

ORDINANCE NO. 2017-10-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, MODIFYING SECTION 146-42 (TEMPORARY USES) OF THE CODE OF ORDINANCES AND ESTABLISHING CHAPTER 138, ARTICLE VIII (FOOD TRUCKS, OPERATION SITES AND FOOD TRUCK COURTS) OF THE CODE OF ORDINANCES; ESTABLISHING PRESUMPTIONS; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF

WHEREAS, the City of McKinney adopted the Code of Ordinances for the protection of the public health and general welfare of the people of the City of McKinney; and

WHEREAS, the City Council has recognized that certain provisions of the Code of Ordinances should be reviewed and updated from time to time; and

WHEREAS, amendments to the Zoning Ordinance have been proposed and the Planning and Zoning Commission of the City of McKinney is of the opinion that the existing regulations should be amended; and

WHEREAS, amendments to the multiple sections of the Code of Ordinances have been proposed and the City Council of the City of McKinney is of the opinion that this chapter should be amended.

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, THAT:

Section 1. Chapter 138, Article VIII (Food Trucks, Operation Sites and Food Truck Courts) of the Code of Ordinances, City of McKinney, Texas, is hereby established and shall read as follows:

“CHAPTER 138 - ARTICLE VIII. – FOOD TRUCKS, OPERATION SITES AND FOOD TRUCK COURTS.

Sec. 138-550. - Purpose.

The purpose of this section is to establish regulations governing food trucks, operation sites and the use of property or a tract of land for use as a food truck court. These regulations are intended to promote the health, safety, and welfare of the public, and to protect the property rights of the owners of land located adjacent to and within the vicinity of properties containing a food truck, an operation site or a food truck court.

Sec. 138-551. - Definitions.

- (a) *Food Truck* means an operational motor vehicle and/or trailer from which food and associated non-alcoholic beverages which are not typically tied to a single season of the year, are prepared, served and sold on private property for a period of time which exceeds 60 minutes or two instances of 30 minutes each day. This definition shall also apply to any seating, garbage and/or recycling containers, gear or equipment that is associated with the food truck’s operation.
- (b) *Food Truck Court* means a property used or developed to accommodate one or more food trucks as the primary use of the property while possibly accommodating areas on the property for entertainment or recreational opportunities. Food truck courts must have a valid certificate of occupancy in addition to all other applicable permits and inspections.
- (c) *Operation Site* means the geographic area, not located within a food truck court, within which the food truck will park, prepare, and sell food and/or associated

non-alcoholic beverages. This also includes areas where the food truck's customers go to consume food and/or non-alcoholic beverages sold from the food truck. The sale of merchandise other than food and non-alcoholic beverages shall not be permitted. Operation sites must have a valid food truck temporary site permit in addition to all other applicable permits and inspections.

Sec. 138-552. - Required permits, plans and inspections.

(a) Certificate of Occupancy (food truck courts only). Each food truck court shall be required to receive a certificate of occupancy from the Chief Building Official or their designee subsequent to the approval of a specific use permit and corresponding site plan. As part of the request for a certificate of occupancy, the following information, at a minimum, shall be provided:

1. The name and address of the owner and/or operator;
2. A description of the owner and/or operator;
3. If the applicant represents a corporation, association, partnership or any other business entity, the names and addresses of the officers, partners or principals;
4. The address and name under which the mobile food court will be operated; and
5. Any other information reasonably required by the Chief Building Official to document the use and operation of the food truck court.

(b) *Food truck temporary site permit (for an operation site).*

1. Except as part of a food truck court, the owner or the owner's authorized representative of a property containing an operation site where a food truck may be located from time to time must apply for a food truck temporary site permit from the Building Inspections Department prior to allowing a food truck to operate on their property. The permit application, which shall be verified in the same manner as required for a deed, shall include information that details where the food truck will be located on the property along with the location of any refuse receptacle(s), restroom(s), vehicle parking, dining area(s), and any other pertinent information regarding the operation of the food truck on and about the operation site. As part of the permit application, any necessary authorization letters from adjacent property owners and businesses shall be provided. Authorization letters that limit the allowance of food trucks to a specific type or style of food will not be accepted. Any additional information as may be deemed necessary by the Chief Building Official to thoroughly review the request shall also be submitted as part of the permit application.
2. A food truck temporary site permit for an operation site issued by the Building Inspections Department shall only remain valid for a maximum of six months and regardless of the date of issuance shall expire on June 30 or December 31 of such calendar year, whichever date occurs first following the issuance of the initial permit and then every six months thereafter.
3. A food truck temporary site permit may accommodate any licensed food truck vendor that the property owner/temporary site permit holder deems acceptable for an operation site.
4. The Chief Building Official, in approving or denying such application shall consider the nature of the use; existing uses in surrounding areas; noise, dust, light, and traffic generated; health and sanitary conditions; and compliance with other regulations of this chapter. The chief building official

shall have the right, upon finding that a hazard or nuisance shall exist by continuing such use, to revoke any temporary use at any time or to deny any extension. After which revocation, such temporary use shall immediately cease and all temporary structures shall be removed within ten days of notification of such finding.

