

**AN ORDINANCE OF THE CITY OF GOLIAD, TEXAS, AMENDING CHAPTER 4, BUSINESS REGULATIONS, ARTICLE 4.10, MOBILE FOOD VENDORS, TO UPDATE THE REQUIREMENTS FOR THE ALLOWANCE OF MOBILE FOOD VENDORS WITHIN THE CITY OF GOLIAD; TO UPDATE THE FEES ALLOWED TO BE CHARGED; PROVIDING FOR SEVERABILITY, AN OPEN MEETING CLAUSE, AND EFFECTIVE DATE; AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS**, The City of Goliad, Texas (“City”) has been approached by one or more vendors who desire to prepare and sell food from mobile food units within the City; and

**WHEREAS**, The City staff has reviewed the laws concerning retail food establishments, mobile food vendors and roadside vendor checklist believes that provisions should be made to allow mobile food vendors to provide their services within the City; and

**WHEREAS**, the City Council has reviewed such ordinance and desires to allow such vendors so long as they comport with strict food handling regulations as well as other provisions of state law.

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

**Section 1. Findings of Fact.** The findings and recitations set out in the preamble of this Ordinance are found to be true and correct, and that they are hereby adopted by the City Council and made a part hereof for all purposes.

**Section 2. Amending Article 4.10, Mobile Food Vendors, Goliad Code of Ordinances.** Article 4.10, Mobile Food Vendors, Goliad Code of Ordinances shall be amended to Chapter 4, Business Regulations, to update the provisions applicable to Mobile Food Vendors, updating the regulations that such vendors must adhere to and updating the fees that shall be charged in Appendix “A.” Such provisions are set forth below:

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**Sec. 4.10.001 Mobile Food Vendors**

(a) Mobile Food Vendors (MFV) means any business or person that sells edible goods from a nonstationary location within the City. The term shall include:

- (1) Concession Trailer. A vending unit which is pulled by a motorized unit and has no power to move on its own.
- (2) Concession Carts. Mobile vending units that must be moved by non-motorized means.
- (3) Mobile Food Truck. A self-contained motorized unit selling items defined as edible goods.

(b) Additional Definitions:

1. Edible goods. Shall include, but are not limited to:
  - a. Prepackaged food including, but not limited to candy, beverages, and ice cream.
  - b. Prepared food including, but not limited to hot dogs, deserts, and pizza.
  - c. On-site prepared food including, but not limited to shaved ice, sandwiches, and tacos.
  - d. Farm produce and products in an unrefined state.
2. Residential area. Any street where over fifty (50) percent of the front footage of either side of the block is devoted to single-family and multiple-family dwellings, dormitories, or mobile homes.

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

4. Stationary location. The position of the mobile food vendor when not in motion and addressing the public for the purpose of sales.

5. Street. Any public road, highway, avenue, boulevard, alley, or lane within the city.

#### **Sec. 4.10.002 Plans, Documentation, Permits and Inspections.**

(a) Submission of plans. Plans shall be submitted to the City Administrator for new construction, renovation or the conversion of a unit to a mobile food unit. Plans should show the equipment layout, and the arrangement and construction material of the inside of the unit, including food preparation, storage, and window service areas

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

(c) Application for Permit. Any person desiring to operate a s amobile food vendor shall make application to the City on a form provided for that purpose for a mobile food vendor permit for each vehicle or unit used as a mobile food vendor and pay a non-refundable processing fee of \$15.00. Application must be submitted three business days prior to when you are needing the permit.

(d) Contents of Permit Application. The application for a mobile food vendor permit to be issued pursuant to this division and shall contain at least the following information:

(1) The true name of the applicant (if applicant is not a natural person, applicant shall list the form of business, state of incorporation or organization, and location of headquarters), and the applicant's date of birth;

(2) The trade name, if any, under which the applicant intends to conducts business;

(3) All addresses and telephone numbers of the applicant;

(4) Photocopy of the applicant's driver's license;

(5) Proof of motor vehicle insurance and registration;

(6) Description of product being sold;

(7) Vehicle and/or unit make, model, vehicle identification number, and license plate numbers.

(8) A copy of a valid registration certificate issued by the state for the mobile food truck, concessions cart, or concession trailer identified in the application.

(9) A copy of a valid Texas sales tax permit issued by the state comptroller, if applicable.

(10) Information concerning any conviction of the applicant or vendor for any felony or misdemeanor at any time if the offense involved sexual misconduct of any type or if the offense required registration as a sex offender under the laws of the state or of any other state, commonwealth, or possession of the United States.

(11) Authorization to conduct a criminal background check on the applicant.

