

ORDINANCE NO. 5321

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF DENISON BY AMENDING CHAPTER 15 “PEDDLERS, SOLICITORS, AND CERTAIN OTHER SALES”, ARTICLE III “MOBILE FOOD VENDORS”, SECTION 15-56 “DEFINITIONS”, SECTION 15-58 “CATEGORIES OF MOBILE FOOD UNITS AND WHERE ALLOWED”, SECTION 15-60 “MOBILE FOOD UNIT OPERATING REQUIREMENTS”, SECTION 15-62 “DENISON FIRE DEPARTMENT REQUIREMENTS”, AND SECTION 15-63 “APPLICATION AND REVIEW PROCESS”; AMENDING CHAPTER 28 “ZONING”, BEING THE COMPREHENSIVE ZONING ORDINANCE, SPECIFICALLY AMENDING ARTICLE VI “DEFINITIONS”; PROVIDING A PENALTY; PROVIDING SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVING FOR PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City of Denison (hereinafter referred to as “City”) is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the City Council of the City (the “City Council”) adopted Chapter 15 “Peddlers, Solicitors and Certain Other Sales”, Article III “Mobile Food Vendors” of its Code of Ordinances, which sets forth various regulations for mobile food vendors, including applications for special events permits; and

WHEREAS, the City Council adopted Chapter 28 of its Code of Ordinances, the same being the Comprehensive Zoning Ordinance of the City (the “Zoning Ordinance”), which sets forth various regulations for promoting the public health, safety, morals and general welfare, and protecting and preserving places and areas of historical, cultural and/or architectural importance and significance within the City and are made with reasonable consideration, among other things, for the character of each zoning district and its peculiar suitability for the particular uses specified; and

WHEREAS, the City Council desires to amend Chapter 15 and the Zoning Ordinance to provide additional regulations for mobile food units, and to allow mobile food units in public parks at special events; and

WHEREAS, the Planning and Zoning Commission of the City has the authority to make recommendations regarding amendments to the Zoning Ordinance; and

WHEREAS, having considered the proposed amendments to the Zoning Ordinance herein and the appropriateness of the amendments to the Zoning Ordinance, and after public notices were

given in compliance with State law and public hearings were conducted, and after considering the information submitted at those public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City has recommended to the City Council the adoption of the amendments to the Zoning Ordinance as set forth in this Ordinance; and

WHEREAS, after complying with all legal notices, requirements, and conditions, a public hearing was held before City Council at which the City Council considered the recommendation of the Planning and Zoning Commission on the amendments to the Zoning Ordinance herein, and among other things, the necessity for orderly and appropriate regulations of the use of land,

WHEREAS, the City Council does hereby find that the amendments to Chapter 15 and the Zoning Ordinance approved hereby accomplishes such objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, 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 and consideration of the recommendation of the Planning and Zoning Commission on the Zoning Ordinance amendments and the information and other materials received at the public hearing, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City, and of the public health, safety and welfare.

SECTION 3. AMENDMENTS TO CHAPTER 15. Chapter 15 “Peddlers, Solicitors and Certain Other Sales,” Article III “Mobile Food Vendors”, Section 15-56 “Definitions”, Section 15-58 “Categories of mobile food units and where allowed”, Section 15-60 “Mobile food unit operating requirements”, Section 15-62 “Denison Fire Department requirements”, and Section 15-63 “Application and review process” of the Code of Ordinances of the City are hereby amended as follows:

- (1) Section 15-56 “Definitions” is hereby amended to amend the definition of “special event” as follows, with additions indicated by underline:

“Special event. See definition in section 31-2 of this Code of Ordinances, except that for the purposes of this article, a special event shall include activities under the control of the city parks and recreation department conducted on city property that do not affect public rights-of-way.”