- (c) Food Truck Log. Each food truck operator shall maintain a log that contains each date of servicing and the signature of the commissary operator certifying that servicing occurred at the commissary. In lieu of a log, receipts showing the type of purchases, date and time of purchases, and the location of the commissary where purchases were made may be accepted in lieu of a food truck log. The food truck log or receipts shall be made available to City personnel for inspection upon request.
- (d) Food truck vendor permit. All food trucks shall be required to register and obtain all applicable permits from the Code Compliance Department prior to operation.
- (e) Health Permit. All food trucks must obtain a permit from the Code Compliance Department prior to operating at a food truck court.
- (f) Inspections. Food truck courts, operation sites and food trucks may be inspected from time to time by appropriate City personnel. Food truck courts, operation sites and food trucks shall immediately be made available for inspection upon request of such City personnel.
- (g) Other Permits Required. Food trucks shall be responsible for identifying and obtaining all applicable permits and shall be responsible for conforming to all applicable city, county, state and federal regulations. Property owners shall be responsible for ensuring that any food truck which operates as part of the food truck court or a temporary site permit for an operation site obtains all necessary permits prior to operation and conforms to all applicable city, county, state and federal regulations.
- (h) Safety. The Chief Building Official, Fire Marshal and/or the Director of Code Services shall have the authority to require that additional safety measures be provided at a food truck court, operation site or food truck to ensure the health, safety, and welfare of the general public. These additional safety measures may include, but are not limited to, limitations governing the provision of utilities (water, wastewater, electricity, gas, etc.) to the food truck, providing fire extinguisher(s), and adding limitations to the use of deep fat fryers or flat top grills in specific instances.
- (i) Site Plan Required (food truck court only). A site plan as specified in section 146-45 (Site Plan Approval) of the Code of Ordinances shall be required to be submitted and approved prior to the issuance of any permits for a food truck court.
- (j) Specific Use Permit Required (food truck court only). A specific use permit as specified in section 146-41 (Specific Use Permits) of the Code of Ordinances shall be required to be submitted and approved by the City Council prior to the issuance of any permits for a food truck court.

Sec. 138-553. - Acceptable locations.

(a) Food Truck Courts.

1. Food truck courts shall be a permitted land use with the City Council's discretionary approval of a specific use permit on property that is not located within 100 feet of any property used for single family or duplex residential purposes in the following zoning districts of the City:
 - i. Multi-Family Residential Zoning Districts;

- ii. Non-Residential Zoning Districts;
 - iii. Agricultural Zoning Districts; or
 - iv. All character districts of the MTC – McKinney Town Center District.
2. A specific use permit for a food truck court may be revoked by the City Council if it finds that any condition imposed at the time of granting the permit is not met, or if thereafter ceases to exist. The City Council may deny a specific use permit for a food truck court if the development of said use would be detrimental or offensive to the surrounding area or otherwise be contrary to the health, safety, or general welfare of the City and its inhabitants. In approving or denying a specific use permit for a food truck court, the City Council shall consider:
- i. The nature of the proposed use;
 - ii. Proximity to other food truck courts;
 - iii. Proximity to existing “brick and mortar” restaurants;
 - iv. The number of food trucks allowed within the food truck court at a single time;
 - v. Existing uses in surrounding areas;
 - vi. Noise, dust, light, and traffic generated;
 - vii. Health and sanitary conditions; and
 - viii. Compliance with other regulations of the Code of Ordinances.

(b) Food Truck Operation Sites.

1. Subsequent to all permits being issued, operation sites for food trucks may be located within any multi-family residential zoning district or non-residential zoning district assuming all applicable locational criteria and the following requirements are satisfied:
- i. No food truck operations including, but not limited to food preparation, sales or consumption shall be permitted within 100 feet of any door, window or outdoor dining area of any existing restaurant(s) or food service establishment(s). Food trucks shall be exempted from this requirement with the express written permission of the restaurants’ or food service establishments’ owner or authorized representative.
 - ii. A maximum of one food truck shall be permitted for every 2 acres of land area. There shall be a maximum of 6 food trucks on an individual tract of land.
 - iii. Food trucks shall not be allowed to engage in sales operations within 100 feet of any property used for single family or duplex residential purposes. This distance may be eliminated if unanimous written consent from each property owner located within the 100 foot buffer is provided.

(c) Food trucks and their customers shall be prohibited from utilizing the public rights-of-ways for food sales, preparation and/or consumption.

- (d) Food trucks courts and operation sites shall only be permitted on private property.
- (e) All portions of a food truck and its associated operation site shall be located within 150 feet, as determined by the Fire Marshal, of a dedicated fire lane easement or a public street.
- (f) Food trucks must be parked, situated and operated in a manner that does not restrict orderly and/or safe vehicular and/or pedestrian movements.
- (g) Food trucks and operation sites may not occupy required off-street parking or loading spaces.
- (h) All food trucks participating in a food truck court shall remain fully mobile and operational unless a commissary is provided on site and said food trucks are authorized to utilize the on-site commissary.
- (i) Food trucks shall report to their designated commissary at least once per day for food, supplies, cleaning and servicing.

Sec. 138-554. – Hours of operation.

(a) Food Truck Courts.

1. Food truck courts shall only be allowed to engage in sales operations between the hours of 7:00 am to 12:00 am.

(b) Food Truck Operation Sites.

1. Food trucks shall only be allowed to engage in sales operations between the hours of 8:00 am and 10:00 pm.

Sec. 138-555. – Noise.

- (a) Food truck courts and operation sites shall be subject to the noise requirements of Chapter 70, Article V (Noise) of the Code of Ordinances and the maximum sound pressure levels (decibels) allowed by Section 146-134 (Performance Standards) of the Code of Ordinances.

- (b) No amplified sound shall be permitted after 10:00 p.m.

Sec. 138-556. – Refuse, recycling, litter and food preparation byproducts.

(a) Food Truck Courts.

1. Food truck courts shall provide containers of sufficient size and number for the disposal of refuse and recyclables resulting from the food truck court's operation and sales. The containers shall be identified as being for the disposal of refuse and/or recyclables.

(b) Food Truck Operation Sites.

1. Food trucks shall provide, on or within 20 feet of the food truck, containers of sufficient size and number for the disposal of refuse and recyclables resulting from the food truck's operation and sales. The containers shall be identified as being for the disposal of refuse and/or recyclables.

- (c) City-provided refuse and recycling containers shall not be used for the food truck's or food truck court's refuse and/or recycling needs unless written authorization has first been obtained from the City for such use.

- (d) Any refuse, recycling and/or litter on the ground at the food truck court or operation site shall be immediately picked up and discarded appropriately by the food truck operator or the food truck court's on-site manager. Refuse and/or recycling must be removed from the operation site or food truck court at least daily or more frequently as needed to remove excess refuse and/or recycling from the property thereby avoiding the creation of an unsanitary or unhealthy condition or nuisance.
- (e) Greases, oils, vapors and other similar food preparation byproducts shall be kept inside the food truck at all times. Dumping, or the improper disposal, of food preparation byproducts onto the ground, pavement or other surface or into a storm water collection system or other system not designed for that specific use is strictly prohibited and may result in the immediate revocation of all permits and licenses of the food truck, food truck court, and/or operation site in addition to the performance of any necessary remediation and the issuance of citations and fines.
- (f) Sewage, liquid wastes and food preparation byproducts shall be removed from a food truck at an approved waste servicing area in such a way that a public health hazard or nuisance is not created.

Sec. 138-557. – Signage.

- (a) All signage pertaining to or advertising a food truck and/or its menu shall be attached to the food truck. There shall be no limit to the amount of signage that is allowed on a food truck while the food truck is parked at a food truck court or operation site. A food truck shall not be outfitted with a “changeable electronic variable message sign” or any manner of “prohibited signage” as defined and/or set forth in Chapter 134 (Signs) of the Code of Ordinances. Signage for the food truck court shall be permitted as outlined in Chapter 134 (Signs) of the Code of Ordinances. Signage containing profanity or lewd or obscene images shall be prohibited.

Sec. 138-558. – Off-street vehicle parking.

- (a) Food Truck Courts.

- 1. One off-street vehicle parking space shall be required for every 150 square feet of dining area. The minimum number of required customer parking spaces may be reduced by the Planning and Zoning Commission as part of the site plan approval process should the Commission find that the full provision of required parking may not be necessary.

- (b) Food Truck Operation Sites.

- 1. One off-street vehicle parking space shall be required for each table that is provided for use by food truck customers. If no tables are provided, no off-street vehicle parking shall be required. Parking that is provided for food truck customers may not also be used to satisfy the minimum parking requirements of another land use. Any customer parking that is provided must be finished with concrete or asphaltic surface materials.