(f) Additional Prerequisites for Mobile Food Vendor Permit In addition to the application, an applicant for a mobile food vendor permit shall provide the City Administrator with:

(1) The Application Permit fee as well as the Background Check Fee required as set forth in the fee schedule in appendix A of this code;

(2) A copy of the County Health Department permit issued to the mobile food vendor dated no more than three months before the date of the application with the city for a mobile food vendor permit, together with copies of current food handler's permits issued by the Texas Department of State Health Services.

(3) Each completed application shall be accompanied by a certificate of general liability insurance for each vehicle, naming the city as an additional insured, in amounts of not less than one million dollars (\$1,000,000.00) for claims for damage to property.

(4) 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.

(g) Inspections. Mobile food units may be inspected at any time by the code enforcement officer. The MFV shall keep the City Administrator informed of the general location of the mobile food unit on a quarterly basis.

#### **Sec. 4.10.003 Certified Food Manager Required**

(a) Certified food manager. A certified food manager must be present at the mobile food unit during each day of operation.

#### **Sec. 4.10.004 Food Protection**

(a) 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.

(b) Utensils. Only single service (plastic or paper) utensils, tableware, plates, etc., shall be used.

(c) 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.

(d) 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.

(e) 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.

(f) Ventilation. The ventilation system shall be installed and operated according to the Texas Food Establishment Rules and the City's adopted Building Codes.

(g) Animals. Live animals shall be excluded from the surrounding areas of all mobile food units.

(h) 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.

(i) 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 food 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.

(j) Miscellaneous Requirements.

(1) A "no smoking" sign must be posted next to the order window or area.

(2) A class 2A10BC fire extinguisher is required on all units. In addition, units utilizing oil/grease fryers are required to have a class K fire extinguisher on the unit. Extinguishers must be inspected/tested annually. Documentation shall be maintained with the unit.

(3) Fuel gas installations (propane, etc.) shall be installed in accordance with the adopted fire code. The main shut-off valve shall be accessible from the exterior of the unit. Documentation shall be available identifying that propane appliances have been tested through an approved testing lab.

**Sec. 4.10.005 Vehicle or Unit Requirements**

(a) 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) MFVs 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 MFVs who prepare food on their mobile food unit.

**Sec. 4.10.006 Prepackaged Sales**

(a) Applicability to prepackaged sales. For MFVs 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 food 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.

**Sec. 4.10.007 Trash and other Facilities.**

(a) Restroom access and trash receptacles. MFVs who prepare food on their mobile food unit shall:

- (1) Provide one or more trash receptacles for disposal of waste from customers, and shall provide for the disposal of such waste; and
- (2) Provide access to restroom facilities for customers within 300 feet of the mobile food unit.

**Sec. 4.10.008 Mobile Food Vendor Permit Approval, Denial, Revocation.**

- (a) Once an applicant is approved for a mobile food permit, a printed permit shall be issued to the qualified applicant. The permit will be signed by the City Administrator or his/her designee.
- (b) A permit may be denied where the required information is incomplete, incorrect, or shows that a person is not otherwise entitled to conduct business as a mobile food vendor.
- (c) A permit may be denied where the required prerequisite permit, test, and inspections as set forth herein are incomplete, incorrect or fails to pass.
- (d) A permit may be revoked should the applicant fail to pay the permit and other fees set out in Appendix "A".

**APPENDIX "A" – MOBILE FOOD VENDOR FEES**

Mobile Food Vendor Fee:

Permit	\$ 15.00
Day	\$ 35.00
Quarterly:	\$ 75.00
Yearly	\$ 150.00
Fee for Background Check	\$ 50.00

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**Section 3. Amendment of Conflicting Ordinances.** The above-referenced sections of the Code are hereby amended as provided in this Ordinance. All parts of ordinances in conflict herewith are hereby amended to the extent of such conflict only. To the extent of a conflict between this Ordinance and another ordinance of the City, this Ordinance shall control.

**Section 4. Savings Clause.** All rights and remedies of the City are expressly saved as to any and all violations of the provisions of any ordinances affecting utilities and utility fees which 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 5 Effective Dates.** This Ordinance shall be in full force and effect after final passage and publication in the manner required by the Texas Local Government Code.

**Section 6. Severability.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and, if any section, paragraph, sentence, clause or phrase of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such invalid section, paragraph, sentence, clause or phrase. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

**Section 7. Open Meetings.** It is hereby officially found and determined that the meeting at which this Ordinance was passed 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, Texas Government Code, Chapter 551.

**PASSED AND APPROVED** on this \_\_\_ day of \_\_\_\_\_, 2021.

ATTEST:

**CITY OF GOLIAD, TEXAS**

\_\_\_\_\_  
Kandi Hubert, City Secretary

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Brenda Moses, Mayor