

**ORDINANCE NO. 2022-O-16**

**AN ORDINANCE AMENDING CHAPTER 35 “LICENSES AND SPECIAL BUSINESS REGULATIONS” OF THE CODE OF ORDINANCES OF THE CITY OF MANVEL, TEXAS, BY REPEALING THE CURRENT ARTICLE X “MOBILE FOOD VENDORS” AND ADOPTING A NEW ARTICLE X “MOBILE FOOD VENDORS” TO REGULATE MOBILE AND TEMPORARY FOOD VENDORS; AMENDING CHAPTER 35, ARTICLE VII “PEDDLERS, CANVASSERS, AND SOLICITORS”; REPEALING PROVISIONS IN CONFLICT THEREWITH; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 PER DAY FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.**

---

WHEREAS, the City Council of the City of Manvel, Texas, determines it in the best interest of the health, safety, and welfare of the citizens of the City to amend Chapter 35, Article X of the City Code by repealing the current Article X and adopting a new Article X to regulate mobile food vendors; and

WHEREAS, the City Council finds that the adoption of this ordinance is in the best interest of the citizens of Manvel; now, therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MANVEL, TEXAS:**

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Chapter 35 of the Code of Ordinances of the City of Manvel is hereby amended by repealing the current Article X of Chapter 35.

Section 3. Chapter 35 of the Code of Ordinances of the City of Manvel is hereby amended by adopting a new Article X to read and provide as follows:

**“Chapter 35 - LICENSES AND SPECIAL BUSINESS REGULATIONS**

....

## **ARTICLE X. – MOBILE AND TEMPORARY FOOD VENDORS**

### **Sec. 35-310. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Food hand cart means a food or drink vending station operating from a non-mechanical, movable cart that is pushed or pulled from one location to the next by hand (e.g. hot dog cart).

Mobile Food Unit (stationary) means a food or drink vending station operating from a mechanical vehicle or pulled trailer at a fixed location (e.g. food truck or taco truck).

Mobile Food Unit (mobile) means a food or drink vending station operating from a mechanical vehicle or pulled trailer that drives continuously, intermittently stopping for sales (e.g. ice cream truck).

Mobile food vendor means any person or entity engaged in selling or serving food or drink from a vehicle, booth or cart, including, but not limited to, operating any of the following:

- (1) Sidewalk stand; or
- (2) Food hand cart; or
- (3) Food truck (stationary); or
- (4) Food truck (mobile)

Sidewalk stand means a drink vending station operating from a non-mechanical booth or stand on or near the sidewalk or in the city right-of-way operated by a person under the age of 18, who only offers lemonade (e.g. lemonade stand).

Temporary food establishment means a food establishment that operates for a period of no more than ten (10) consecutive days in conjunction with a single event or celebration. This may include a stand or a booth.

### **Sec. 35-311. General prohibition.**

Except where specifically authorized by this article, mobile food vendors of any type are expressly prohibited.

### **Sec. 35-312. Sidewalk stand.**

Sidewalk stands are prohibited. There shall be an exception for temporary lemonade sidewalk stands operated by juveniles, which may be operated without a permit for a single period of up to eight hours, limited to one period within one calendar month.

### **Sec. 35-313. Food hand cart.**

Food hand carts are prohibited. There shall be an exception for temporary operation for the following:

- (1) City events;

- (2) City approved or sponsored events; and
- (3) Private events (where admission is not open to the general public) on private property.

**Sec. 35-314. Mobile Food Unit (stationary).**

(a) Food trucks (stationary) are prohibited. There shall be an exception for temporary operation for the following:

- (1) City events;
- (2) City approved or sponsored events; and
- (3) Private events (where admission is not open to the general public) on private property.

