

**ORDINANCE NO. 2023 - XX**

**Consideration and possible action on: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS, AMENDING CHAPTER 98 ZONING, ARTICLE III DISTRICTS AND ZONING MAP, DIVISION I GENERALLY, SECTION 98-88 TABLE OF PERMITTED USES AND SPECIAL USES OF THE CITY CODE OF ORDINANCES; REPEALING SECTION 98-88 IN ITS ENTIRETY AND ADOPTING THE LANGUAGE HEREIN, PROVIDING A SEVERANCE CLAUSE AND TEXAS OPEN MEETINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Montgomery, Texas (the "City Council") desires to safeguard the health, safety and general welfare of the City of Montgomery, Texas (the "City") and its citizens;

**WHEREAS**, The City Council is responsible for the orderly development and regulation of activities within the City;

**WHEREAS**, The City Council desires to further regulate and clarify the standards for mobile food units (food trucks);

**WHEREAS**, The City Council desires to further regulate where in the City mobile food units (food trucks) are permitted;

**WHEREAS**, pursuant to the Texas Local Government Code Chapter 51, the City Council may adopt, publish, amend or repeal an ordinance, rule, or police regulation that is for the good government, peace, and order of the City.

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

SECTION 1. The City Council adopts the findings and recitals above as true and correct.

SECTION 2. Section 98-88 of the City Zoning Ordinance is hereby repealed in its entirety and amended by adopting the following:

**Sec. 98-88. Table of permitted uses and special uses.**

(a) Permitted uses and special uses in the various zoning districts are as specified in the following table:

Table 1. Table of Permitted Uses						
Permitted Uses	R-1	R-2	B	ID	I	CC
Accessory uses						X
Aerial or ground survey			X			
Air conditioning sales, retail, complete enclosed (services incidental)			X			
Air conditioning-refrigeration services repair (completely enclosed) with no installation of central units — heating or cooling						X
Airport (nongovernmental)						X

Air product manufacturing				X		
Alcoholic beverage sales off premises			X			
Alcoholic beverage sales on premises						X
Alcoholic beverage storage			X			
Altering and repairing of wearing apparel			X			
Ambulance service			X			
Amusement arcade						X
Amusement park (commercial)						X
Animal shelter or dog pound (nongovernmental)						X
Antique store (completely enclosed)			X			
Apartment hotel						X
Apothecary, limited to the sale of pharmaceutical and medical supplies			X			
Apparel and accessory store			X			
Appliance repair (completely enclosed)			X			
Armory						X
Art gallery and/or museum (commercial retail sale of objects d'art only)			X			
Asphalt or creosote manufacturing or treatment						X
Assisted living		X	X			
Automobile and truck sales and service (new and used) (service completely enclosed)			X			
Automobile car wash			X			
Automobile filling station and/or service (all repair in district to be completely enclosed)			X			
Automobile glass sales and installation			X			
Automobile muffler sales and installation (completely enclosed)			X			
Automobile parking lots or parking garages (commercial)						X
Automobile rental			X			
Automobile repair			X			
Automobile upholstery sales and installation (completely enclosed)			X			
Automobile wrecking, dismantling or salvage (enclosed by fence)						X
Aviary						X
Bait store			X			
Bakery (retail)			X			
Bakery (wholesale)			X			
Barber shop			X			
Beauty salon			X			
Bed and breakfast	X		X			
Churches					X	
Community home as required by V.T.C.A., Human Resources Code § 123.003	X	X				
Compressed gas manufacturing, repacking and/or storage						X

