

VILLAGE OF WEBBERVILLE

ORDINANCE NO. 2020-09

AN ORDINANCE OF THE VILLAGE OF WEBBERVILLE, TEXAS AMENDING THE CODE OF ORDINANCES TO ESTABLISH REGULATIONS FOR MOBILE FOOD VENDORS; AND PROVIDING FOR THE FOLLOWING: FINDINGS OF FACT; ENACTMENT; REPEALER; SEVERABILITY; PUBLICATION; EFFECTIVE DATE; AND PROPER NOTICE AND MEETING.

WHEREAS, the Village of Webberville, Texas (the “Village”) is a General Law municipality located in Travis County, and created in accordance to State Law; and

WHEREAS, the Village Commission finds it in the best interest of its citizens to allow mobile food vendors to operate within the Village Limits and to establish regulations for mobile food vendors; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the Village has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the Village and is necessary or proper for carrying out a power granted by law to the Village; and

WHEREAS, the Village Commission finds that it is necessary and proper for the good government, peace or order of the Village of Webberville to adopt an ordinance regulating mobile food vendors.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COMMISSION OF THE VILLAGE OF WEBBERVILLE, TEXAS:

I. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

II. ENACTMENT

Chapter ___ of the Village Code of Ordinances is hereby amended to read in accordance with *Attachment A*.

III. SEVERABILITY

Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of the Ordinance shall remain in full force and effect. The Village hereby declares that it would have passed this Ordinance, and each section, subsection, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

IV. REPEALER

To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

V. EFFECTIVE DATE AND PUBLICATION

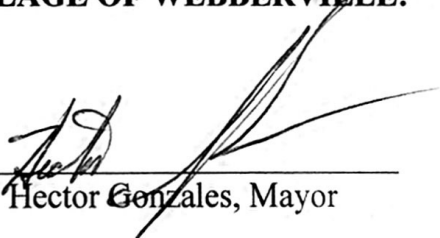
This Ordinance shall be effective immediately upon passage and publication.

VI. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, 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. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the 18th day of November, 2020, by a vote of 3 (ayes) to 0 (nays) to 0 (abstentions) of the Village Commission of Webberville, Texas.

VILLAGE OF WEBBERVILLE:

by: 
Hector Gonzales, Mayor

ATTEST:


Village Clerk



Attachment “A”
Village of Webberville

(1) General

(A) Popular name

This section may commonly be referred to as the “mobile food vendor ordinance.”

(B) Purpose

This section is adopted so that the village commission may enact the appropriate administrative and regulatory rules and procedures pertaining to mobile food vendors.

(C) Scope of jurisdiction

All of the provisions of this article shall apply within the village limits (i.e., incorporated municipal boundary) of the Village.

(D) Effective date and duration

This article shall take effect immediately upon publication following the passage of this article.

(E) Definitions

Food court. Two or more mobile food vendors in the same location.

Food establishment. An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:

- (1) Such as a restaurant; retail food store; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and
- (2) That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

- (3) Exemptions: Non-profit food distribution organizations such as Good Samaritan food distribution, Meals on Wheels, and Lunches of Love which operate solely as a non-profit organization. This exemption does not exempt these organizations from other ordinances of the Village or any state regulations related to food service.

Location. Any place a food vendor parks to initiate business shall be considered a location.

Mobile food establishment. A vehicle-mounted food establishment that is readily moveable.

Mobile store/mobile vendor. A vehicle-mounted retail store that is readily moveable and provides goods and/or services directly to a consumer. A mobile store includes (but is not limited to) a self-propelled motor vehicle or trailer, including a recreational vehicle, motor home, travel trailer or camper trailer. A mobile food establishment is an example of a mobile store. The term mobile store includes a mobile vendor.

Permit. A license, certificate, approval, registration, consent, contract or other form of authorization required by law, rule, regulation, order or ordinance that a person shall obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.

Person. A human individual, agency, association, corporation, partnership or sole proprietorship.

Site. A platted or unplatted lot in the village limits treated as a single tract for purposes of the assessment of property taxes. A site may be identified by its address, or legal property description.

Village. The Village of Webberville, a municipality located in Travis County, Texas.

Village limits. The incorporated municipal boundary of the village.

(E) Water and Electricity

- (a) Water provided or used by the mobile food vendor shall not come from a temporary connection to potable water.
- (b) Electricity shall be only from a generator or an electrical outlet via a portable cord that conforms to the Village's electrical code and permitted by any provider.

(F) Fire safety

Mobile food vendors shall comply with all Village fire safety standards. This requirement also applies to mobile food establishments that:

- (1) Maintain food at a hot holding temperature by mechanical means; and

- (2) Use a pressurized fuel system or container.

(G) Trash

All mobile food vendors shall:

- (1) Be equipped with an attached trash receptacle approved by the Village staff;
- (2) Hold, store, and dispose of solid and liquid waste in a receptacle approved by the Village and that complies with any other applicable Village code requirements;
- (3) Provide a trash receptacle for use by customers; and
- (4) Maintain the area around the mobile unit clear of litter and debris at all times.

