

**ORDINANCE NO. 2018-06**

**AN ORDINANCE OF THE CITY OF SAGINAW, TEXAS AMENDING CHAPTER 42, ARTICLE IV (FOOD AND FOOD ESTABLISHMENTS) OF THE SAGINAW CITY CODE TO ADD DEFINITIONS AND REGULATIONS RELATING TO THE LOCATION AND OPERATION OF MOBILE FOOD UNITS WITHIN THE CITY; AMENDING THE MASTER SCHEDULE OF FEES TO ADD A FEE FOR A MOBILE FOOD UNIT PERMIT; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Saginaw, Texas is a home rule City acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City of Saginaw, Texas has a substantial interest in protecting the health, safety, welfare, convenience, and enjoyment of the general public and has adopted regulations for the location and operation of mobile food units to further this interest; and

**WHEREAS**, the City desires to amend the Master Schedule of Fees to add a fee for mobile food unit permits issued pursuant to the provisions contained herein in order to reflect the administrative costs incurred by the City to perform the functions associated with these applications.

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

**SECTION 1.**

That Chapter 42, Article IV, "Food and Food Establishments," Section 42-93, "Definitions," of the Saginaw City Code is hereby amended to add a definition for "Mobile food unit" to read as follows:

*Mobile food unit* means a self-contained, licensed, motorized vehicle, or trailer designed to be towed, which is temporarily stored or parked on a privately owned lot or on public property with the written permission of the City of Saginaw, where food and/or beverage items are prepared, cooked, processed, or portioned for sale, and are sold to the general public.

**SECTION 2.**

That Chapter 42, Article IV, "Food and Food Establishments," of the Saginaw City Code is hereby amended by adding a new Section 42-102 to read as follows:

“Mobile food units are subject to the following regulations:

(a) Location.

- (1) *Approved Locations.* All mobile food units must be located on a paved surface on a site which is appropriately zoned for community commercial or industrial development, unless located on public property with the written permission of the city.
- (2) *Proximity to Permanent Business.* Mobile food units shall be located on a site within five hundred (500) feet of an existing permanent business that operates in a building with a certificate of occupancy.
- (3) *Permission Required.* The owner of a mobile food unit allowed to be temporarily stored, parked, or operated on private property shall, on an annual basis, provide the city with a copy of written permission from the owner of the private property that allows the operation of the mobile food unit and that allows the owners, operators, and customers of the mobile food unit access to a commercially plumbed public restroom on-site.
- (4) *Hours of Operation.* Mobile food units may only operate during the business hours of the on-site primary business, shall not be parked longer than six (6) hours, and shall be removed from the site on a daily basis.
- (5) *Prohibited Locations.*
  - a. Mobile food units shall not be located on a vacant lot.
  - b. Mobile food units, their merchandise, advertising, or seating shall not obscure traffic sight visibility.
  - c. Mobile food units shall not sell or serve food on any public street, sidewalk, or other public right-of-way unless approved in writing by the city.
- (6) Mobile food units shall not operate in driveways or in fire lanes.

(b) Required permits.

- (1) *Permit Required.* No mobile food unit shall operate before first obtaining a mobile food unit permit from the city.
- (2) *Mobile Food Unit Permit.*
  - a. Any person desiring to operate a mobile food unit must make written application for a mobile food unit permit on forms provided by the city.

The owner of a mobile food unit shall submit to the city: a site plan depicting the location of the mobile food unit on the site, copies of Food Handler Cards from Tarrant County for each employee and operator of the mobile food unit, and a copy of the written permission of the private property owner.

- b. A mobile food unit permit must be renewed annually. A new site plan and documentation of permission from the private property owner must be submitted to the city upon any change in location of the mobile food unit.
- c. Upon finding any violation of this ordinance, any other provision of the City Code, or any other applicable law or regulation exists, the Chief Building Official shall have the right to revoke a mobile food unit permit or to deny a renewal. Upon revocation, the use shall immediately cease and the mobile food unit shall be removed from the site.

(3) *Other Permits Required.*

- a. The operator of a mobile food unit shall have a valid vehicle registration, motor vehicle operator's license, proof of vehicle liability insurance, and a Texas Sales Tax Permit.
- b. The owner and/or operator of a mobile food unit shall be responsible for identifying and obtaining all other applicable permits and shall be responsible for conforming to all applicable city, county, state, and federal regulations.

