

ORDINANCE NO : 121911 – ZONING ORDINANCE AMENDMENT NO: VI

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POTH AMENDING ORDINANCE NUMBER 121911 AS AMENDED RELATED TO MOBILE FOOD VENDING AND OTHER MATTERS IN CONNECTION THEREWITH; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Poth (“City”) is a Texas General Law Municipality operating under the laws of the State of Texas; and

WHEREAS, the City is empowered by Chapter 211 of the Texas Local Government Code to establish a zoning ordinance establishing zoning districts and permissible land uses within the incorporated limits of the City; and

WHEREAS, the City Council may from time to time choose to amend, supplement, change or modify the City’s zoning regulations, boundaries, or classifications; and

WHEREAS, the City has given appropriate and reasonable consideration to the zoning regulation amendments provided herein City and has determined that certain revisions to the City’s zoning ordinance are necessary in order to more accurately reflect the will of the citizens of the City; and

WHEREAS, the City Council 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 Council 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, has properly noticed and conducted all public hearings and public meetings pursuant to the Texas Local Government Code and Texas Government Code, as applicable.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POTH THAT:

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

Section 2. The City of Poth Ordinance Number 121911 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.

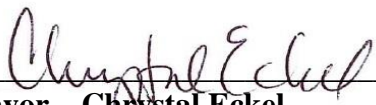
Section 5. This Ordinance shall be construed and enforced in accordance with the laws of the state of Texas and the United States of America.

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 Council.

Passed and approved this 17th _____ day of July _____, 2023

Approved:



Mayor – Chrystal Eckel

Attest:



City Secretary – Rose Huizar

Exhibit A

Summary of Changes to the City's Zoning Ordinance to Regulate Mobile Food Vending

Change No. 1:

Add "Accessory Mobile Food Vending**"**

Add "Mobile Food Vending Court **"**

to Appendix "A" as authorized use under the General Business (GB) Zoning District.

Change No. 2:

Amending Appendix B -Definitions to add definitions

Appendix B – Definitions

Change No. 3:

Addition of a new Appendix J -Schedule of Uses to add specific regulations for Mobile Food Vending Court and Accessory Mobile Food Vending land uses

All text which is underlined denotes addition of new text. All text which is ~~stricken through~~ denotes removal of existing text. All other text is existing, unchanged text. Any existing text which has been omitted shall be considered unchanged. All text which is both between braces { } and italicized, is for document organization and reference only and is not intended to be adopted. The City of Poth, Texas Zoning Ordinance No. 121911 as amended is hereby amended as follows:

{Change No. 1 - Amending Appendix A -Schedule of Uses to add two new land uses}

Appendix A – Schedule of Uses

GENERAL BUSINESS (GB)

Accessory Mobile Food Vending*

Mobile Food Vending Court*

*Specific Use Permit Required

{Change No. 2 - Amending Appendix B -Definitions to add definitions}

Appendix B – Definitions

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) – 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.

{Change No. 3 - Addition of a new Appendix J – Regulations for Mobile Food Vending Court and Accessory Mobile Food Vending, to add specific regulations for Mobile Food Vending Court and Accessory Mobile Food Vending land uses }

Appendix J

Appendix J – Regulations for Mobile Food Vending Court and Accessory Mobile Food Vending

A. Mobile Food Vending Court. All Mobile Food Vending Court land uses shall comply with the following requirements.

- (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 council 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 council 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 the mayor or his/her designee or any adopted city 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) 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 available on the property. Restrooms shall be equipped with hand sinks, hot and cold water and either hand towels or forced air hand dryers.
- (6) All Mobile Food Vendors shall be parked on designated locations paved with asphalt, concrete, or millings. Paving shall be constructed to accepted industry specifications.
- (7) 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 council.

- (8) 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.
- (9) All Mobile Food Vendors in a Mobile Food Vending Court are subject to the state law provisions applicable to Mobile Food Units and as provided in Title 25 Texas Administrative Code Chapter 228 and Texas Health and Safety Code Chapter 437, as both may be amended. In the event of a conflict between this ordinance and state law, state law shall govern.

B. Accessory Mobile Food Vending. All Accessory Mobile Food Vending land uses shall comply with the following requirements.

- (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 vendors 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 council to reduce the two hundred (200) foot setback.
- (4) All Mobile Food Vendors shall be parked on designated locations paved with asphalt, concrete, or millings. Paving shall be constructed 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) 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.
- (8) 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 council.
- (9) All Accessory Mobile Food Vendors are subject to the state law provisions applicable to Mobile Food Units and as provided in Title 25 Texas Administrative Code Chapter 228 and Texas Health and Safety Code Chapter 437, as both may be amended. In the event of a conflict between this ordinance and state law, state law shall govern.