(H) Provisions

- (1) All mobile food vendors shall comply with all Village and state adopted health regulations regarding:
 - a. Time, temperature, plumbing, operation and maintenance requirements for mobile food establishments;
 - b. A mandatory central preparation facility, serving area, and operations;
 - c. All requirements prohibiting alteration, removal, attachments, placement or change in, under, or upon the mobile food establishment that would prevent or otherwise reduce ready mobility of the mobile food establishment unit.
 - d. All sanitary requirements must be met,
- (2) All mobile food vendors shall acquire a food handling permit from a training program of the American National Standards Institute or Department of State Health Services; but rules are more substantial, as deemed appropriate by the village, if vendor is at a same location for at least 10 days out of a month.
- (3) The village may require a mobile food vendor to come, on an annual basis, to a location designated by the health authority for an inspection.
- (4) The village may require that mobile food vendors found to violate this section shall come for a reinspection at a location designated by the Village.
- (5) All mobile food vendors are required to store all food and supplies within the mobile unit or associated trailer/truckbed

- (6) All mobile food vendors are required to have displayed on the mobile unit the proper village-issued permits and licenses in order to operate within the village.
- (7) All mobile food vendors are prohibited from operating between the hours of 11:00 p.m. and 6:00 a.m. unless allowed to operate between those hours for a special reason by permit.
- (8) A drive-in service is not permitted for any mobile food vendor.
- (9) All mobile food vendors shall comply with the federal Americans with Disabilities Act.

(I) Permit Required: Exceptions; Restrictions, Fees, Denials; Issuance & Display; Nontransferable; Suspension; Revocation

(1) **Permit Required.** It is unlawful for any individual to engage in the business of selling, displaying, or offering the sale of any food or beverages of any kind within the village without first obtaining a permit from the village.

(2) **Permit Exceptions**

(a) Farmers who sell agricultural products that were raised or grown by the farmer.

(b) Vendors operating within a designated public area in connection with a special event pre-approved by the village commission.

(3) **Prohibitions**

(a) **Use of highways prohibited.** It shall be unlawful for any vendor to park a mobile food vehicle or engage in business within 25 feet of any state highway or right-of-way within the village.

(b) Mobile food vehicles shall not impede access to the entrance or driveway of an adjacent building or property.

(c) Mobile food vehicles are not allowed to remain on public right-of-way during overnight hours even if they are associated with a known village event.

(4) **Permit denial**

(a) All applications will be reviewed by the Village.

(b) An application for permit under this chapter may be denied where:

(1) Required application information is incomplete or incorrect;

- (2) Applicant is currently wanted on warrant for arrest;
 - (3) A permit fee has not been paid; or
 - (4) Fraudulent statements or omissions were found on the permit application.
- (5) **Permit issuance, duration**
- (a) If the application is fully completed in accordance with this section, the village secretary or designee shall issue a permit within five (5) working days.
 - (b) Each permit will be valid for 30 days from the date of issue.
 - (c) The village will retain a copy of the approved permit for official records. The permit may not be represented as an endorsement or approval by the village of the purpose, products, food, or beverages sold by the vendor.
 - (d) Only those vendors whose names are listed on the approved application may conduct business under the issued permit.
- (6) **Permit display.** Each vendor must display his or her permit in a manner that can be easily seen by the vendor's customers at all times while vendor engages in business in the village. Upon request by a village official or employee, the vendor will exhibit the permit to indicate compliance with all of the relevant requirements of this ordinance.
- (7) **Permit nontransferable.** Permits issued under the provisions of this ordinance are not transferable.
- (8) **Permit suspension.**
- (a) The village secretary or designee may, upon documented complaint or alleged violation of law by a permitted vendor suspend and confiscate a permit issued under this article.
 - (b) Vendors whose permits are suspended have three business days to request an administrative review of the suspension. If administrative review is not made within three business days, the permit is revoked.
- (9) **Permit revocation.**
- (a) Upon vendor's request made within three business days of the revocation, the village secretary or designee shall provide the permittee with written notice containing of any and all complaints against him or her, and the time, date, and place for an administrative review of the suspension.

(b) The mayor or designee will conduct an administrative review to determine whether the permit shall be restored or revoked.

(c) After notice and review, the mayor may revoke any permit issued under this chapter for reasons including but not limited to:

(d) If the mayor revokes a permit, applicant may appeal the decision in writing to the village commission, which may, by a majority vote, affirm, modify, or reverse the decision.

(e) Revocation of any permit shall bar the permittee from eligibility for any person under this chapter for a period of one year from the date of revocation.

(J) Enforcement

(1) **Civil and criminal penalties.** The village shall have the power to administer and enforce the provisions of this article as may be required by governing law. Any person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this article is hereby declared to be a nuisance.

(2) **Criminal offense.**

a. It is a criminal offense to erect, install, park or operate a mobile food store in violation of this article.

b. Per section 6.02(b) of the Texas Penal Code, an offense under this article is a strict liability offense requiring no showing of a culpable mental state.

c. An offense under this article is a misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000.00).

(3) **Civil remedies.** Nothing in this article shall be construed as a waiver of the village's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including, but not limited to the following:

a. Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article;

b. A civil penalty up to five hundred dollars (\$500.00) a day when it is shown that the defendant was actually notified of the provisions of this article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article; and

c. Other available relief.