- (2) Section 15-58 “Categories of mobile food units and where allowed” is hereby amended to amend the last sentence as follows, with additions indicated by underline:

“Mobile food units are prohibited from operating in a zoning district contrary to chapter 28, zoning, of the city’s Code of Ordinances, and as described therein, a mobile food unit shall be allowed at any public parks owned by the City where the operator has obtained a special events permit for a mobile food unit in accordance with Chapter 15, Article III of

the City's Code of Ordinances, or where the City has hired a mobile food unit operator for concession services at a public park.

- (3) Section 15-60 "Mobile food unit operating requirements", subsection (c)(6) is hereby amended to read as follows, with additions indicated by underline:

"(6) Mobile food units must not obstruct traffic movement, fire lanes and drive aisles, nor obstruct parking spaces in an amount that would cause the property on which the mobile food unit is operating to be non-compliant with the number of parking spaces required by the zoning for the property; and"

- (4) Section 15-62 "Denison Fire Department requirements" is hereby amended to add a 17th requirement to the numbered list therein to require separation requirements as follows, with additions indicated by underline:

"(17) The mobile food unit shall be located no closer than five (5) feet to the primary structure on the property, unless as otherwise approved by the Fire Marshal."

- (5) Section 15-63 "Application and review process" is hereby amended to revise the numbered list therein to additionally require a site plan, parking plan, and fire marshal inspection report, as follows, with additions indicated by underline:

"(18) A site plan identifying the location of the mobile food unit at the proposed operating location;

(19) A parking plan identifying parking spaces for patrons of the mobile food unit to confirm that parking needs do not interfere with the underlying property zoning requirements, or prohibit access to the property in any way;

(20) An inspection report from the Fire Marshal indicating that the mobile food unit meets the operational requirements listed in Section 15-62; and

(21) Applicable permit fee."

SECTION 4. AMENDMENT TO SECTION 28.63 OF ZONING ORDINANCE. Article VI "Definitions", Section 28.63 "Definitions" of the Zoning Ordinance, is hereby amended by amending the terms and definitions of "food truck park" and "mobile food unit" as follows, with additions indicated by underline and deletions indicated by strikethrough:

~~"Food truck~~ Mobile food unit park: An area designed to accommodate two (2) or more mobile food units and offering food and/or beverages for sale to the public as the primary use of the property. ~~Food truck parks~~ Mobile food unit parks must provide a paved surface for ~~truck~~ mobile food unit parking and access to refuse collection containers and must provide restroom facilities. Any reference to "food truck park" in this Chapter 28 shall mean mobile food unit park.

...

Mobile food unit: A mobile food unit shall be defined herein as a unit designed to be readily movable and from which food or beverages are prepared and offered for sale. Notwithstanding the use designations listed for mobile food units in Section 28.49, a mobile food unit shall be allowed at any public parks owned by the City where the operator has obtained a special events permit for a mobile food unit in accordance with Chapter 15, Article III of the City's Code of Ordinances, or where the City has hired a mobile food unit operator for concession services at a public park."

SECTION 5: SAVINGS/REPEALING CLAUSE. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 6: 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 this Ordinance shall remain in full force and effect. The City 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.

SECTION 7: PENALTY. Any person, firm, corporation, or entity violating this Ordinance, as it exists or may be amended, shall be subject to penalties described in the existing Code of Ordinances amended herein. This Ordinance does not amend such existing penalties.

SECTION 8: PUBLICATION AND EFFECTIVE DATE. This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

SECTION 9. OPEN MEETING. That it is hereby found and determined that the meeting at which this Ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code.

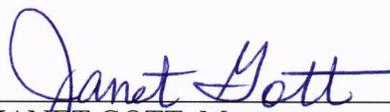
AND IT IS SO ORDERED.

On motion by Mayor Pro Tem Crawley, seconded by Council Member Thorne, the above and foregoing Ordinance was passed and approved on this the 16th day of October, 2023.

At regular meeting October 16, 2023.

ATTEST:


Christine Wallentine, City Clerk


JANET GOTT, Mayor

