

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: August 25, 2015		DATE SUBMITTED: August 10, 2015	
DEPARTMENT OF ORIGIN: Water Services		SUBMITTED BY: M. Jurica	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input checked="" type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> CONSENT	<input checked="" type="checkbox"/> 2ND READING	<input checked="" type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input checked="" type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
AGENDA ITEM DESCRIPTION: Consider revision of an ordinance modifying Chapter 50, Article VI "Mobile Food Vendors" of the City of Bryan Code of Ordinances by amending language governing mobile food vending.			
SUMMARY STATEMENT: This agenda item was on the July 28, 2015, City Council agenda. However, the City Council introduced a change (i.e., extending certain hours of operation) which has been made. Other than the change introduced by the City Council, the proposed ordinance remains unchanged from the July 28 meeting.			
Water Services respectfully requests the City Council approve the below-listed amendments to the Mobile Food Vendors (MFV) Ordinance. The recommended changes clarify accepted practices for mobile food vending:			
<ol style="list-style-type: none"> 1. Amend MFV Ordinance to exclude listing public park facilities as accepted locations of sell for MFVs. Chapter 86 "Parks and Recreation" of the Bryan Code of Ordinances prohibits sell of concessions in public parks unless privilege is authorized by the Parks and Recreation Director. Staff recommends that language in Section 50-273 (stationary restrictions for mobile food vendors) be clarified to ensure consistency with the Parks and Recreation Ordinance. 2. Clarification for accepted places of sell located on commercial and retail lots has been added. Suggested language eases vendor requirements by allowing sell from commercial and retail lots located within a residentially zoned area. 3. Amend MFV Ordinance allowing mobile food vending from public parking located in Downtown Bryan during ordinance-defined hours of operation. Current language prohibits mobile food vending in Downtown Bryan unless a Special Events Permit with street closure has been obtained. Additional change centers on clarifying the accepted practice of mobile food vending during Downtown Bryan Association (DBA)-approved events (e.g. Special Events) that involve street closures. Suggested changes were derived through discussion with DBA and are consistent with DBA's vision for mobile food vending in Downtown Bryan. Hours of operation for sale in Downtown Bryan have been made (extended hours to 3 am) as directed by Council during the July 28, 2015 Regular Meeting. 			
STAFF ANALYSIS AND RECOMMENDATION: Water Services respectfully requests City Council approval of the recommended changes to Chapter 50, Article IV "Mobile Food Vendors" of the City of Bryan Code of Ordinances. Approval of the proposed changes will clarify operational standards for mobile food vending.			
OPTIONS (In Suggested Order of Staff Preference):			
<ol style="list-style-type: none"> 1. Approve proposed ordinance change 2. Do not approve the proposed ordinance change and provide alternative direction 			

ATTACHMENTS: Proposed Ordinance Amendment

FUNDING SOURCE: N/A

APPROVALS: Jayson E. Barfknecht 08/10/15; Hugh R. Walker, 08/12/2015

APPROVED FOR SUBMITTAL: CITY MANAGER

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 08/17/2015

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE BRYAN CITY CODE OF ORDINANCES, CHAPTER 50, ARTICLE VI, ENTITLED “MOBILE FOOD ESTABLISHMENTS”; AMENDING TIMES AND LOCATIONS WHERE MOBILE FOOD VENDING IS PERMITTED; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; FINDING AND DETERMING THAT THE MEETINGS AT WHICH THIS ORDINANCE WAS PASSED WERE OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City’s mobile food vendor ordinance has been a success in helping City staff and mobile food vendors work together to ensure that food is properly prepared and sold in a way that is a benefit to citizens and their quality of life; and

WHEREAS, City staff and mobile food vendors have been operating under the ordinance and have found areas for improvement in order to best serve citizens; and

WHEREAS, council desires to move forward with regulations that allow mobile food establishments to operate and flourish within the City’s Corporate Limits and protect the morals, health, safety and welfare of the community;

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

1.

Subsection 50-273(a) of The Code of Ordinances, City of Bryan, Texas, is hereby amended to read as follows:

(a) Distance regulations.