- (c) Required off-street vehicle parking and maneuvering shall adhere to the requirements of Section 146-130 (Vehicle Parking) of the Code of Ordinances, except as otherwise specified herein.

- (d) Food truck courts and operation sites must feature an area of sufficient size that is finished with a compacted gravel base, concrete or asphaltic surface materials on which any food trucks may park and operate. Customer parking must be finished with concrete or asphaltic surface materials.

Sec. 138-559. – Restrooms required.

(a) Food Truck Courts.

1. Permanent restrooms located within a permitted building or structure must be provided on-site within the food truck court for the use of the food trucks' and the food truck court's customers, operators and employees. The minimum number and type of restrooms shall be determined based on the occupant load of the food truck court. Such restroom(s) must remain open and available for use at all times during which the food truck court is being used. No portable or temporary restrooms shall be allowed.

(b) Food Truck Operation Sites.

1. Restrooms for each sex, or a gender neutral restroom(s), located within a permanent building that has been issued a valid certificate of occupancy shall be provided for the use of the food truck's customers, operators and employees. Such restroom(s) must remain open and available for use at all times during which the food truck is situated on the operation site. No portable or temporary restrooms shall be allowed.

Sec. 138-560. – Utility services required at food truck courts.

- (a) Each site at the food truck court on which a food truck will be located and operated shall be provided hookups for electricity and potable water. Each individual food truck is not permitted to operate a generator at the site unless emergency circumstances necessitate the need for the use of a generator on a temporary basis not to exceed two hours within any given six hour period of time.

Sec. 138-561. – Exceptions.

- (a) These regulations shall not apply to food trucks that operate:

1. At a special event that is properly licensed pursuant to a special event permit issued by the City, provided that the food truck is identified in the special event permit application as a participating concessionaire or caterer; or
2. As a vendor at a properly permitted farmers' market for which the food truck has rented space from the farmers' market and/or its organizer(s); or
3. On public property including, but not limited to a public park, public library, recreation or aquatics center, or performing art center at the request of and with the express written permission of the property owner."

Section 2. Section 146-42 (Temporary Uses) of the Code of Ordinances, City of McKinney, Texas, is hereby amended and shall read as follows:

"Sec. 146-42. Temporary uses.

The following temporary uses may be allowed under the conditions and for the time specified upon proper application and review by the chief building official:

- (1) A temporary building may be used as an office incidental to construction work if such building is located upon the same property as the site under construction, does not contain living quarters, and provides only for uses incidental to construction on the premises. Such buildings shall be removed within 30 days following final acceptance of the construction by the city.
- (2) A temporary facility or a permanent residential structure located on any platted lot in an approved residential subdivision may be used as a construction office, or as

a sales office, or for display purposes. No more than one office and no more than four display facilities shall be allowed for any purposes for any subdivision. Such temporary use shall be allowed for a period of one year, with extensions upon application and approval of six months possible, provided construction remains continuous and no more than ten lots remain unsold in the subdivision. However, in no case shall more than four such extensions be granted.

- (3) Temporary uses of a religious or philanthropic nature by those organizations not normally conducting business for profit may be allowed for the period of their actual duration up to a maximum of 30 days, except that two extensions of up to 30 days may be possible upon application and approval.
- (4) Temporary sales of seasonal products such as shaved ice or snow cones, firewood, cut trees, plants, fruits and vegetables, and the like may be allowed during their normal and generally accepted season for a period of up to 30 days, except that two extensions of up to 30 days may be possible upon application and approval. Temporary sales of seasonal products may be allowed no more than 120 days, whether consecutive or cumulative, per site.
- (5) The chief building official, in approving or denying such application shall consider the nature of the use; existing uses in surrounding areas; noise, dust, light, and traffic generated; health and sanitary conditions; and compliance with other regulations of this chapter. The chief building official shall have the right, upon finding that a hazard or nuisance shall exist by continuing such use, to revoke any temporary use at any time or to deny any extension. After which, such temporary use shall immediately cease and all temporary structures shall be removed within ten days of notification of such finding.”

Section 3. If any section, subsection, paragraph, sentence, phrase or clause of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of this Ordinance are declared to be severable.

Section 4. That this Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of said ordinances except in those instances where provisions of those ordinances are in direct conflict with the provisions of this Ordinance and such ordinances shall remain intact and are hereby ratified, verified and affirmed.

Section 5. This Ordinance shall become effective from and after the date of its final passage and publication as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, ON THIS 17TH DAY OF OCTOBER, 2017.

CITY OF MCKINNEY, TEXAS

GEORGE C. FULLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary

DENISE VICE, TRMC
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney