ORDINANCE NO. 13-3052

AN ORDINANCE AMENDING CHAPTER 66, "HEALTH AND SANITATION" OF THE CITY OF BEDFORD CODE OF ORDINANCES BY AMENDING SECTION 66-63. "DEFINITIONS" AND ADDING A NEW SECTION 66-44. "MOBILE FOOD UNITS"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Bedford is a home rule City acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and,

WHEREAS, the City Council of Bedford, Texas has a substantial interest in protecting the health, safety, welfare, convenience and enjoyment of the general public from injury which may be caused by the unregulated placement, movement and use of mobile food units.

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

SECTION 1. Sec. 66-33. - Definitions is hereby amended to read:

The words "mobile food unit" means a self-contained, licensed, motorized vehicle, which is temporarily stored on a privately owned lot where food items are cooked, processed or portioned for service, sales, and are sold to the general public.

The word "parcel" means a land area represented by a unified grouping of tenants, uses, or owners located in a shopping center, office complex, or industrial complex which utilizes common parking lots, landscaped areas, fire lanes, entrances, and/or signage. Said unified grouping may be located on multiple and separate platted lots or lots of record but may function under a single management system sharing amenities.

SECTION 2. Sec. 66-44. is hereby added to read:

Sec. 66-44. - Mobile Food Units

Mobile Food Units are subject to the following regulations:

a) Location:

1) All mobile food units must be located on a parcel, which is appropriately zoned for commercial development.

2) Mobile food units shall be located on an individual private parcel, where an existing permanent business operates in a building with a certificate of occupancy.

3) Mobile food units shall provide the City with a copy of written permission from the property owner on an annual basis to allow the operation of a mobile food unit and to allow the mobile food unit and their customers access to a commercially plumbed public restroom on-site.

4) A mobile food unit shall submit a site plan depicting the location of the mobile food unit on the property; shall secure a current mobile food unit permit; and supply Food Handler Cards from Tarrant County, providing copies of these documents to the City of Bedford.

5) Mobile food units shall be located within five hundred (500) feet of an entrance of a primary building that holds the certificate of occupancy.

6) No mobile food units shall be located on a vacant lot.

7) No mobile food units, their merchandise, advertising, or seating shall obscure traffic sight visibility.

8) No mobile food units operating under this regulation shall be allowed to sell or service food on any public street, sidewalk, or other public right-of-way unless approved in writing by the City of Bedford.

9) Mobile food units shall not operate in driveways or fire lanes.

10) Mobile food units including any applicable seating may operate in parking spaces in a commercially zoned individual property, parcel, tract or platted lot, if the required parking for the center remains in compliance with the parking code located in the City of Bedford Zoning Ordinance Section 5.2. A site plan indicating the specific location is required.

11) Mobile food units shall be removed from the parcel on a daily basis and may only operate during the business hours of the primary business and may not be parked longer than twelve (12) hours.

b) Vehicle: All mobile food units shall have a valid vehicle registration, motor vehicle operator's license, proof of vehicle liability insurance, and a Texas Sales Tax Permit.

c) Operational Issues:

1) A drive-through is not permitted in conjunction with the mobile food unit and shall not provide a drive-through service of any kind.

2) All mobile food units shall be equipped with a self-closing lidded, trash receptacle. The trash receptacle must be placed outside next to the mobile food units for use by the patrons of the unit. The area around the mobile food units shall be kept clean and free from litter, garbage, and debris.

3) Temporary connections to potable water are prohibited. Water shall be from an internal tank, and electricity shall be from a generator or an electrical outlet via a portable cord that is in conformance with the Electrical Code as adopted by the City of Bedford.

4) Except as otherwise limited by the City of Bedford Code of Ordinances, or other City Codes, a mobile food unit may utilize outside seating consisting of a portable table and a seating capacity of not to exceed four (4).

5) Except as otherwise limited by City Codes, a mobile food unit shall be allowed amplified music as long as such music shall not violate the nuisance definitions of noise established by Section 54-31 of the Bedford Code of Ordinances.

6) If wanting to serve alcoholic beverages, a mobile food vendor shall follow all necessary Texas Alcoholic Beverage Commission and the City of Bedford requirements.

7) A Hold-Harmless Agreement is required to be completed with the City of Bedford if the mobile food unit is to be located on City of Bedford property.

8) Owners of any mobile food unit must sign a notarized statement that they acknowledge and accept a minimum amount of $1,000,000 liability insurance, that covers the mobile food unit, must be maintained at all times and that proof of such insurance coverage can be demanded to be provided to the City upon three (3) working days notice to the owner.

9) All of the requirements for this Section pertain to Civic and Special Events per Section 5.10.D.

12) No mobile food unit shall operate before first obtaining a permit from the City of Bedford.

13) No more than three (3) mobile food units may be located on a parcel at any one time or at the same location for consecutive weeks unless one of the following occurs:

i) Additional mobile food units greater than three (3) may be considered through Civic Events and/or Special Events per Section 5.10.C of the City of Bedford Zoning Ordinance. Staff will consider the reason for the request; the number of available parking spaces on the lot; whether an increased number of mobile food units would be compatible with the existing use and permitted development of adjacent properties; and any other issues Staff considers to be relevant; and/or the owner of the primary business establishes through Staff permission with the City of Bedford a list of specific dates within a calendar year in which multiple food units may be allowed on the property. This request shall include a site plan and documentation showing:

(1) Indication of appropriate level of parking;

(2) Safe areas for seating for patrons of the mobile food units;

(3) Appropriate documentation of permission of use, adequate public access restroom facilities and valid certificate of occupancy of the primary business owner; and

(4) City of Bedford sponsored Civic and Special Events may have more than one mobile unit allowed, and may not be required to get Staff approval.

ii) If approved by Staff, a property owner initiated request shall be valid for 90 days. If there have been no previous outstanding code violations; a renewal after 90 days may be possible.

14) Mobile food unit permit fees are located in Appendix A "Schedule of Fees" City of Bedford Code of Ordinances.

d) Exemptions: All events, activities, and festivals specifically approved by the City Council are exempt from these regulations, but shall comply with appropriate regulations of the Code of Ordinances of the City of Bedford.

SECTION 3. All rights and remedies of the City of Bedford are expressly saved as to any and all violations of the provisions of any ordinances affecting the regulation and control of the use, occupancy, maintenance, repair, design, construction and quality of materials for buildings and structures within the City which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 4. SAVING CLAUSE. That the Code of Ordinances of the City of Bedford, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 5. PENALTY FOR VIOLATION. Any person, firm, or corporation violating any of the terms and provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1, "General Provisions," Section 1-12, "General Penalty," Bedford Code of Ordinances. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder.

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SECTION 6. SEVERABILITY CLAUSE. That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 7. EFFECTIVE DATE. This ordinance shall be in full force and effect from the date of adoption by the City Council of the City of Bedford.

PASSED AND APPROVED this 26th day of March 2013, by a vote of 7 ayes, 0 nays and 0 abstentions, at a regular meeting of the City Council of the City of Bedford, Texas.

Jim Griffin, Mayor

ATTEST:

Michael Wells, City Secretary

APPROVED AS TO FORM:

Stan Lowry, City Attorney