(4) *Permit Fees.* Fees for permits issued under this ordinance shall be listed in the master schedule of fees.

(c) *Operation.*

- (1) *Drive-through Prohibited.* Mobile food units shall not provide a drive-through service of any kind.
- (2) *Trash, Garbage, and Debris.* All mobile food units shall be equipped with a self-closing, lidded trash receptacle. The trash receptacle must be placed outside next to the mobile food unit for use by patrons. The area around the mobile food unit shall be kept clean and free from litter, garbage, and debris.
- (3) *Utility Services.* Temporary connections to potable water are prohibited. Water shall be from an internal tank, and gray water shall be contained on the unit and may not be discharged onto the ground or into the city sewer system, unless the mobile food unit is providing service at a mobile food unit park that has approved connections to city utilities. Electricity shall be from a generator or an electrical

outlet via a portable cord that is in conformance with the Electrical Code as adopted by the city.

- (4) *Seating.* Except as otherwise limited by the Saginaw City Code, unless providing service in an approved mobile food unit park, a mobile food unit may provide outside seating consisting of only one (1) portable table with seating for a maximum of four (4) individuals.
- (5) *Music.* Except as otherwise limited by the Saginaw City Code, a mobile food unit may provide music at a level audible in its immediate vicinity.
- (6) *Hold Harmless.* The owner of a mobile food unit that is to be located on city property must first enter into a hold-harmless agreement with the City of Saginaw.
- (7) *Insurance Required.* The owner of a mobile food unit must maintain a minimum amount of \$1,000,000.00 liability insurance that covers the mobile food unit, and must sign a notarized statement acknowledging and accepting this requirement. Proof of such insurance coverage can be demanded to be provided to the city upon three (3) business days' notice to the owner.
- (8) *Number of Mobile Food Units Limited.* No more than three (3) mobile food units may be located on a site at any one time unless the mobile food units are providing service at a mobile food unit park approved by the city and all other City Code requirements are met.
- (9) *Permit Fee Authorized.* A mobile food unit permit fee is authorized in accordance with the "Master Fee Schedule" of the Saginaw City Code."

**SECTION 3.**

That the Master Schedule of Fees established pursuant to Ordinance No. 2010-14, as amended, is hereby amended by adding the following fees as follows:

|                         |          |                 |
|-------------------------|----------|-----------------|
| <b>ADMINISTRATIVE</b>   |          |                 |
| Mobile Food Unit Permit | \$250.00 | <i>per year</i> |

**SECTION 4.**

The City Secretary is hereby directed to revise the Master Schedule of Fees in accordance with Section 3 above. A revised Master Schedule of Fees shall be kept on file with the office of the City Secretary.

## **SECTION 5.**

That this ordinance shall be cumulative of all other ordinances of the City of Saginaw and shall not repeal any of the provisions of such ordinances, except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

## **SECTION 6.**

That 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 phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

## **SECTION 7.**

That all rights or remedies of the City of Saginaw, Texas, are expressly saved as to any and all violations of the City Code or any amendments thereto regarding mobile food units 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 or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

## **SECTION 8.**

That any person, firm, or corporation who violates, disobeys, omits, neglect 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 fined an amount not to exceed Two Thousand Dollars (\$2000.00), as provided by Section 1-13 of the Saginaw City Code. Each day that a violation continues shall be deemed a separate offense.

## **SECTION 9.**

That the City Secretary of the City of Saginaw is hereby directed to publish at least twice in the official newspaper of the City of Saginaw, the caption and the penalty clause of this ordinance in accordance with Section 52.013(b) of the Local Government Code.

## **SECTION 10.**


This Ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the laws of the State of Texas.

PASSED AND APPROVED ON this the 15<sup>th</sup> day of May, 2018.

  
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TODD FLIPPO, MAYOR

ATTEST:

  
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JANICE ENGLAND, CITY SECRETARY  
APPROVED TO FORM AND LEGALITY:

  
\_\_\_\_\_  
BRYN MEREDITH, CITY ATTORNEY