(b) The following requirements shall apply to all stationary mobile food units that are specifically permitted under this article:

- (1) MFUs must be equipped with the following
  - a. Portable fire extinguishers selected and installed in accordance with NFPA 10 with a minimum 2A:10BC rating. An approved Class K fire extinguisher must be provided for protection of grease cooking fires. All fire extinguishers must have a current inspection/service tag from a licensed fire extinguishing company.
  - b. A Type 1 hood installed where cooking appliances produce grease or smoke as a result of the cooking process.
  - c. Beginning on October 1, 2019, an automatic fire extinguishing system installed to protect cooking equipment.
- (2) Inspection of mobile food units. At the time of the inspection, the mobile food unit shall be completely operable and in full working order.
- (3) Miscellaneous offenses. In addition to the regulations contained above, the following actions are prohibited by mobile food unit operators:
  - a. Operating without a valid servicing record or commissary receipt which must be kept within the mobile food unit at all times;
  - b. Selling or offering for sale non-food items from the mobile food unit;
  - c. Storing or preparing food outside of the mobile food unit (except in a licensed central preparation facility);
  - d. Displaying, selling, or serving food outside of the mobile food unit;
  - e. Altering the mobile food unit in such a manner that would prevent or otherwise reduce ready mobility;
  - f. Blocking public right-of-way, a dedicated fire lane, or a public sidewalk;
  - g. Creating/operating a drive-thru in conjunction with the mobile food unit;

- h. Allowing items such as brooms, hoses, equipment, containers or boxes to be located adjacent to or beneath the mobile food unit;
- i. Providing or allowing signs or banners not attached to and solely supported by the mobile food unit to be set up at the serving area;
- j. Allowing trash or debris at the site of the mobile food unit during operation, and leaving the site with trash or debris following operation;
- k. Allowing any audio speakers or amplification devices to be heard outside of the mobile food unit; or
- l. Allowing outside furniture such as tables or chairs, to be set up adjacent to the mobile food unit.

**Sec. 35-315. Mobile Food Unit (mobile).**

Food trucks (mobile) are prohibited.

- (1) There shall be an exception for temporary operation for the following:
  - a. Pre-packaged non-TCS food vendors; and
  - b. Ice cream trucks
- (2) Food trucks (mobile) shall not stand for more than fifteen (15) minutes at any one location and may not prepare or cook food or drink items on the vehicle (pre-packaged only).
- (3) Food trucks with music or a public address system shall not exceed 65 decibels.
- (4) Food trucks may only operate from dawn until dusk, except for events with extended hours as may be expressly authorized by the city manager or designee.
- (5) Food trucks may not vend from the second lane of traffic, and may not double park or impede traffic.

**Sec. 35-316. Temporary food establishment**

(a) Temporary food establishments are prohibited. There shall be an exception for the following:

- (1) City events;
- (2) City approved or sponsored events; and
- (3) Private events (where admission is not open to the general public) on private property

(b) The following requirements shall apply to a temporary food establishment vendor that are specifically permitted under this article:

- (1) Every temporary food establishment vendor must have a current valid health permit. Permits are nontransferable. Multiple vendors may not operate under one health permit.

- (2) Except where only prepackage food is offered, every temporary food establishment must have a handwashing station with warm water, soap, drying device, and a waste water retention basin in used before food preparation begins.
- (3) Except where only prepackaged food is offered, every temporary food establishment must have a three (3) compartment warewashing station, labeled (wash, rinse, sanitize), with basins large enough to accommodate the largest utensil.
- (4) Every temporary food establishment utilizing electricity and/or any type of fire element must have appropriate fire extinguisher. Vendors are not allowed to share.

**Sec. 35-317. Basic requirements.**

The following requirements shall apply to the mobile food unit vendors and temporary food establishment vendors that are specifically permitted under this article:

- (1) Permitted mobile food unit vendors shall operate only on a temporary basis. Temporary shall mean for eight (8) hours or as long as the city event or city-approved event is ongoing.
- (2) There shall be no water, wastewater or electric hookups to the adjacent property.
- (3) There shall be no overnight parking or operation.
- (4) Vehicles and booths must be marked with the vendor's name. No detachable signage shall be permitted for Mobile Food Units, except for one removable sandwich-board sign displaying product and/or pricing information.
- (5) All stationary mobile food unit vendors and temporary food establishment vendors must set out a trash can for patrons while present and must remove all trash from the premises upon departure. Vendor must not allow trash to spill over and must change out trash bags when trash can is full.
- (6) Vendors may not set up within 300 yards of a restaurant, except with express written consent of the restaurant owner. Vendors must have at least ten (10) feet clearance from any building, structure, vehicle, and any combustible materials. Vendors must not block fire lanes or fire access roads.
- (7) Only employees shall be allowed in food preparation areas. Nonessential persons shall not be within any food service, food preparations, or warewashing areas, including by not limited to children under the age of 18.
- (8) All food preparation, processing, and service shall be located in/on an approved surface (concrete, asphalt).
- (9) All vendors must meet minimum food safety standards, including
  - a. A supervisory person, who has a current valid food manager certificate, must be onsite at all times.
  - b. All food ingredients must be from an approved source, in sound condition, and must be properly stored 6 inches off the ground.

- c. A small diameter probe metal thermometer must be provided and all food must be stored at property temperatures.
  - i. Cold Food Holding shall not exceed 41 degrees Fahrenheit
  - ii. Hot Food Holding shall not be less than 135 degrees Fahrenheit
- d. All employees must wear hand protection and hair restraints when in food preparation/serving areas.
- e. Only single use articles may be provided for use by the consumer.
- f. All vendors in service for longer than two (2) hours must have access to a toilet facility.

(10) The city manager is authorized to sponsor and approve events on behalf of the city. In considering approval or sponsorship for the event, the city manager shall consider the following:

- a. The nature of the event, which must be open to the general public;
- b. Whether the organizers are in compliance with all city, county and state laws and regulations;
- c. Whether the organizers have the means, personnel, volunteers, and resources to have a successful event;
- d. Past history of events by the requesting organization, or similar events by other organizations, and whether there were any health, safety, or sanitation issues; and
- e. Such other characteristics of the event, including time of year, that may place a burden on city or local law enforcement or first responders.

**Sec. 35-318. Permits and health requirements.**

The following requirements shall apply to the mobile food vendors that are specifically allowed under this article:

(1) Health Permit.

- a. All mobile food units, mobile and stationary, must obtain a permit from the city. Each permit will be issued unit-by-unit only after an inspection reveals satisfactory compliance with state law and this article, as applicable. Mobile food unit permits are non-transferable. A change of ownership of a MFU, including a change of legal form of the entity, shall require submission of a new application for a mobile food unit health permit and inspections. A mobile food unit health permit shall become void upon the closing of the sale of the MFU for which a permit was issued. Such permits shall remain the property of the city. Permit fees shall be as prescribed by the city council.
- b. All temporary food establishment vendors, must obtain a permit from the city. Each permit will be issued vendor-by-vendor and may serve only after an inspection reveals satisfactory compliance with state law and this article, as



