

ORDINANCE NO. 2016-33

AN ORDINANCE OF THE CITY OF TOMBALL, TEXAS, AMENDING CHAPTER 50 (ZONING) OF THE CODE OF ORDINANCES BY AMENDING SECTION 50-2 (“DEFINITIONS”), SECTION 50-82(B) (“USE CHARTS”) AND SECTION 50-116 (“SUPPLEMENTAL REGULATIONS”) BY DEFINING AND CREATING A LAND USE FOR “MOBILE FOOD COURTS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY OF AN AMOUNT NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF, MAKING FINDINGS OF FACT; AND PROVIDING FOR OTHER RELATED MATTERS.

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WHEREAS, the City of Tomball has requested that Chapter 50 (Zoning) of the Code of Ordinances be amended;

WHEREAS, the Planning & Zoning Commission and the City Council of the City of Tomball, Texas, have published notice and conducted public hearings regarding the request to amend Chapter 50 (Zoning) of the Code of Ordinances;

WHEREAS, all persons desiring to comment on the proposal were given a full and complete opportunity to be heard; and

Whereas, the Planning & Zoning Commission recommended in its final report that City Council approve amendments to Chapter 50 (Zoning) of the Code of Ordinances; and

Whereas, the City Council deems it appropriate to grant the amendments to Chapter 50 (Zoning) of the Code of Ordinances.

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

Section 1. The facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. Section 50-2 (Definitions) is hereby amended by adding the following:

Mobile Food Court means a parcel of land where two or more mobile food vendors congregate to offer food or beverages for sale to the public as the principal use of the land. This definition shall not be interpreted to include a congregation of mobile food vendors as a secondary, accessory use, and/or temporary use.

Section 3. Section 50-82(b) (Use Charts) of the Code of Ordinances is hereby amended by adding the following:

Land Use Type	Residential Zoning Districts							Nonresidential Zoning Districts				OT&MU	Parking Ratio
	AG	SF-20	SF-9	SF-6	D	MF	MHP	O	GR	C	LI		
Retail													
Mobile Food Court									C	C	C	C	Whichever is greater: 1 per 100 square feet of seating area or 2 per mobile food vendor

Section 4. Section 50-116 (Supplemental Regulations) of the Code of Ordinances is hereby amended by adding the following:

1. Site Development Standards for Mobile Food Courts
 - a. No Mobile Food Vendor nor any associated seating areas shall be located in the required landscape buffer yard, access easement, surface drainage easement, driveway, and/or fire lane(s).
 - b. All activity must occur on private property, outside of the public right-of-way.
 - c. There shall be at least three (3) feet of unobstructed clearance between all individual Mobile Food Vendors and all permanent or accessory structures and at least ten (10) feet of unobstructed clearance for mobile food vendors parked side-by-side.
 - d. Mobile Food Vendors shall not park in required parking stalls, rather they shall be located on a designated paved surface. Spaces for Mobile Food Vendors shall meet the minimum parking requirements per Table Section 50-112-1.
 - e. Vehicular drive-thru service of food and/or beverages shall not be permitted.
 - f. Accessible restroom facilities shall be provided within a permanent structure. Temporary or portable toilet facilities are not permitted.
 - g. Electrical service may be provided to the Mobile Food Vendors by a permitted electrical connection or on-board generators. When using on-board generators, sound absorbing devices shall be used.
 - h. A designated seating area shall be provided for patrons.
 - i. A Mobile Food Vendor conducting business at a Mobile Food Court shall not be located within the same Mobile Food Court for a period in excess of 180 days. The same Mobile Food Vendor shall not return to the same Mobile Food Court for a period of 30 days.

- j. Mobile Food Vendors conducting business at a Mobile Food Court shall have current vehicular registration and shall be in a suitable operating condition for transit.
- k. All Mobile Food Vendors shall meet all other requirements per Chapter 32 – Peddlers and Solicitors.

Section 5. Chapter 50 (Zoning) of the Code of Ordinances shall be revised and amended as indicated above.

Section 6. This Ordinance shall in no manner amend, change, supplement, or revise any other provision of Chapter 50 (Zoning) of the Code of Ordinances except as indicated above.

Section 7. In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of Tomball, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 8. Any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in an amount not to exceed \$2,000. Each day of violation shall constitute a separate offense.

FIRST READING:

READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 19th DAY OF DECEMBER 2016.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>AYE</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>

SECOND READING:


READ, PASSED, AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 3rd DAY OF JANUARY 2017.

COUNCILMAN HUDGENS	<u>AYE</u>
COUNCILMAN STOLL	<u>ABSENT</u>
COUNCILMAN DEGGES	<u>AYE</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN KLEIN QUINN	<u>AYE</u>



Gretchen Fagan, Mayor

ATTEST:



Doris Speer, City Secretary