

**ORDINANCE NO. 21-O-04**

**AN ORDINANCE AMENDING CHAPTER 4 “BUSINESS REGULATIONS”, OF THE CODE OF ORDINANCES OF THE CITY OF GROESBECK, TEXAS (1952) AS AMENDED, FOR THE PURPOSE OF ADDING ARTICLE 4.05 TO BE ENTITLED "MOBILE FOOD VENDORS"; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION AND; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Groesbeck, Texas (the "City") seeks to promote the health, safety and welfare of the citizens of the City; and

**WHEREAS**, it is recognized that certain types of business activities require special regulation by the City; and

**WHEREAS**, it is declared the policy of the City to allow Mobile Food Vendors to operate within the City limits as such activity provides both economic and quality of life benefits to our citizens; and

**WHEREAS**, it is considered an element of due diligence on the part of the City to provide general oversight of all food vendors operating within the City limits consistent with regulation of other businesses; and

**WHEREAS**, City staff have noted that current city ordinances do not adequately outline the regulation of Mobile Food Vendors; and

**WHEREAS**, it is in the legitimate interest of the City to protect the health, safety, and welfare of its citizens by setting reasonable standards for the operation of Mobile Food Vendors;

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

**SECTION 1.**

That Chapter 4 “Business Regulations”, is hereby amended and Article 4.05 entitled "Mobile Food Vendors" is added in its entirety as follows:

**Sec. 4.05.001 Mobile Food Vendor Definition**

A Mobile Food Vendor is defined as:

- (a) Any such vendor who operates in the City from a moveable facility for the purpose of providing items for consumption by persons; and
- (b) The facility operated by the Mobile Food Vendor is further defined as a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily moveable (including, but not limited to catering trucks, trailers, push carts, and roadside

vendors) and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A stand or a booth is not considered a facility of this type; and

(c) Such facility operates at a given location with the permission of the property owner or other legal authority with the right to grant permission for use.

#### **Sec. 4.05.002 Adoption of state and federal laws**

All federal and state laws, rules and regulations applicable to Mobile Food Vendors (and their facilities-also known as Mobile Food Units), not specifically adopted elsewhere within this Ordinance, are hereby adopted and made a part of this ordinance as if fully set out herein.

#### **Sec. 4.05.003 Permit Required and Penalties.**

(a) No Mobile Food Vendor shall display, offer to sell or sell items from a mobile food unit without first procuring a permit from the City Administrator's Office or their designee.

(b) The cost of the permit shall be set at One Hundred Twenty Dollars (\$120.00), pro-rated, per vendor and the permit shall be valid for a period ending December 31<sup>st</sup> of each calendar year.

(c) The permit shall be displayed upon request of any peace officer or the Code Enforcement Officer. Any vendor under this Section, who is found in violation, shall make themselves subject to a fine of up to Five Hundred Dollars (\$500.00) per occurrence. Any vendor under this section, who is found in violation, on two occasions in a five-year period, shall be fined for the second occasion and further, shall be debarred from operating as a Mobile Food Vendor in in the City Limits for a period of one calendar year from the date of issuance of the citation; unless such debarment is adjudicated in the Vendor's favor at a subsequent legal proceeding.

(d) The Mobile Food Vendor shall also be required to display upon request of any peace officer or the Code Enforcement Officer, any other permits or certifications required for operation pursuant to state and federal laws including, but not limited to, health inspection certificates and sales tax permits issued by the State of Texas. Failure to display these items upon demand will incur the same penalties as outlined in Section 4.04.003 (c) above.

(e) Exemptions.

(1) The fee or permit required in subsection (5) of this section shall not apply to bona fide charitable, religious, educational, civic or fraternal organizations.

(2) Exempt permits shall be issued by the City of Groesbeck after verification.

**Sec. 4.05.004 Enforcement by injunction**

In addition to other penalties prescribed for violation of any provision of laws or ordinances relating to the health, safety and welfare of the citizens of the city, any person violating the same may be enjoined from continuing any such violation.

**SECTION 2.**

That this ordinance shall be cumulative of all other ordinances of the City of Groesbeck and shall not repeal any of the provisions of such ordinances, except as specified herein, and except in those instances where provisions of such ordinances are in direct conflict with the provisions of this ordinance.

**SECTION 3.**

That all rights or remedies of the City of Groesbeck, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**SECTION 4.**

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 void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidance, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

**SECTION 5.**

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined in accordance with the penalties set forth in Sections 4.05.003 and 4.05.004.

**SECTION 6.**

That the City Secretary of the City of Groesbeck, Texas is hereby directed to publish the caption summarizing the purpose of this ordinance and the penalty for violating this ordinance for two (2) days in the official newspaper of the City of Groesbeck, Texas, as authorized by

V.T.C.A. Local Government Code Subsection 52.013.

**SECTION 7.**

This ordinance shall take effect after adoption and publication as required by law.

**PASSED AND APPROVED** this 20th day of July, A.D., 2021.

**APPROVED:**

**CITY OF GROESBECK**

**By:** \_\_\_\_\_  
**Melvin Ray O'Docharty**  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**Brenda Jackson**  
**City Secretary**