- applicable. Such permits shall remain the property of the city. Permit fees shall be as prescribed by the city council.
- c. No person shall operate or cause to be operated any mobile food unit (mobile or stationary) or temporary food establishment which does not possess a valid health permit issued by the city. Any person, firm, or establishment who is found to have operated or caused operation without a valid health permit shall be deemed guilty of a misdemeanor and shall, upon conviction by a court of competent jurisdiction, be assessed fines or other punishment as provided by this Code.
  - c. Such permit shall be posted in a conspicuous place where it can be viewed by patrons and shall not be removed or defaced. A health permit issued to a Mobile Food Unit shall be affixed to the truck by the code enforcement officer/health officer. A permit shall set forth the business name, license plate number, mobile food unit license number, and expiration date for said license.
  - d. Every food truck must be readily identifiable by its business name and phone number that are printed, permanently affixed, and prominently displayed on the back of the unit and on the side of the unit from which food is served, in letters not less than three (3) inches in height.
  - e. Sidewalk stands, where allowed by this article, are exempt from permit requirements.
- (2) *Health regulations.* All vendors must obey and be in compliance with all state, county and city health laws and regulations. Compliance with these laws shall be a part of the city permit process.
- (3) *Food preparation.* No food may be stored or prepared at any location except on the MFU or at the temporary food establishment, in a licensed commissary, or permitted central processing facility as listed on the application submitted for the health permit. Food preparation may not be conducted on MFU while vehicle is in motion.
- (4) *Vehicle inspections.* All mobile food unit vendors must pass a vehicle inspection from the fire marshal's office as part of the City's permit process. All vendors must obey and be in compliance with the fire code and all other city codes.
- (5) *Administrative rules.* The city manager or designee shall promulgate rules and regulations to administer the provisions of this article. Such rules and regulations shall not conflict with any applicable provisions of this Code. All rules and regulations so promulgated shall be kept on file for public inspection at the office of the city secretary. A copy of the rules and regulations shall be provided to any person upon payment of the fees prescribed by law.
- (6) *Violation.* Anyone who intentionally, willfully, recklessly, or with criminal negligence violates this article shall, upon conviction, be guilty of a misdemeanor and shall be assessed fines or other punishment as provided by this Code.

(7) Revocation of health permit. In addition to the imposition of a criminal penalty, the failure to comply with any of the provisions of this article, or any of the promulgated rules or regulations established thereunder, shall be grounds for the revocation or suspension of the permit, or the refusal to issue or renew any permit required under this Code. If requested by the permittee in writing within seven business days of notice of revocation, the city manager or designee shall hear the cause for revocation/suspension/non-renewal and determine whether the grounds for such action are justified. The city manager's (or designee's) decision shall be final. The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty, and the imposition of a criminal penalty shall not prevent the revocation or suspension of a license under this article.”

Section 3. Chapter 35 of the Code of Ordinances of the City of Manvel is hereby amended by amending Article VII - PEDDLERS, CANVASSERS, AND SOLICITORS to read and provide as follows:

**“Chapter 35 - LICENSES AND SPECIAL BUSINESS REGULATIONS**

....

**ARTICLE VII. - PEDDLERS, CANVASSERS, AND SOLICITORS**

...

**Sec. 35-171. - Exemptions from this article.**

- (a) A peddler, solicitor, canvasser or itinerant vendor conducting activities on the property of another by the express, prior invitation of the owner thereof is exempt from the provisions of this article.
- (b) A vendor selling or exhibiting for sale commodities, goods, merchandise or services to persons engaged in the business of buying, selling and dealing in the same within the city is exempt from the provisions of this article.
- (c) Mobile and temporary food vendors subject to Article X.

....




Section 5. This Ordinance shall in no manner amend, change, supplement, or revise any provision of any ordinance of the City of Manvel, save and except the change described above.

Section 6. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance 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 any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Manvel, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

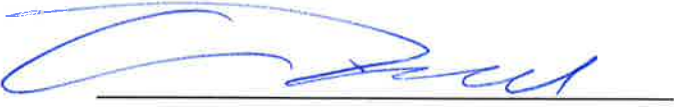
Section 7. Any person who shall intentionally, knowingly, recklessly, or with criminal negligence violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000.00. Each day of violation shall constitute a separate offense.

PASSED AND APPROVED on first reading this 16 day of May, 2022.

PASSED, APPROVED, AND ADOPTED on second and final reading this 20 day of June, 2022.

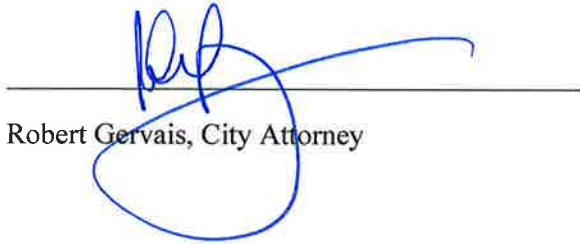
  
\_\_\_\_\_  
Debra Davison, Mayor

Attest:



Tammy Bell, City Secretary

Approved as to Form:



Robert Gervais, City Attorney

