

ORDINANCE NO. 8-22

AN ORDINANCE AMENDING THE CITY OF DEVINE'S CODE OF ORDINANCES; PROVIDING FOR THE REGULATION OF MOBILE FOOD UNITS; REPEALING CONFLICTING PROVISIONS; PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE; AND CONTAINING A SEVERABILITY CLAUSE.

WHEREAS: The City of Devine is a duly incorporated city under the general laws of the State of Texas; and,

WHEREAS: Texas Local Government Code Section 51.001 authorizes the governing body of any municipality to adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality or for the trade and commerce of the municipality and is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and,

WHEREAS: The amendment of the City of Devine's Code of Ordinances is desirable and necessary for the public safety and general welfare of the City of Devine; and,

WHEREAS: The City Council of the City of Devine has determined that the regulation of mobile food units is needed to safeguard the safety, peace, good order and comfort of the citizens of the City of Devine;

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

Section 1. Amendment.

The City of Devine's Code of Ordinances is hereby amended to read as follows:

Section \_\_\_\_\_. Mobile Food Units.

Mobile Food Units are subject to the following regulations:

- a) Location:
- 1) All mobile food units must be located on land, which is appropriately zoned for commercial development.
  - 2) Mobile food units shall provide the City with a copy of written permission from the property owner on an annual basis to allow the operation of a mobile food unit.
  - 3) A mobile food unit shall secure a current mobile food unit permit and all applicable health and food handling permits from the appropriate government agencies, providing copies of these documents to the City of Devine.
  - 4) No mobile food units, their merchandise, advertising, or seating shall obscure traffic sight visibility.
  - 5) No mobile food units operating under this ordinance 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 Devine.

- 6) Mobile food units shall not operate in driveways or fire lanes.
  - 7) Mobile food units including any applicable seating may operate in parking spaces in a commercially zoned individual property, parcel, tract or platted lot.
  - 8) Mobile food units shall comply with all Federal, State, and Local laws, rules and regulations.
- b) Vehicle: All mobile food units shall have a valid vehicle registration, a driver with a valid motor vehicle operator's license, proof of vehicle liability insurance, and a Texas Sales Tax Permit.
- c) Operational Issues:
- 1) A drive-through is not permitted in conjunction with the mobile food unit and a mobile food unit shall not provide a drive-through service of any kind. This is a safety requirement designed to prevent pedestrian/vehicle accidents.
  - 2) All mobile food units shall be equipped with a lidded trash receptacle. The trash receptacle must be placed outside next to the mobile food unit for use by the patrons of the unit. The area around the mobile food unit shall be kept clean and free from litter, garbage, and debris.
  - 3) Temporary connections to potable water without backflow preventers are prohibited. Water may be from an internal tank. 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 Devine.
  - 4) A mobile food unit may utilize outside seating consisting of portable tables and seats.
  - 5) Except as otherwise limited by City Codes, a mobile food unit shall be allowed amplified music as long as such music shall not violate the nuisance definitions established by the Devine Code of Ordinances.
  - 6) If wanting to serve alcoholic beverages, a mobile food vendor shall comply with all necessary Texas Alcoholic Beverage Commission and the City of Devine requirements.
  - 7) A Hold-Harmless Agreement is required to be completed with the City of Devine if the mobile food unit is to be located on City of Devine property.
  - 8) Owners of any mobile food unit must provide proof upon request that they have a minimum amount of \$1,000,000 liability insurance that covers the mobile food unit. Coverage must be maintained at all times and proof of such insurance coverage can be demanded to be provided to the City upon three (3) working days notice to the owner.
  - 9) All of the requirements for this Section pertain to all events except city approved events.
  - 10) No mobile food unit shall operate before first obtaining a permit from the City of Devine.
  - 11) No more than three (3) mobile food units may be located on a parcel of land at any one time or at the same location for consecutive weeks unless one of the following occurs:
    - (i) Additional mobile food units greater than three (3) may be considered for Civic Events and/or Special Events. City Staff will consider the reason for the request for more than three units; the number of available parking spaces on the lot; whether an increased number of mobile food units would be compatible with the existing use and permitted development of adjacent properties; and any other issues Staff considers to be relevant; and/or the owner of the primary business establishes through Staff permission with the City of Devine a list of specific dates within a calendar year in which multiple food units may be allowed on the property. This request shall include a site plan and documentation showing:

- (1) Indication of appropriate level of parking;
  - (2) Safe areas for seating for patrons of the mobile food units;
  - (3) Appropriate documentation of permission of use, adequate public access to restroom facilities and valid certificate of occupancy of the primary business owner; and
  - (4) City of Devine sponsored Civic and Special Events may have more than one mobile unit allowed, and may not be required to get Staff approval.
- (ii) If approved by Staff, a property owner initiated request shall be valid for 90 days. If there have been no previous outstanding code violations, a renewal after 90 days may be possible.
- 12) Mobile food unit permit fees are located in Appendix A “Schedule of Fees” of the City of Devine Code of Ordinances.

