

ORDINANCE NO. 2023-04

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LA FERIA AMENDING THE CODE OF ORDINANCES CHAPTER 6 (HEALTH AND SANITATION), CHAPTER 14 (ZONING)/EXHIBIT 14A (ZONING ORDINANCE), AND APPENDIX A (FEE SCHEDULE); REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of La Feria (“City”) is a Texas Home-Rule Municipality chartered under the laws of the State of Texas; and

WHEREAS, the City is empowered, through its City Commission, 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

WHEREAS, the City Commission recognizes the general community, regional, and national interests in mobile food vending, and finds that such activity not only provides citizens with an innovative way to expand and diversify the economy while creating jobs, but also enhances the quality of life for City residents and visitors; and

WHEREAS, the City Commission finds that amending the City code of ordinances to provide governance, guidance, and support for mobile food vending, is necessary for the orderly development of this community, represents the best interest of all citizens of the City, and promotes the public aesthetics, health, safety, general welfare, and convenience; and

WHEREAS, the City has complied with all conditions precedent necessary to take this action, and has properly noticed and conducted all public hearings and public meetings pursuant to the Texas Local Government Code;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF LA FERIA:

Section 1. The foregoing recitals are found to be true and correct and are hereby adopted by the City Commission and made a part hereof for all purposes and findings of fact.

Section 2. The City of La Feria Code of Ordinances is hereby amended as set forth on **Exhibit A** attached hereto.

Section 3. If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

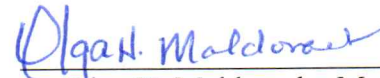
Section 4. This Ordinance shall be cumulative of all provisions of ordinances of the City except where the provisions of the Ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 5. This Ordinance shall be construed and enforced in accordance with the laws of the state of Texas and the United States of America.

Section 6. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551, Texas Government Code, as amended.

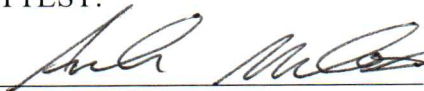
Section 7. This Ordinance will take effect upon its adoption by the City Commission.

INTRODUCED, READ and PASSED, by the affirmative vote of the City Commission of the City of La Feria this the 28th day of March, 2023.



Olga H. Maldonado, Mayor

ATTEST:



Amanda Morales, City Secretary

La Feria, Texas Mobile Food Vending Ordinance

Exhibit A

{Addition of Mobile Food Vending Park land use in Zoning Ordinance Section 18}

Section 18.A

Commercial Use	A G	R-1	R-2	R-3	D	M F	MH	LC	C-1	C-2	I
Mobile Food Vending Court								S	S	X	
Accessory Mobile Food Vending								S	X	X	

{Renumbering and addition of conditional development standards to Zoning Ordinance Section 20}

Section 20: CONDITIONAL DEVELOPMENT STANDARDS

A. Home Occupations.

- (1) The purpose of this subsection is to permit the conduct of home occupations, which includes Cottage Food Production Operations as defined by 25 Texas Administrative Code Sec. 228.2(9) (as may be amended), and which are compatible with the neighborhoods in which they are located. Some home occupations are a permitted accessory use in a residential district and are subject to the requirements of that district in which the use is located, in addition to the following:
 - (a) Only the members of the immediate family occupying the dwelling shall be engaged in the home occupation;
 - (b) The home occupation shall be conducted only within the enclosed area of the dwelling unit, garage, or accessory buildings. No storage or display of materials, goods, supplies, or equipment related to the operation of home occupation shall be visible outside any structure located on the premises;
 - (c) No more than twenty-five percent (25%) of the area of one (1) story of the principal building shall be devoted to the home occupation;
 - (d) There shall be no exterior alterations which change the character thereof as a dwelling and/or exterior evidence of the home occupation other than those signs permitted in the district;
 - (e) No use shall create smoke, glare, noise, dust, vibration, fire hazard, small electrical interference or any other nuisance not normally associated with the average residential use in the district;
 - (f) The home occupation shall not create any significant increase in vehicular flow or parking and shall not create greater pedestrian traffic than normal for the district;
 - (g) No home occupation shall cause a significant increase in the use of any utilities, or generate trash or refuse beyond the average of the residences in the neighborhood; and

(h) No more than one (1) advertising sign with a maximum of four (4) square feet of a non-illuminating nature may be attached to the main building.

