

ORDINANCE NO. 2020-28

AN ORDINANCE OF THE CITY OF CANTON, TEXAS, AMENDING ORDINANCE 2020-2, SECTION 5.4.1, (CITY OF CANTON ZONING ORDINANCE), AS HERETOFORE AMENDED, BY REGULATING THE USE OF MOBILE FOOD UNITS WITHIN THE CITY OF CANTON, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Canton desires to implement regulations for mobile food establishments to ensure the health and safety of the general public by mobile food units – both limited, commonly referred to as “push carts,” and full service, commonly referred to as “food trucks,” amending the fee schedule, and establishing application and inspection requirements for mobile food units operating inside the city limits of Canton; and

WHEREAS, the City Council of the City of Canton desires to establish criteria for all mobile food establishments on the types of units allowed, where and how they can operate to ensure the safety of the general public and food inspections to promote food safety standards and protect the general health of the public; and

WHEREAS, the City Council of the City of Canton desires to establish criteria for mobile food unit construction, general maintenance, and general operation procedures to ensure uniformity of all mobile food units; and

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

WHEREAS, pursuant to Chapter 211 of the Texas Local Government Code, the City has the authorization to establish zoning regulations; and

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

SECTION 1. That Section 5.4.1 of Ordinance 2020-2, Canton Zoning Ordinance, be hereby amended to include more terms, definitions, updates to the permit fee schedule and inspection requirements for all mobile food units and shall be amended from time to time as necessary by separate ordinance.

SECTION 2. That any provisions of the ordinances of the City of Canton in conflict with the provisions of this Ordinance or the Zoning Ordinance and Map, as amended hereby, be, and the same are hereby, repealed.

SECTION 3. That should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or the Comprehensive Plan, as amended hereby be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance or the Comprehensive Plan as a whole, or any part or provision thereof, other than the part decided to be invalid, illegal or unconstitutional.

SECTION 4. Any violation of this Ordinance shall be a misdemeanor affecting the public health, safety, and welfare and the penalty for violating the provisions of this Ordinance shall be a fine not to exceed Two Thousand and No/100 (\$2,000.00) Dollars. Each day that a violation of the provisions of this Ordinance occurs shall be a separate offense.

SECTION 5. That this Ordinance shall take effect immediately from and after its passage and the publication of the caption as the law in such cases provides.

DULY PASSED by the City Council of the City of Canton, Texas, on the 20th day of October, 2020.

APPROVED:



Lou Ann Everett, Mayor

ATTEST:



Debra Johnson, City Secretary



EXHIBIT "A"

SECTION 5.4.1

GENERAL INFORMATION PERTAINING TO ALL MOBILE FOOD UNIT TYPES

I. Definitions

- A. **Mobile Food Unit (Limited):** mobile food push carts including, but not limited to, coffee carts, hot dog carts, ice cream carts, corn cart, etc. which have limited preparation on an un-motorized mobile unit.
- B. **Mobile Food Unit (Full Service):** a food service establishment that stores, prepares, displays, serves, sells, or distributes any food or beverage from a mobile food preparation unit that is not operating at a permanent fixed location. A mobile food service establishment is vehicle-mounted or wheeled and capable of being readily moveable. A mobile food unit is fully self-contained.

II. Regulations

All Mobile Food Units are subject to the following regulations and all other city, state or federal regulations, except in the FMB-A1 and FMB-A2 First Monday Business District which operate during First Monday Trade Days:

A. Location / Hours of Operation

1. Location

- a. It shall be unlawful for any person to establish, maintain or operate a mobile food unit upon any public street, alley, median, thoroughfare, sidewalk, public park or any public property without prior permission from the City
- b. All MFU's must be at least 100 feet away from the door of a restaurant. Mobile food parks shall be measured from the park's closest property line.

B. Licensing/ Permitting

- 1. No person shall operate a mobile food unit who does not possess a valid, current Mobile Food Unit permit issued by the City of Canton, Texas.
- 2. Requirements for City Permit:

- a. Completed City of Canton application for MFU;
 - b. Mobile Food Unit license issued by the Texas Department of State Health Services
3. Permit Fees
- Limited Food Truck - \$50.00
- General Service Food Truck - \$100.00
4. The food permit fee (and any other associated fees) must be paid before a food permit will be issued.
5. City MFU permits are valid for one year and are not transferable.
6. Violation of Permit
- a. Violations of the permit requirements are subject to corrective action up to and/or including, discarding of food products, revocation of the permits, and fines.
 - b. Those persons found operating in the City of Canton without a valid City MFU permit or current State license are subject to fines up to \$2,000.00.
7. Revocation of Permit
- a. The City of Canton may revoke the MFU permit if:
 - (1) Any information provided on the application is not correct or updated; and/or
 - (2) If the MFU is found to be out of compliance with any city and/or state regulations;
 - (3) If any condition set forth in this ordinance which existed at the time the permit is issued ceases to exist.
 - b. If a permit is revoked, the application fee shall be forfeited and the permit shall be surrendered to the City. A permittee whose permit has been revoked may not reapply for a permit for a period of one year from the date the permit was revoked.