(d) Exemptions: All events, activities, and festivals specifically approved by the City Council are exempt from these regulations, but shall comply with appropriate regulations of the Code of Ordinances of the City of Devine.

Section 2. Repeal. Any provision in the Code of Ordinances of the City of Devine that conflicts with this ordinance is hereby repealed.

Section 3. Code of Ordinances. It is the intention of the City Council that this Ordinance shall become a part of the Code of Ordinances of the City of Devine and may be renumbered and codified therein accordingly.

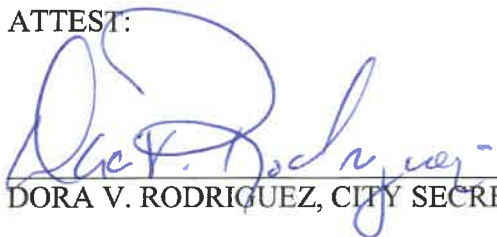
Section 4. Effective Date. This ordinance shall take effect immediately upon its passage, approval, and official publication as provided by law.

Section 5. Severability. If any section, provision, subdivision, clause or part of this ordinance shall be adjudged or held unconstitutional or invalid, it shall not affect the validity of this ordinance as a whole or any other part or provision contained herein.

PASSED, APPROVED AND ADOPTED at the regular meeting of the Devine City Council held on the 16<sup>th</sup> day of August, 2022.

  
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 CORY THOMPSON, MAYOR

ATTEST:

  
 \_\_\_\_\_  
 DORA V. RODRIGUEZ, CITY SECRETARY



	<b>Mobile Food Unit Permit Application</b>	City of Devine 303 S. Teel Dr. Devine, Texas 78016 (830) 663-2804
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**APPLICATION TYPE** PLEASE CHECK THE APPROPRIATE BOX BELOW

- One-Day Permit: \$10.00  Annual Permit: \$50.00

**BUSINESS/OWNER INFORMATION**

Name of Business: \_\_\_\_\_

Owner/Contact Person: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

**MOBILE UNIT INFORMATION**

- Cold Truck  Hot Truck  Both

Describe food to be sold (If unit is a Hot Truck, attach a copy of menu):  
\_\_\_\_\_

Vehicle Identification Number (VIN): \_\_\_\_\_

Make/Year: \_\_\_\_\_ Model: \_\_\_\_\_ License Plate #: \_\_\_\_\_

**ADDITIONAL PERMIT REQUIREMENTS** to be submitted with Mobile Food Unit Permit Application

CHECK TO INDICATE ITEM IS INCLUDED WITH APPLICATION

- Copy of written permission form from property owner allowing operation of Mobile Food Unit.
- Site plan depicting the location of the Mobile Food Unit on the property.
- Copy of current Food Handler Cards issued by the Medina County Health Department (for each person).
- Proof of minimum liability insurance of \$1,000,000 covering Mobile Food Unit is maintained.

**STATE REQUIREMENTS** to be available on Mobile Food Unit at all times

CHECK TO ACKNOWLEDGE UNDERSTANDING & ACCEPTANCE

- Valid Texas vehicle registration and current Texas state inspection
- Current Texas motor vehicle operator's license, and current proof of liability insurance
- Valid Texas Sales Tax Permit

The Owner/Applicant agrees to release the City of Devine, and its agents from any and all liability of every kind and nature for damages to persons and/or property which may occur, and hereby agrees to Indemnify the City of Devine and its agents for and to hold the City of Devine and its agents harmless from any and all such liability.

**WARNING: Signing of this document does not authorize occupancy of this structure.**

I have read the completed application and know the same is true and correct and hereby agree that if a permit is issued all provisions of the City Ordinances and State Laws will be complied with whether herein specified or not. I agree to comply with all property restrictions. I am the owner of the property or the duly authorized agent.

Applicant Name (Print): \_\_\_\_\_

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**FOR OFFICE USE ONLY**

Permit Number: \_\_\_\_\_ Permit Approved: \_\_\_\_\_ Notified Contact Person: \_\_\_\_\_  
 Comments: \_\_\_\_\_ Yes:  No:  Date: \_\_\_\_\_