(2) The following are examples of uses which can often be conducted within the limits of this subsection. Uses listed in this paragraph do not automatically qualify as a home occupation nor does this listing limit the uses which may qualify as home occupations: piano and guitar instruction, handicraft, dressmaking, preserving, accountant, artist, author, consultant, individual tutoring, millinery, child care of no more than five (5) children, and barber or beauty shops. The following uses are incompatible with residential neighborhoods and thereby impair the character of residential areas. Therefore, these uses shall not be permitted as accessory uses in residential districts: vehicle repair, painting of vehicles or boats, television and appliance repair, fix-it shops, cabinet shops, and machine shops.

(3) The city commission shall interpret the provisions of this subsection to determine the validity of a home occupation. A use considered not within the scope of the home occupation provisions shall be subject to the provisions of the commercial or industrial zones of this ordinance.

B. Mobile Food Vending Court.

All Mobile Food Vending Court land uses shall comply with the following requirements; however, all Mobile Food Vendors in a Mobile Food Vending Court are also subject to state law provisions applicable to Mobile Food Units and as provided in 25 Texas Administrative Code Chapter 228 and Texas Health and Safety Code Chapter 437, as both may be amended ("State Law"). In the event of a conflict between this Section and State Law, State Law shall govern.

(1) Maximum number of Mobile Food Vendors. There shall be a maximum of ten (10) Mobile Food Vendors allowed in a Mobile Food Vending Court. A Specific Use Permit may be granted by the City Commission to allow more than ten (10) Mobile Food Vendors in a Mobile Food Vending Court.

(2) Location. All activities associated with a Mobile Food Vending Court must be located at least two hundred (200) feet away from any single-family residential use or residential zoning district. A Specific Use Permit may be granted by the City Commission to reduce the two hundred (200) foot setback.

(3) Fire Lanes. Fire lanes and adequate fire protection shall be provided to serve the Mobile Food Vending Court as required by applicable city, state, or international regulations or codes.

(4) No Mobile Food Vendor nor any associated seating areas are allowed to be located in any required zoning setback, buffer yard, easement, or fire lane.

(5) Utility Connections. Temporary connections for electricity, water and sanitary sewer shall be provided to each Mobile Food Vendor site. Electricity to the Mobile Food Vendor may not be provided through the use of portable generators.

(6) Restrooms. A permanent restroom building equipped with flush type toilets and properly plumbed to a sanitary sewage system with sufficient capacity to meet the needs of the Mobile Food Vending Court's Mobile Food Units and customers shall be conveniently located on the property and accessible to employees and customers. Restrooms shall also be compliant with city building codes and 25 TAC 228, as may be amended. Restrooms shall be equipped with hand sinks, hot and cold water and either hand towels or forced air hand dryers.

(7) Seating and eating areas. All Mobile Food Vending Courts shall provide shaded seating and eating areas.

- (8) All Mobile Food Vendors shall be parked on designated locations paved with asphalt or concrete. Paving shall be constructed of new material and to accepted industry specifications.
- (9) Drive-Through Service. Vehicular drive-through service of food and/or beverages shall not be permitted except through a Specific Use Permit granted by the City Commission.
- (10) Trash enclosure. All trash receptacles shall be screened from public view and neighboring property view by a sight obscuring solid fence or wall enclosure with gates. The enclosure shall be a minimum of eight (8) feet in height. Gates shall be of a solid sight obscuring material and shall be closed at all times except when loading or unloading.

C. Accessory Mobile Food Vending

All Accessory Mobile Food Vending land uses shall comply with the following requirements; however, all Accessory Mobile Food Vending is also subject to state law provisions applicable to Mobile Food Units and as provided in 25 Texas Administrative Code Chapter 228 and Texas Health and Safety Code Chapter 437, as both may be amended ("State Law"). In the event of a conflict between this Section and State Law, State Law shall govern.

