

ORDINANCE NO. 1018-1

AN ORDINANCE OF THE CITY OF LINDSAY, TEXAS, PROVIDING FOR THE REGULATION OF MOBILE FOOD UNITS (ALSO KNOWN AS FOOD TRUCKS) WITHIN THE CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lindsay, Texas, is a Type A general law municipality located in Cooke County, created in accordance with Chapter 6 of the Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City of Lindsay recognizes the growth in popularity of the mobile food unit industry and the increased interest in locating and operating mobile food units in the City of Lindsay; and

WHEREAS, the City Council desires to provide its residents and visitors with a variety of dining options by allowing mobile food units to operate in the City; and

WHEREAS, the City has a substantial interest in protecting the health, safety, welfare, convenience, and enjoyment of the general public and has proposed these regulations operation of mobile food units within the City to further this interest; and

WHEREAS, the City Council hereby finds and determines that the regulations and amendments set forth herein are in the best interest of the public and are adopted in furtherance of the public health, safety, morals, and general welfare.

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

**SECTION 1
Definitions**

In this ordinance:

Mobile food unit means a vehicle-mounted food establishment, designed to be readily movable, typically constructed in a truck or trailer. Mobile food units may not be permanently parked in one location.

Mobile food vendor means any person who sells food products or takes food product orders and sells such food out of a mobile food unit on premises where there is no related business building.

SECTION 2
Mobile food vendors

(a) **Required documentation.** To obtain a mobile food vendor permit, a mobile food vendor must submit a list of foods and beverages to be served on the unit, stating the source of the item and when and where it will be prepared. A mobile food vendor must also submit plans showing the equipment layout and the arrangement and construction material of the inside of the unit, including food preparation, storage, and window service areas. Additionally, a mobile food vendor must submit written permission from any property owner who owns property on which the mobile food unit will be parked, regardless of the time period associated with parking the mobile food unit on said property. A mobile food vendor must pay the permit fee established in the City of Lindsay Fee Schedule at the time of requesting a mobile food vendor permit.

(b) **Permit.** It shall be unlawful for any person to operate a mobile food unit without having obtained a mobile food vendor permit issued by the City. Permits may be purchased monthly for up to one year from the date of issuance.

(c) **Inspections.**

(1) To obtain a mobile food vendor permit, the mobile food unit must have a current inspection by the City's health inspector to ensure compliance with this ordinance. If a mobile food unit has been inspected by the City's health inspector on behalf of a different governmental entity within the six (6) months prior to applying for the mobile food vendor permit, that inspection shall satisfy the inspection requirement for issuance of the permit. A mobile food vendor must pay the inspection fee established by the City Fee Schedule at the time an inspection of a mobile food unit is requested.

(2) It shall be unlawful for a person to operate a mobile food unit in the City without a valid inspection. An inspection is valid for six (6) months from the date of inspection.

(3) Notwithstanding the inspection requirements of this ordinance, a mobile food unit operating within the City may be inspected at any time by the City health inspector to ensure compliance with this ordinance.

(d) **Certified food manager required.** A certified food manager must be present at the mobile food unit at all times during operation.

(e) **Location.** A mobile food vendor may not offer food or food products for sale while driving or traveling on a public right-of-way in the City.

(f) **Food source and food protection.**

(1) All food sold on the unit must be either prepared on the unit or at an approved, permitted food establishment. Food may not be prepared at home; food offered for sale must comply with labeling laws where applicable; food shall be in sound condition, free of spoilage, filth, or any other contamination and shall be safe for human consumption.

- (2) Only ice that has been made from potable (drinking) water shall be used or offered for sale.
 - (3) Ice intended for human consumption shall be used to cool foods, food containers, or food utensils. Ice used for cooling stored foods and food containers shall not be used for human consumption.
 - (4) Food, whether raw or prepared, if removed from the original package or container, shall be stored in a clean, covered, impervious and nonabsorbent container, except during periods of preparation or service. Solid cuts of meat shall be protected by being covered during storage.
 - (5) Containers of food shall be stored at least 6 inches above the floor in a manner that protects food from splash and contamination and permits easy cleaning of the floor.
 - (6) No food can be stored in toilet rooms or vestibules.
 - (7) No food, including packaged foods, shall be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice.
 - (8) Conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure that potentially hazardous foods are maintained at 41°F or below.
 - (9) Potentially hazardous food requiring refrigeration after preparation shall be rapidly cooled to internal temperatures of 41°F or below. Potentially hazardous foods shall not be prepared in quantities so large that rapid cooling will not be possible.
 - (10) Stored frozen foods shall be kept frozen.
 - (11) The internal hot holding temperature of potentially hazardous food shall be 135°F or above except during necessary periods of preparation. Each hot storage unit must have an accurate thermometer available.
 - (12) Live or dead fish bait shall be stored separately from food or food products.
 - (13) A product (stem type) thermometer is needed to check internal temperatures of potentially hazardous foods.
- (g) **Utensils.** Only single service (plastic or paper) utensils, tableware, plates, etc., shall be used.
- (h) **Insect and rodent control.** All mobile food units shall be constructed in such a manner as to prevent the entrance of flies, dust, dirt, or other foreign matter. Mobile food units must be provided with tightfitting solid or screened doors or windows.