Dairy equipment (wholesale) (completely enclosed)			X			
Dairy products sales (retail)			X			
Dairy products sales (wholesale)			X			
Delicatessen			X			
Department store			X			
Dog pound or animal shelter (nongovernmental)						X
Drug manufacture						X
Drug sales (wholesale)			X			
Drugstore			X			
Dry cleaning pickup and pressing shops			X			
Dry cleaning plant						X
Dry goods store			X			
Dry goods (wholesale) (completely enclosed)			X			
Electric power generator station (primary station)						X
Electric repair (appliances) (completely enclosed)			X			
Electric repair shop (heavy equipment)				X		
Electrical substation, to be enclosed by a fence or wall of minimum six feet in height, with physical installation being enclosed by a barrier which constitutes a visual screen. Visual screening would not be required in ID district				X		
Electrician			X			
Electroplating			X			
Elevator maintenance and service				X		
Exterminator (completely enclosed)			X			
Farm equipment sales and service (completely enclosed in B-2 district)			X			
Farm supplies			X			
Farming and truck gardening, but not for retail sales (permitted in any district)				X		
Feed store or seed and fertilizer			X			
Felt manufacture (cloth)				X		
Fish market (fenced outside storage)				X		
Fish market (retail)			X			
Fish market (wholesale)			X			
Fix-it shop (completely enclosed)			X			
Floor covering sales (retail completely enclosed)			X			
Floral shop (completely enclosed)			X			
Florist (wholesale) (completely enclosed)			X			
Food locker plant (retail)			X			
Food products (wholesale storage and sales)			X			
Food products manufacture and processing (not rendering)				X		
Food store			X			
Food to go (retail, no curb service)			X			
Foundry						X
Freight depot (railroad and/or truck)				X		

Fruit and produce (wholesale)			X			
Fruit and vegetable stand or store			X			
Funeral home, mortuary or undertaking establishment			X			
Fur dyeing, finishing and storing (no tanning, no hide storage)				X		
Furniture (wholesale sales)			X			
Furniture repair and upholstery (completely enclosed)			X			
Furniture repair and upholstery (fenced outside storage)			X			
Furniture store, retail (completely enclosed) (no repair)			X			
Furniture store, retail (fenced outside storage)			X			
Garage, public or storage				X		
Garden specialty store			X			
Gas filling station and/or service (all repairs to be completely enclosed)			X			
Gas regulation station (screening)				X		
Gift shop (completely enclosed)			X			
Glass (retail sales) (service incidental to sales) (completely enclosed)			X			
Glass (wholesale sales)			X			
Glass manufacturing and glass products manufacturing				X		
Golf course and country club, but no driving range, pitch and putt or miniature golf course						X
Golf driving range, pitch-and-putt or miniature golf course						X
Greenhouse or nursery, retail			X			
Greenhouse or nursery, wholesale				X		
Grocery (wholesale)			X			
Grocery store			X			
Gymnasium (commercial)			X			
Hair products manufacturing and processing				X		
Hardware manufacture				X		
Hardware sales (wholesale)			X			
Hardware store			X			
Heliport			X			
Hobby supply store			X			
Hosiery manufacture			X			
Hospital or sanitarium			X			
Hotel			X			
Ice cream and ice milk (retail)				X		
Ice cream manufacturer (wholesale)				X		
Ice cream store			X			
Ice house (no on-premises consumption of alcoholic beverages in B-1 district)			X			
Ice manufacture				X		

Insulation manufacture and fabrication				X		
Interior decorating studio			X			
Jewelry store			X			
Junkyard, salvage yard, including storage, baling or selling of rags, papers, iron or junk, need not be enclosed within a structure, but must be enclosed within a fence at least six feet high and adequate to obstruct view, noise and passage of persons; chain-link or similar fencing may be permitted if screen planting is provided						X
Laboratory (dental or medical)			X			
Laboratory (research)			X			
Laboratory (testing)			X			
Landfill						X
Laundry and dry cleaning (self service)			X			
Laundry or dry cleaning (pickup station)			X			
Laundry plant				X		
Leather goods or luggage store			X			
Library (nongovernmental)						X
Linen supply, diaper service or uniform supply			X			
Loan office			X			
Locksmith			X			
Lumber yard and building materials (wholesale)			X			
Machine shop				X		
Machine, tools and construction equipment sales and service			X	X		
Marine and boat manufacturing				X		
Marine and boat storage						X
Mattress manufacturing and rebuilding				X		
Massage parlor			X			
Metal products fabrication				X		
Milliner (custom)			X			
Millinery manufacture				X		
Millwork and similar wood products manufacture				X		
Mobile Food Unit			X*	X	X	
Mobile Food Court						X**
Motel			X			
Motorcycle sales and service			X			
Moving and transfer company				X		
Music store			X			
Nail salon			X			
News stand			X			
Night club/dance hall						X
Novelty and souvenir manufacture				X		
Nursery, daycare, or kindergarten (care of up to six children)	X	X				
Nursery, daycare, or kindergarten (care of up to 20 children)			X			

