

**CITY OF TIOGA, TEXAS
ORDINANCE NO. 381**

AN ORDINANCE OF THE CITY OF TIOGA, GRAYSON COUNTY, TEXAS, ESTABLISHING REGULATIONS REGARDING MOBILE FOOD VENDORS; PROVIDING FOR INCORPORATION OF PREMISES; PROVIDING FOR FINDINGS; PROVIDING FOR DEFINITIONS; PROVIDING FOR PERMITS REQUIRED; PROVIDING FOR PERMITTED LOCATIONS AND DISTANCE REGULATIONS; PROVIDING FOR HOURS OF OPERATION; PROVIDING FOR MOBILE FOOD VENDOR OPERATIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; PROVIDING A PENALTY; PROVIDING FOR ENGROSSMENT AND ENROLLMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Tioga is a General-Law municipality located in Grayson County, Texas (the "City"), created in accordance with the provisions of the Texas Local Government Code, the Texas Constitution and operating pursuant to the enabling legislation of the state of Texas; and

WHEREAS, the City of Tioga desires to allow for and to regulate mobile food trucks in order to protect the health, safety and welfare of the City of Tioga; and

WHEREAS, mobile food vendors are becoming popular and more common additions to cities and towns; and

WHEREAS, the use and location of mobile food vendors can be inappropriate and affect the profit margins of business establishments in "brick and mortar" stores; and

WHEREAS, mobile food vendors have a useful and valid purpose in economic growth when properly used and situated; and

WHEREAS, the regulations shall include annual permits, periodic inspections and general rules of operation relating to mobile food vendors;

WHEREAS, the City Council of the City of Tioga, Texas has determined that it would be advantageous and beneficial to the citizens of the City and in the best interest of the public health, safety, and welfare of the citizens and the public to allow for and regulate the use of mobile food vendors in the city of Tioga.

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

**SECTION 1
INCORPORATION OF PREMISES**

The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2
FINDINGS

After due deliberations the City Council has concluded that the adoption of this Ordinance is in the best interest of the City of Tioga, Texas and of the public health, safety and welfare.

SECTION 3
DEFINITIONS

City means City of Tioga, Texas.

Commissary Location. An established location where food service providers can prepare and store their food, as well as a location to store a Mobile Unit while not in use.

Edible Goods. All food products designed for human consumption.

Exempted Mobile Food Vendor. Any person that sells edible goods from a Mobile Unit operating at a Stationary Location in conjunction with a Chamber of Commerce event or a community recognized Special Event sanctioned by any local taxing entity and operating on the premises of any tax supported entity. Exempted Mobile Food Vendors shall be subject to all state and local requirements for food handling establishments including any requirements or special conditions set by the host entity.

Food Service Establishment. Any business that sells edible goods from a fixed location and has been inspected and approved by the Grayson County Health Department, including commercial kitchens and commissaries, and shall specifically exclude accessory or self-serve retail food sales.

Mobile. The state of being in active, but not necessarily continuous, movement; capable of being moved and not permanently fixed or placed.

Mobile Food Vendor. Any person that sells edible goods from a Mobile Unit at a Stationary Location on private property approved for such activity within the City.

Mobile Unit. Means and includes:

- (1) A mobile food truck: a self-contained motorized unit from which a Mobile Food Vendor offers for sale or sells edible goods to the public; or
- (2) A concession cart: a mobile vending unit that must be moved by non-motorized means from which a Mobile Food Vendor offers for sale or sells edible goods to the public; or
- (3) A concession trailer: a vending unit that is pulled by a motorized unit and has no power to move on its own from which a Mobile Food Vendor offers for sale or sells edible goods to the public.

Stationary Location. The location where the Mobile Food Vendor has obtained written permission from the property owner to sell and dispense edible goods to the public.

SECTION 4
PERMIT REQUIRED

Section 4.1 Inspections, Permits and Fee

- (a) A Mobile Food Vendor shall submit a completed application for a Mobile Food Vending Permit to the City Secretary's office and shall complete all required inspections through the Fire Marshal's Office and the Grayson County Health Department. A Mobile Food Vending Permit shall be required for each individual Mobile Unit utilized. The application fee for submitting an application for a Mobile Food Vending Permit shall be \$150.00, said fee to be paid for each unit to be in service.
- (b) A Mobile Food Vendor shall obtain: i) a Mobile Food Vending Permit issued by the City Secretary's office; and ii) a Food Service Permit from the Grayson County Health Department prior to conducting business in the City of Tioga. All required inspections from the Fire Marshal's Office must be successfully completed prior to consideration and approval of a Mobile Food Vending Permit by the City Secretary's office.
- (c) The Mobile Food Vending Permit issued by the City Secretary's office is not transferrable and shall be valid for one (1) year from the date of permit issuance.
- (d) Subsequent Renewal shall be subject to the requirements of part (a).