8. Appeal Process

An applicant or permittee may appeal the denial on an application, or the suspension or revocation of a permit to the City Manager by giving written notice to the City Manager at City Hall not less than seven (7) days from the date notice of the adverse action is mailed to the appellant.

C. Operations

1. One (1) A-frame advertising sign shall be allowed for each MFU.
2. An operator of a MFU is prohibited from using PA systems, bells, or music.
3. Smoking shall not be allowed within twenty (20) feet of the MFU.

D. Inspections

1. MFUs are subject to inspection any time the unit is stopped and serving the public.
2. Documents Required at Inspection:
 - a. Approved application from the City of Canton for the operation of MUF;
 - b. Current health inspection report (a copy must be maintained on mobile unit at all times);

III. Types of MFUs

A. LIMITED SERVICE MOBILE FOOD UNIT:

1. Ice Cream Trucks – approved to vend pre-wrapped and sealed ice cream, canned soft drinks, packaged candy, chips and pickles
2. Mobile catering trucks – approved to deliver prepared food to a catered operation
3. Limited Service Pushcarts – approved to vend foods that are pre-wrapped, bottled or otherwise packaged
4. Mobile Grocery Truck – approved to vend pre-wrapped, non-potentially hazardous food including canned soft drinks, prepackaged grocer items, candy, chips and pickles
 - a. A limited service MFU shall be located in all zoning districts with the exception of an ice cream truck, which are allowed to operate in all zoning districts

- b. Ice Cream Trucks may operate in all zoning districts, including residential zoning districts.

B. FULL SERVICE MOBILE FOOD UNIT:

- 1. MFU – Full Service MFUs may be located in all zoning districts except residential zoning districts

Section 5.4 Additional Conditions for Certain Accessory Uses

Accessory uses are permitted in any zoning district, but only in connection with, incidental to, and on the same lot with, a principal structure which is in use and permitted in such district. Walls and fences are regulated separately.

5.4.1 FOOD TRUCKS

Food Trucks are subject to the following regulations and all other city regulations as adopted, except in the FMB-A1 and FMB-A2 First Monday Business District.

- A. Location

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1. All food trucks must be located on a parcel, which is appropriately zoned for commercial development.
 2. Food trucks shall be located on an individual private parcel, where an existing permanent business operates in a building with a certificate of occupancy.
 3. Food trucks shall provide the City with a copy of written permission from the property owner on an annual basis to allow the operation of a food truck and to allow the food truck and their customers access to a commercially plumbed public restroom on-site.
 4. A food truck shall submit a site plan depicting the location of the food truck on the property; shall secure a current food handler cards from Van Zandt County, providing copies of these documents to the City of Canton.
 5. Food trucks shall be located within five hundred (500) feet of an entrance of a primary building that holds the certificate of occupancy.
 6. No food trucks shall be located on a vacant lot unless provisions are made on adjacent properties for paved parking and access to public restrooms.
 7. No food trucks their merchandise, advertising, or seating shall obscure traffic sight visibility.
 8. No food trucks operating under this regulation shall be allowed to sell or service food on any public street, sidewalk, or other public right-of-way unless approved in writing by the City of Canton.
 9. Food trucks shall not operate in driveways or fire lanes.
 10. Food trucks, including any applicable seating may operate in parking spaces in a commercially zoned individual property, parcel, tract or platted lot, if the required parking for the center remains in compliance with the parking code located in Article 7. A site plan indicating the specific location is required.
 11. Food trucks shall be removed from the parcel on a daily basis and may only operate during the business hours of the primary business and may not be parked longer than twelve (12) hours.
- B. Licensing. All food trucks shall have a valid vehicle registration, motor vehicle operator's license, proof of vehicle liability insurance, a Texas Sales Tax Permit and meet all other state law licensing requirements.
- C. Operational Issues
1. A drive-through is not permitted in conjunction with the food truck and shall not provide a drive-through service of any kind.
 2. Food trucks shall be equipped with a self-closing lidded, trash receptacle. The trash receptacle must be placed outside next to the food truck use by the patrons of the truck. The area around the food truck shall be kept clean and free from litter, garbage, and debris.
 3. Temporary connections to potable water are prohibited. Water shall be from an internal tank, and 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 of Canton.

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4. Except as otherwise limited by the City of Canton Code of Ordinances, or other City codes, a food truck may utilize outside seating consisting of a portable table and a seating capacity not to exceed four (4).