- (i) **Floors.**
 - (1) Floors shall be constructed of smooth, easily cleanable materials such as ceramic tile, linoleum, or laminated wood.
 - (2) Sawdust, wood shavings, peanut hulls, etc., are prohibited.
 - (3) Mats and duckboards shall be nonabsorbent and cleaned daily.
- (j) **Walls and ceilings.**
 - (1) Walls and ceilings shall be light colored, smooth, nonabsorbent and easily cleanable.
 - (2) Food preparation areas shall be well lit.
 - (3) All lights in food preparation areas must be shielded.
- (k) **Ventilation.** The ventilation system shall be installed and operated according to the Texas Food Establishment Rules and the International Mechanical Code.
- (l) **Animals.** Live animals shall be excluded from the surrounding areas of all mobile food units.
- (m) **Cleaning and sanitization of equipment; hand lavatory.**
 - (1) A two-compartment sink with hot and cold running water under pressure is required; however, a three-compartment sink is recommended.
 - (2) The hand lavatory must be accessible and convenient.
- (n) **Fresh water and wastewater systems.**
 - (1) All mobile food units must have potable (drinking) water and the storage of potable water must be according to law.
 - (2) All mobile food units must have hot and cold running water under pressure. Hot water at a temperature of at least 100°F shall be provided to all fixtures at all times while the unit is in operation.
 - (3) Fresh water must be provided in a self-contained system within the mobile food unit. Water may not be supplied to the mobile unit by running hoses from an establishment to the unit.
 - (4) The water inlet shall be capped when not being used to fill a water tank.
 - (5) Wastewater shall be stored in a permanently installed retention tank that is sized at least 15% larger in capacity than the water supply tank and is sloped to drain. The

drain pipe must be at least 25 millimeters (1 inch) in inner diameter or greater and equipped with a shutoff valve.

- (6) Wastewater must be disposed of by a sewage transport vehicle, and under no circumstances shall wastewater be disposed in the municipal wastewater system.

(o) **Vehicle requirements.**

- (1) All mobile food units shall be readily identifiable by business name, printed in bold letters not less than 3 inches in height, not less than one and one-half inches in width, permanently affixed, and prominently displayed upon at least 2 sides of the unit.
- (2) All mobile food units shall maintain a current state motor vehicle inspection sticker and a current Texas motor vehicle license plate registration sticker.
- (3) All mobile food units must be readily movable (capable of moving immediately upon the request of the code enforcement officer).
- (4) Mobile food vendors who only sell prepackaged goods on their mobile food units shall not remain parked in one location for longer than three (3) hours. No time restriction shall apply for mobile food vendors who prepare food on their mobile food unit.

(p) **Applicability to prepackaged sales.** For mobile food vendors who only sell prepackaged goods on their mobile food units, the only subsections of this section that apply are those relative to:

- (1) Submitting plans;
- (2) Required documentation;
- (3) Initial inspection of the mobile unit;
- (4) Permits;
- (5) Inspections;
- (6) Food source and food protection when applicable, as determined by the code enforcement officer;
- (7) Insect and rodent control;
- (8) Animals;
- (9) Fresh water and wastewater systems, when applicable, as determined by the code enforcement officer; and

- (10) Vehicle requirements.
- (q) **Trash receptacles.** Mobile food vendors who prepare food on their mobile food unit shall provide one or more trash receptacles for disposal of waste from customers, and shall provide for the disposal of such waste.

**SECTION 3.
CUMULATIVE**

This Ordinance shall be cumulative of all provisions of ordinances of the City of Lindsay, Texas, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

**SECTION 4.
SEVERABILITY**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs 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 phrase, clause, sentence, paragraph or section.

**SECTION 5.
PENALTY**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500.00.

**SECTION 6.
SAVINGS**

All rights and remedies of the City of Lindsay are expressly saved as to any and all violations of the ordinances of the City of Lindsay related to operating mobile food units within the City that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

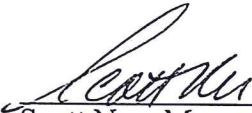
**SECTION 7.
PUBLICATION**

The City Secretary is authorized and directed to cause publication of the descriptive caption and penalty clauses of this ordinance as provided by law.

**SECTION 8.
EFFECTIVE DATE**


This Ordinance shall be in full force and effect after its passage and publication.

PASSED AND APPROVED ON THIS 12 DAY OF November, 2018.



Scott Neu, Mayor

ATTEST:



Monica Laux, City Secretary