SECTION 5
PERMITTED LOCATIONS AND DISTANCE REGULATIONS

Section 5.1 Permitted Locations

Subject to the provisions of this Article, Mobile Food Vendors shall be permitted to establish a stationary location and conduct business in the following zoning districts: C-1, Commercial District- Local Business; C-2, Commercial District, -General; and C-3, Commercial, -Central Area. The Mobile Food Vendor shall not be limited to a single stationary location.

Section 5.2 Distance Regulations

- (a) A Mobile Food Vendor shall not conduct business: (a) within any residential or multi-family zoning district, or (b) within two hundred (200) feet of the boundary line of any residential zoning district.
- (b) A Mobile Food Vendor shall not conduct business within two hundred (200) feet of the primary entrance of an open and operating Food Service Establishment. This buffer may be reduced upon receiving written, notarized permission from the owner of said establishment.
- (c) If a new Food Service Establishment opens within two hundred (200) feet of a Mobile Food Vendor as set forth in (b) above, the Mobile Food Vendor must receive written, notarized permission from the new establishment's owner to continue operating at that location.
- (d) A Mobile Food Vendor shall not locate closer than ten (10) feet to any front property line (adjacent to any street) or any rear property line (adjacent to any alley).
- (e) The Mobile Food Vendor shall not locate a Mobile Unit in such a manner or location that obstructs or causes to be obstructed the passage of any sidewalk, street or alley

or any other public place, by causing people to congregate at or near the Mobile Unit.

- (f) A Mobile Food Vendor shall not locate on any private property without written permission to do so and must comply and leave the property if asked to leave by the property owner.
- (g) A copy of the owner's written, signed, and notarized permission to operate in a Stationary Location shall be kept within the Mobile Unit for documented verification.

SECTION 6 **HOURS OF OPERATION**

Section 6.1

No Mobile Food Vendor shall operate between midnight and 6:00am. During these prohibited hours of operation, the Mobile Unit shall be removed from the Stationary Location and properly stored at its Commissary Location. The mobile vendor shall be subject to all parking and traffic regulations.

SECTION 7 **MOBILE FOOD VENDOR OPERATION**

Section 7.1 The following regulations shall apply to Mobile Food Vendors:

- (a) A Mobile Food Vendor shall comply with all regulations established by the Texas Food Establishment Rules, Grayson County Health Department and the Fire Marshal's Office and maintain compliance with all requirements stipulated herein.
- (b) Each Mobile Unit shall be equipped with a portable trash receptacle and the Mobile Food Vendor shall be responsible for proper disposal of solid waste and waste water in compliance with the Ordinances of the City.
- (c) No loud or disruptive music or narrative shall project from the Mobile Unit.
- (d) A Mobile Unit shall be parked on an all-weather surface when at a Stationary Location.
- (e) A Mobile Unit shall not block any fire lane or drive aisle.
- (f) No Mobile Unit may park on a lot without a notarized document from the property owner granting permission to the Mobile Food Vendor to utilize the property for that purpose.
- (g) A Mobile Food Vendor shall register a Commissary Location with the Health Department stating where the unit is to be stored when not in operation.
- (h) No Mobile Food Vendor shall conduct business in the public right of way and shall not block access to any parcel or alley.
- (i) No Mobile Unit shall locate in such a manner as to cause any visibility obstruction at a street intersection.
- (j) It shall be unlawful for any person to operate as a Mobile Food Vendor without complying with the Texas Food Establishment Rules as amended from time to time.
- (k) A Mobile Unit shall be inspected by the Tioga Fire Marshal's Office or its

Designee prior to the issuance of a Mobile Food Vending Permit. The inspection shall take place at the Fire Marshal's Office and shall include the following:

1. A valid driver's license and current Texas Department of Public Safety License plates and State inspection sticker, except for a Concession Cart which is not required to have license plates or an inspection sticker. The Mobile Unit must be in good working order.
2. A Mobile Unit must have a 2A:10B:C sized extinguisher with an annual inspection tag from a Texas licensed inspection company or a receipt indicating purchase within the past year. If frying media (grease) is used, a Class K extinguisher shall be required in the Mobile Unit. Any Mobile Unit equipped with an automatic extinguishing system shall have a current (bi-annual) inspection tag from a Texas licensed inspection company. All Mobile Units shall maintain ten (10) feet of clearance for access. Mobile Units equipped with an automatic extinguishing system shall maintain ten (10) feet of clearance from combustible structures. Mobile Units not equipped with an automatic extinguishing system that produce grease laden vapors shall maintain a fifty (50) foot distance from combustible structures or parked, unattended vehicles.
3. All cooking appliances in the Mobile Unit shall be of an approved type, commercial grade, listed and labeled, for the use intended. Appliances shall be installed in accordance with the manufacturer's instructions. Portable camp stoves or the equivalent shall be prohibited. All cooking appliances shall have an approved, labeled and listed on-off valve.
4. All propane and natural gas appliances shall be pressure tested annually and have only approved listed parts and no rubber hoses shall be allowed. All piping shall be in accordance with Natural Fire Protection Association 58 and be protected from physical damage. Mounting and placement of containers shall comply with Natural Fire Protection Association 58 and Texas Department of Transportation regulations. The capacity limit of propane and natural gas containers or cylinders shall be determined by the Fire Marshal's Office after consideration of features that secure and protect the container.
5. Cooking surfaces in the Mobile Unit shall be kept clean of grease build-up. Trash containers and debris shall be emptied regularly. Extension cords shall not be utilized for appliances. Appliances shall be plugged directly into electrical outlets.
6. The Fire Marshal's Office is herein authorized to conduct all inspections as necessary to determine the extent of compliance at any time.
7. Any Mobile Unit stored on a commercial lot shall be entirely enclosed within a building, or hidden from view behind the primary structure, or approved opaque screening.

SECTION 8
SAVINGS

Section 8.1

All rights and remedies of the City are expressly saved as to any and all violations of this provision of any other ordinance affecting the City's Ordinance regarding mobile food vendors which have secured 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 court.

SECTION 9
SEVERABILITY

Section 9.1

The provisions of the Ordinance are severable. However, in the event this Ordinance or any procedure provided in this Ordinance becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, the remaining and lawful provisions shall be of full force and effect and the City shall promptly promulgate new revised provisions in compliance with the authority's decisions or enactment.

SECTION 10
PUBLICATION

Section 10.1

The City Secretary of the City is hereby directed to publish in the Official Newspaper of the City the Caption and Effective Date Clause of this Ordinance as required by Section 52.011 of the Local Government Code.

SECTION 11
PENALTY

Section 11.1

- (a) Any person, firm or corporation violating any of the provisions or terms of this ordinance, or amendments thereto, or of the Code of Ordinances of the City, shall be guilty of a misdemeanor and, upon conviction in the municipal court of the City of Tioga, Texas, shall be subject to the same penalty as provided for in the Code of Ordinances of the City, and shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense, and each and every day such offense shall continue shall be deemed a separate offense.
- (b) Civil remedies. Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter, and to seek remedies as allowed by law, including, but not limited to the following:
 - (1) Injunctive relief to prevent specific conduct that violates this chapter or to

require specific conduct that is necessary for compliance with this chapter; and

- (2) A civil penalty up to \$1,000.00 a day (with each day constituting a separate offense and separate violation) when it is shown that the defendant was actually notified of the provisions of this chapter and after receiving notice committed acts in violation of this chapter or failed to take action necessary for compliance with this chapter.

SECTION 12
ENGROSSMENT AND ENROLLMENT

Section 12.1

The City Secretary is hereby directed to engross and enroll this Ordinance by copying the descriptive caption in the minutes of the City Council and by filing this Ordinance in the Ordinance records of the City.

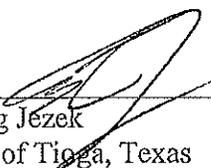
SECTION 13
EFFECTIVE DATE

Section 13.1

This Ordinance shall become effective from and after its date of passage in accordance with law.

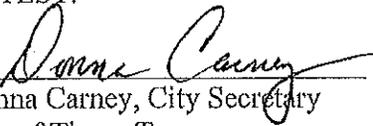
AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Tioga, Texas this 18th day of March, 2019.



Craig Jezek
City of Tioga, Texas

ATTEST:



Donna Carney, City Secretary
City of Tioga, Texas

[SEAL]