(1) No mobile food vendor, except a mobile food vendor selling food that is not prepared in the mobile food vending unit, shall conduct business within any single-family residential or agricultural zoning district, including townhouse districts, but may be located in such districts when:

A. serving and within 100 feet to a property with an active building permit;

B. operating on a lot with a retail commercial business, including, but not limited to:

i. grocery stores,

ii. convenience stores,

iii. gas stations, and

iv. any other retail commercial business as determined by the city manager or his designee; or

- C. located within a ~~public park facility~~ City park or recreation area, as defined by Section 86-60 of this Code, so long as the vendor obtains and maintains a concessions permit as required by Section 86-54 of this Code.
- (2) A mobile food vendor may not be located within 100 feet of the property line of an open and operating fixed-location food service establishment. This buffer may be reduced upon receiving written permission from said establishments.

2.

Subsection 50-273(b) of The Code of Ordinances, City of Bryan, Texas, is hereby amended to read as follows:

- (b) Stationary restrictions. A mobile food vendor shall not conduct sales at a stationary location:
- (1) For a duration of no more than five consecutive days at a location.
 - (2) For a duration exceeding eight hours per location per day.
 - (3) For a duration exceeding 30 minutes on any public street designated on the City of Bryan's Thoroughfare Plan as a major collector or lesser.
 - (4) On any public street designated on the City of Bryan's Thoroughfare Plan as a minor arterial or greater.
 - (5) In congested areas where the operation impedes vehicular or pedestrian traffic or where it impedes access to the entrance of any adjacent building or driveway.
 - (6) In public parking spaces, except in downtown Bryan between the hours of 9 p.m. and 12 a.m. Sunday through Wednesday, between the hours of 10 p.m. and 3 a.m. Thursday through Saturday, and between the hours of 8 a.m. and 12 p.m. on Saturdays. The boundaries of ~~which~~ downtown Bryan are defined for this section as:
 - a. North: MLK, Jr. Street
 - b. South: 30th Street
 - c. East: Texas Avenue
 - d. West: Sims Avenue.
 - (7) In a designated bike lane.
 - (8) Between the hours of 2:00 a.m. and 5:00 a.m.
 - (9) Within the boundaries of any Downtown Bryan Association-sponsored event located in Downtown Bryan for which official closure of public streets is enacted, including, but not limited to, Downtown First Fridays, unless approved by permit with the Downtown Bryan Association.

~~Downtown First Fridays during the event, held on the first Friday of each month between the hours of 5:00 p.m. and 10:00 p.m., unless specifically authorized by permit issued by the Downtown Bryan Association. The boundaries of Downtown First Fridays are:~~

~~A. North: MLK, Jr. Street~~

~~B. South: 30th Street~~

~~C. East: Texas Avenue~~

~~D. West: Sims Avenue~~

(10) Within 500 feet of any festival entrance during the Texas Reds festival.

(11) An exception to the prohibition in this subsection (b) shall be any street, with the exception of events listed in subsection (9), above, which has been closed by the City of Bryan under the terms of a City-issued special event permit or street closure permit, as outlined in Chapter 106 of this Code, so long as the vendor has the permission of the event sponsor as listed on the special event permit.

3.

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

4.

The Bryan City Code, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

5.

If any section, paragraph, sentence, clause, phrase or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

6.

It is hereby found and determined that the meetings at which this ordinance was passed were open to the public, as required by Section 551.001, *et seq.*, of the Texas Government Code, and that advance public notice of the time, place and purpose of said meetings was given.

7.

It is the intention of the City Council that this ordinance shall become a part of the Bryan City Code and it may be renumbered and codified therein accordingly.

8.

This ordinance shall become effective after its second and final reading.

PRESENTED AND GIVEN first reading the 28th day of July, 2015, at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, **PASSED AND APPROVED** on the 25th day of August, 2015, by a vote of ____ ayes and ____ noes at a regular meeting of the City Council of the City of Bryan, Texas.

ATTEST:

CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney

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(c) Distance regulations.

(3) No mobile food vendor, except a mobile food vendor selling food that is not prepared in the mobile food vending unit, shall conduct business within any single-family residential or agricultural zoning district, including townhouse districts, but may be located in such districts when:

A. serving and within 100 feet to a property with an active building permit;

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C. located within a City park or recreation area, as defined by Section 86-60 of this Code, so long as the vendor obtains and maintains a concessions permit as required by Section 86-54 of this Code.

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CITY OF BRYAN:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney