

ORDINANCE NO. 2024-11

AN ORDINANCE BY THE CITY OF ALBANY REGULATING THE USE OF MOBILE FOOD UNITS, A/K/A FOOD TRUCKS, IN THE CITY OF ALBANY; PROVIDING FOR PERMITS TO BE ISSUED BY CITY; PROVIDING FOR CRIMINAL PENALTY OF NOT MORE THAN \$500 FOR EACH OFFENSE, AND CIVIL INJUNCTION RELIEF; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR CUMULATIVE EFFECT THEREOF; AND ESTABLISHING AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, pursuant to the statutory authority granted to the City of Albany, Texas as a municipality under Texas Local Government Code Section 51.001, the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that: (1) is for the good government, peace or order of the municipality or for the trade and commerce of the municipality; and (2) 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, pursuant to the statutory authority granted to the municipality as a Type A General Law Municipality under Texas Local Government Code Section 51.012, the municipality may adopt an ordinance, act, law, or regulation, not inconsistent with state law, that is necessary for the government, interest, welfare, or good order of the municipality as a body politic; and

WHEREAS, the City of Albany desires to implement regulations for mobile food units, also known as food trucks, as to how and where they can operate to ensure the health and safety of the general public, while promoting economic development, including the legitimate governmental interest in retaining current businesses and preventing economic decline; and

WHEREAS, following careful evaluation and analysis, the City of Albany finds that it is necessary for the health, safety and welfare of the citizens of Albany, along with preserving the unique and natural beauty of the City, keeping with the historic character of the community, to regulate the use and location of mobile food units and food truck parks.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALBANY, TEXAS: that in consideration of the aforementioned findings, it hereby approves and enacts the following:

**ARTICLE 1
AUTHORITY AND PURPOSE**

SECTION 1. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Texas Local Government Code Section 51.001 and Section 51.012.

SECTION 2. PURPOSE

The purpose of this ordinance is to (1) provide for the protection of the public health, safety and general welfare within the City of Albany; (2) promote economic development and preventing economic decline; and (3) preserve the unique and natural beauty of the City, keeping with the historic character of the community, by regulating the use and location and permitting of mobile food units, also known as food trucks, in the City of Albany except as provided for herein.

ARTICLE 2 ENACTMENT OF ORDINANCE

SECTION 1. TITLE OF ORDINANCE

This Ordinance shall be entitled, "The Albany Food Trucks Ordinance."

SECTION 2 - DEFINITIONS

For the purpose of this ordinance the following definitions shall apply:

Enforcement Officer — a law enforcement officer, building official, code enforcement officer, fire marshal, health officer, or their designated representatives of the City of Albany, charged with any enforcement and administration of this Ordinance.

Mobile Food Unit a/k/a Food Truck — a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily moveable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food by a vendor. Mobile units must completely retain their mobility at all times. A Mobile Food Unit does not mean a stand or a booth.

Other terms herein shall have the meanings defined in other ordinances of the City, except where the context clearly requires otherwise.

SECTION 3 - PERMIT AND FEE

- A. No person shall operate a Mobile Food Unit in the City limits of Albany who does not possess a valid, current Mobile Food Unit permit issued by the City of Albany.

- B. To obtain a permit, an applicant must complete a written application, as provided by the City, present proof of a Mobile Food Unit License issued by the Texas Department of State Health Services or successor agency, provide a copy of a current driver's license, proof of vehicle liability insurance and a Texas Sales Tax Permit.
- C. A Permit Fee, and any other associated fees, shall be paid upon submitting the application for the permit. Such fees shall be periodically set by the City Council and the schedule shall be attached to the application.
- D. Each Mobile Food Unit is subject to inspection by the City prior to the issuance of a permit, and any other associated fees shall be paid upon submitting the application for the permit. Such fees shall be periodically set by the City Council and shall be attached to the application.
- E. A Permit may be suspended or revoked if any information provided on the application is not correct; or if the Mobile Food Unit or operator is found to be out of compliance with any city and/or state regulations or statute. Any fee is forfeited, and the permit shall be surrendered to the City.

SECTION 4 - APPEAL PROCESS

An applicant or permittee may appeal the denial of a permit or the suspension or revocation of a permit to the Mayor by giving written notice to the City Secretary not less than ten (10) days from the date notice of the adverse action is mailed to the applicant or permittee.

SECTION 5 - MOBILE FOOD UNITS ARE SUBJECT TO FOLLOWING REGULATIONS

It shall be unlawful for any person to establish, maintain or operate a Mobile Food Unit in violation or non-compliance of the following regulations:

- A. No Mobile Food Unit shall be allowed to sell or service food on any public street, sidewalk, or other public property or right-of-way unless approved in writing by the City of Albany prior to operation.
- B. All Mobile Food Units must be located on private property with written permission from the property owner. The location cannot be on a property or lot occupied by a single-family, multi-family use or other residential use.
- C. Only one (1) Mobile Food Unit shall be located on a parcel of property.

- D. Mobile Food Units shall not operate within a two (2) block radius of the courthouse in Albany, unless approved in writing by the City of Albany.
- E. Mobile Food Units shall be ready and able to be removed from the property daily, as required by the Texas Department of State Health Services.
- F. Mobile Food Units shall not be located on a driveway, fire lane or obscure traffic sight visibility.
- G. Mobile Food Units shall not operate within 300 feet of an established restaurant's closest property line, unless given written approval by the restaurant's owner or manager.
- H. 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 the patron of the unit. The area around the Mobile Food Unit shall be kept clean and free from litter, garbage, and debris.
- I. A Mobile Food Unit may not temporarily connect to a potable water system. Water shall be from an internal tank, pursuant to the rules of the Texas Department of State Health Services. A toilet room shall be designated and be conveniently located and accessible to employees during all hours of operation. Portable restroom facilities are not permitted to meet this requirement unless otherwise approved in conjunction with a special event.

SECTION 6 – INSPECTIONS

- A. An Enforcement Officer may inspect a Mobile Food Unit to determine compliance with this Ordinance and State law. The Enforcement Officer shall display identification upon request.
- B. The person in charge of a Mobile Food Unit shall immediately correct violations identified by an inspection. If the violations are not corrected immediately, the person in charge shall stop food service operations until authorized to resume by the Enforcement Officer.
- C. If the person in charge of a Mobile Food Unit does not immediately correct the violations identified by the inspection, the permit may be suspended and shall be surrendered to the City. In addition, the person in charge of a Mobile Food Unit may be cited for a criminal violation of this Ordinance.

SECTION 7 - OFFENSE AND PENALTY

Any person who shall violate or is found not to be in compliance with any provision of this Ordinance shall be deemed guilty of a Class C misdemeanor and upon conviction thereof shall be punished by a fine not to exceed more than \$500.00. Each day any violation of this Ordinance shall continue shall constitute a separate offense.

SECTION 8 - PROPERTY OWNER VIOLATIONS

Any property owner who knowingly allows his property to be used or occupied by a Mobile Food Unit conducting operations in violation or non-compliance of this Ordinance shall be deemed guilty of a Class C misdemeanor and upon conviction thereof shall be punished by a fine not to exceed more than \$500.00. Each day any violation of this Ordinance shall continue shall constitute a separate offense.

SECTION 9 – INJUNCTIONS

In addition to any criminal penalties, the City of Albany may seek injunctive relief for any violation or non-compliance of this Ordinance.

SECTION 10 – EXCEPTIONS

The provisions of this Ordinance do not apply to Mobile Food Units that have rented concession space during the annual Fort Griffin Fandangle and Chamber of Commerce Events.

ARTICLE 3

SEVERABILITY, CUMULATIVE AND EFFECTIVE DATE CLAUSES

SECTION 1. SEVERABILITY

If any provision or any Article or Section of this Ordinance shall be held void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this Ordinance, which shall remain in full force and effect.

SECTION 2. CUMULATIVE EFFECT

This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Albany, and this Ordinance shall not operate to repeal, or affect any other such ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of

the Ordinance, in which event such conflicting provisions, if any, in such ordinance or ordinances are hereby repealed.

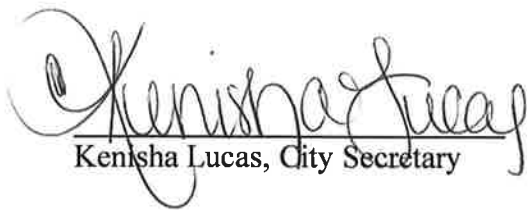
SECTION 3. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law in such cases provide.

PASSED AND APPROVED on this 12th day of November, 2024.

ATTEST:

CITY OF ALBANY, TEXAS


Kenisha Lucas, City Secretary


Susan W. Putzmeier, Mayor