Nursery, daycare, or kindergarten (care of over 20 children)			X			
Nursing home		X	X			
Office equipment and furniture manufacture				X		
Office equipment and supplies (retail)			X			
Office equipment and supplies (wholesale)			X	X		
Offices (professional)			X			
Oil and well supplies and machinery sales				X		
Optical goods (retail)			X			
Optical goods (wholesale)			X			
Optician			X			
Packing and gasket manufacture				X		
Packing plant (no rendering)						X
Paint and wallpaper store			X			
Paper produce manufacture				X		
Paper supplies (wholesale)				X		
Parks, playgrounds, community buildings and other public recreational facilities owned and/or operated by the city or other public agency					X	
Passenger depot (railroad or bus)						X
Pawnshop (completely enclosed)			X			
Pecan shelling				X		
Pet shop (completely enclosed)			X			
Petroleum storage (wholesale)				X		
Photographic equipment and supplies sales			X	X		
Photographic studio			X			
Picture framing			X			
Pipe storage				X		X
Pipeline and electrical transmission lines						X
Playground equipment manufacture				X		
Plumber			X			
Plumbing fixture sales (completely enclosed) (retail)			X			
Plumbing fixture sales (wholesale)			X	X		
Printer			X	X		
Public buildings, including libraries, museums, police stations and fire stations					X	
Radio station or studio, without transmitter tower						X
Radio station with transmitter tower						X
Reading room			X			
Recycling plant						X
Reducing salon			X			
Refrigerator equipment manufacture				X		
Restaurant			X			
Riding stable or academy						X
Roominghouse or boardinghouse						X
Rug and/or carpet sales			X			
Rug cleaning				X		

Sand or gravel storage yard				X		
Schools					X	
Shoe manufacture				X		
Shoe repair shop			X			
Shoe sales (retail)			X			
Shoe sales (wholesale) (completely enclosed)			X			
Sign, advertising (excluding business signs)			X			
Sign shop			X	X		
Sign shop (completely enclosed)			X			
Skating facility (outdoor)						X
Skating rink (enclosed)			X			
Small animal clinic or kennel			X			
Small animal clinic or kennel (completely enclosed)			X			
Sporting goods store			X			
Sporting goods (wholesale) (completely enclosed)			X	X		
Stamp, coin sales (retail)			X			
Stationery sales			X			
Stone cutting or monument manufacturing				X		
Stone monument sales			X			
Stone quarry or gravel pit				X		
Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, painting, etc.			X			
Surgical or dental supplies store			X			
Tanning salon			X			
Tattoo parlor						X
Tavern						X
Taxidermist						X
Television station or studio without transmitter tower			X			
Television station with transmitter tower						X
Textile manufacture				X		
Theater (indoor)			X			
Theater (outdoor, including drive-in theaters)						X
Tile manufacturer (ceramic)				X		
Tobacco processing				X		
Tobacco store			X			
Tool manufacture				X		
Tool rental (completely enclosed)			X			
Tool rental (fence outside storage)			X	X		
Toy manufacture			X	X		
Toy store			X			
Trailer manufacture				X		
Trailer sales			X			
Transit vehicle storage and service				X		
Truck repair and maintenance			X	X		
Truck stop						X

Variety store			X			
Venetian blinds and metal awning fabrication, repair and cleaning				X		
Veterinarian (animal on premises)			X			
Warehousing				X		
Watch repair			X			
Water or sewage pumping (nongovernmental)						X
Water storage (overhead)						X
Welding shop				X		
Well drilling contractors			X	X		

\* Mobile Food Units in the Historic Overlay Zone Requires Special Use Permit

\*\* Mobile Food Courts Require a Special Use Permit

(b) Any use not specifically permitted in this table or in the use regulations of each district set out below, shall require a special use permit (SEE Sec. 98-27. Special use permits)

( Ord. No. 2014-03 , § 1, 5-20-2014)

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect any of the remaining provisions of this Ordinance.

**SECTION 4.** All other ordinances and parts of ordinances in conflict with the provisions 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 on all ordinances or sections of the City Code not specifically amended or repealed shall remain in full force and effect.

**SECTION 5.** It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required 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 upon its passage and adoption.

**PASSED AND APPROVED** by the City Council of the City of Montgomery, Texas on the 13th day of June 2023.

\_\_\_\_\_  
Byron Sanford, Mayor

ATTEST:

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Nicola Browe, City Secretary

APPROVED AS TO FORM:

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Alan P. Petrov, City Attorney