(c) It shall be unlawful for a Food Truck Vendor directly or through an agent or employee to allow a food truck to operate that does not comply with the Texas Food Establishment Rules, as amended.

Sec. 1.10.007 Penalty

The violation of or noncompliance with this article by any person, firm, association of persons, company, corporation, or their agents, servants, or employees shall be punishable as a misdemeanor and upon conviction, such person, firm, association, company, corporation or their agents servants or employees shall be fined a sum not less than one dollar (\$1.00) but shall not exceed two thousand dollars (\$2,000.00), and each

day any violation or noncompliance continues shall constitute a separate and distinct offense.”

SECTION 4

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

SECTION 5

If any section, subsection, clause, phrase or provision of this Ordinance, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

SECTION 6

Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished pursuant to the provisions contained in Section 4.09.012 of the Code of Ordinances of the City of Joshua, Texas, as amended.

SECTION 7

The City Secretary is directed to publish in the official newspaper the caption and penalty clause of this ordinance once in a newspaper of general circulation.

SECTION 8

This ordinance shall be in full force and effect from and after its passage and publication as provided by law, and it is so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF JOSHUA, TEXAS, THIS ___ DAY OF _____, 2023.

Scott Kimble, Mayor

ATTEST:

Alice Holloway, City Secretary

APPROVED AS TO FORM AND CONTENT:

Terrence S. Welch, City Attorney