- (1) Accessory use only. Accessory Mobile Food Vending shall only permitted as an accessory use when a primary use of the property is established and operating with a valid certificate of occupancy.
- (2) Maximum number of Accessory Mobile Food Vendors. There shall be a maximum of one (1) accessory Mobile Food Vendor per site.
- (3) Location. All activities associated with Accessory Mobile Food Vending must be located at least two hundred (200) feet away from any single-family residential use or residential zoning district. A Specific Use Permit may be granted by the City Commission to reduce the two hundred (200) foot setback.
- (4) Mobile Food Vendors shall be parked on surfaces paved with asphalt or concrete. Paving shall be constructed of new material and to accepted industry specifications.
- (5) Mobile Food Vendors shall not be placed in required parking spaces nor block or impede the safe and orderly flow of traffic through the site.
- (6) No Mobile Food Vendor nor any seating areas are allowed to be located in any required zoning setback, buffer yard, easement, or fire lane.
- (7) Utility Connections. Temporary connections for electricity shall be provided to the Mobile Food Vendor site. Water and sanitary sewer temporary connections may also be provided to the Mobile Food Vendor site but are not required. Electricity to the Mobile Food Vendor may not be provided through the use of portable generators.
- (8) Restrooms. Accessory Mobile Food Vendors must provide access to restroom facilities for customers and employees within 300 feet of the mobile food unit. If the restroom facilities being provided are located within another establishment, the Mobile Food Vendor's hours of operation shall be restricted to only those times in which restrooms are available. Portable restroom facilities are prohibited.
- (9) Drive-Through Service. Vehicular drive-through service of food and/or beverages shall not be permitted except through a Specific Use Permit granted by the City Commission.

{Addition of parking requirements for mobile food vending to Zoning Ordinance Section 22}

Section 22.B

(23) Mobile Food Vending Court: four (4) parking spaces for every mobile food vendor space.

{Addition of definitions to Zoning Ordinance Section 26}

Section 26.A

Accessory Mobile Food Vending – A Mobile Food Vendor operating as an accessory use to a primary use established and operating with a valid certificate of occupancy on the property.

Mobile Food Unit (MFU) – (As defined by 25 TAC 228.2, as may be amended) A vehicle-mounted, self or otherwise propelled, self-contained food service operation designed to be readily movable (including catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. An MFU must completely retain its mobility at all times. An MFU does not include a stand or a booth. A roadside food vendor is classified as an MFU.

Mobile Food Vendor (MFV) - Any business which sells edible goods from a Mobile Food Unit (MFU) within the city.

Mobile Food Vending Court - any parcel of land where one or more Mobile Food Vendors congregate to offer food or beverages for sale to the public. This is considered a primary land use for the property.

{Addition of health and sanitation requirements to Code of Ordinances Chapter 6 Health and Sanitation}

Article 6.03 Mobile Food Vendors

Section 6.03.001 Mobile Food Vendors

Mobile Food Vendors are prohibited within the City except as otherwise provided for herein. All Mobile Food Vendors shall comply with the following requirements; however, all Mobile Food Vendors are also subject to state law provisions provided in 25 Texas Administrative Code Chapters 228 and 229; and Texas Health and Safety Code Chapters 437 and 438; as they may be amended (“State Law”). In the event of a conflict between this Article and State Law, State Law shall govern.

Section 6.03.002 Definitions

Terms used in this ordinance which are not defined herein shall be construed as in ordinary, common usage.

Certified Food Manager - A person who has demonstrated that he or she has the knowledge, skills and abilities required to protect the public from foodborne illness by means of successfully completing a certified food manager examination and becoming certified as described in Chapter 438 of the Texas Health and Safety Code and 25 Texas Administrative Code Chapter 229, as may be amended.

Mobile Food Unit (MFU) – (As defined by 25 TAC 228.2, as may be amended) A vehicle-mounted, self- or otherwise propelled, self-contained food service operation designed to be readily movable (including

catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. An MFU must completely retain its mobility at all times. An MFU does not include a stand or a booth. A roadside food vendor is classified as an MFU.

Mobile food vendors (MFV). Any business which sells edible goods from a Mobile Food Unit (MFU) within the city.

Owner. As used herein, and for the purpose of obtaining permits or receiving citations, includes any persons or persons with apparent care, custody, or control of the MFU or property upon which it is located.

Section 6.03.003 Plans, documentation, permits and inspections

(a) Submission of plans. Plans shall be submitted to the city manager or his/her designee for new construction, renovation, or the conversion of a unit to a Mobile Food Unit. Plans should show the equipment layout, and the arrangement and construction material of the inside of the unit, including food preparation, storage, and window service areas.

(b) Required documentation. To obtain a MFV permit, a MFV must submit a list of foods and beverages to be served from the Mobile Food Unit, stating the source of the item and when and where it will be prepared.

(c) Permit. It shall be unlawful for any person to operate a Mobile Food Unit without having obtained a permit issued by the city. Permits may be purchased monthly for up to one year from the date of issuance. Permits are not transferrable. Permits must be posted in or on every Mobile Food Unit.

(1) Mobile food vendors must pass a health inspection for the mobile food unit or submit a copy of a valid mobile food health permit from another municipal, county, or State of Texas health inspection agency. To operate in the city, the mobile food vendor must register with the city secretary and pass a fire safety inspection if one has not been completed by another municipal, county, or State of Texas health inspection agency.

(d) Inspections. Mobile Food Units may be inspected at any time by the code enforcement officer, fire marshal, or county health authority.

Section 6.03.004 Locations permitted

(a) Private property zoned for MFV. A MFV may only locate on property zoned for Mobile Food Vending Court or Accessory Mobile Food Vending as set forth in Chapter 14.

(b) No public streets. A MFV is prohibited from operating on a public street or within the public right of way.

(c) Special event exception. A MFV permit may be issued by the city manager or his/her designee for temporarily locating within the public right of way, within a public park or facility, or in the absence of a Specific Use Permit when such issuance is in conjunction with a special event of limited duration.

Section 6.03.005 Certified Food Manager required

A Certified Food Manager must be present at the Mobile Food Unit during each day of operation.

Section 6.03.006 Food Protection

(a) The provisions of 25 TAC 228, 25 TAC 229, and Chapters 437 and 438, as amended, are adopted and incorporated into this ordinance as if fully set out herein, and govern all requirements for food storage, temperature, protection and preparation; water, ice, and wastewater facilities and provision; insect and rodent control; general sanitation and ventilation; and other matters relating to mobile vending of food.

Sec. 6.03.007 Vehicle or unit requirements

(a) All Mobile Food Units shall be readily identifiable by business name, printed in bold letters not less than 3 inches in height, not less than one and one-half inches in width, permanently affixed, and prominently displayed upon at least 2 sides of the unit.

(b) All Mobile Food Units shall maintain a current state motor vehicle inspection sticker and a current state motor vehicle license plate registration sticker.

(c) All Mobile Food Units must be readily movable (capable of moving immediately upon the request of the code enforcement officer).

Sec. 6.03.008 Trash and other facilities

(a) Restroom access and trash receptacles. MFVs who prepare food on their Mobile Food Units shall:

- (1) Provide one or more trash receptacles for disposal of waste from customers, and shall provide for the disposal of such waste; and
- (2) Provide access to restroom facilities for customers in accordance with Chapter 14.

Sec. 6.03.009 Penalties

In addition to the general penalties established for violations of the city code as set forth in Sec. 1.01.009, any violation of this article may result in immediate revocation of any MFV permit. Any citation may be issued to either the operator of the MFV or the owner of the property upon which the MFV is located in violation of this article.

{Addition of Mobile Food Vendor Permit Fees to Code of Ordinances Appendix A Fee Schedule}

Article A6.03 MOBILE FOOD VENDORS

Sec. A6.03.003 Permit Fees

- (a) Mobile Food Vendor Permit Fee
 - (1) Monthly Permit (per month): \$45.00; or
 - (2) Annual Permit (per year): \$150.00