

**ORDINANCE NO. 317**

**AN ORDINANCE OF THE CITY OF UHLAND, TEXAS ESTABLISHING HEALTH, SAFETY, PERMITTING, AND INSPECTION REGULATIONS FOR MOBILE FOOD VENDORS AND OTHER MATTERS IN CONNECTION THEREWITH; AND AMENDING ORDINANCE NO. 268, AS AMENDED, CITY OF UHLAND FEE SCHEDULE RELATED TO MOBILE FOOD VENDING PERMIT FEES; PROVIDING THAT VIOLATIONS OF THIS ORDINANCE ARE CLASS C MISDEMEANORS SUBJECT TO FINES NOT TO EXCEED \$2,000.00; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY, OPEN MEETING, PUBLICATION AND EFFECTIVE DATE.**

**WHEREAS**, the City of Umland (“City”) is a General Law Type A City under the statutes of the State of Texas; and

**WHEREAS**, the City Council of the City of Umland (“City Council”) has adopted zoning regulations related to mobile food vending; and

**WHEREAS**, the City Council desires to adopt and establish health, safety, permitting and inspection regulations for mobile food vendors operating within the city limits, in accordance with State Law; and

**WHEREAS**, the City Council finds that establishing health, safety, permitting and inspection regulations for mobile food vendors operating within the city limits contained herein, is in the best interest of the citizens of Umland, Texas and these regulations promote the health, safety and general welfare of the people.

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

**Section 1.** The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

**Section 2.** The City Council of the City of Umland, Texas hereby adopts and establishes the health, safety, permitting, and inspection regulations for Mobile Food Vendors as set forth in the attached “Exhibit A”.

**Section 3.** The City Council of the City of Umland, Texas hereby amends the City of Umland Fee Schedule, as set forth in the attached “Exhibit B”.

**Section 4.** All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

**Section 5.** 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 6.** That a violation of this Ordinance shall be an offense punishable upon conviction as a Class C Misdemeanor punishable by a fine not to exceed \$2,000.00.

**Section 7.** This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

**Section 8.** 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 9.** This Ordinance shall take effect immediately from and after its passage and the publication of the caption as the law provides.

**APPROVED, PASSED, AND ADOPTED** by the City Council of the City of Uhland, Texas on the 10<sup>th</sup> day of July, 2024.

APPROVED:



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Lacey Duke, Mayor

ATTEST:



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Kimberly Weatherford, City Secretary



# Ordinance No. 317 – Exhibit A

## Mobile Food Vending Health, Safety, & Permitting Regulations

### Section 1.01 Mobile Food Vendors.

Mobile Food Vendors are prohibited within the City except as otherwise provided for herein. All Mobile Food Vendors shall comply with the following requirements; however, all Mobile Food Vendors are also subject to state law provisions provided in 25 Texas Administrative Code Chapters 228 and 229; and Texas Health and Safety Code Chapters 437 and 438; as they may be amended (“State Law”). In the event of a conflict between this ordinance and State Law, State Law shall govern.

### Section 1.02 Definitions.

Terms used in this ordinance which are not defined herein shall be construed as in ordinary, common usage.

***Certified Food Manager:*** A person who has demonstrated that he or she has the knowledge, skills and abilities required to protect the public from foodborne illness by means of successfully completing a certified food manager examination and becoming certified as described in Chapter 438 of the Texas Health and Safety Code and 25 Texas Administrative Code Chapter 229, as may be amended.

***Mobile Food Unit (MFU):*** (As defined by 25 TAC 228.2, as may be amended) 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 Vendors (MFV):*** Any business which sells edible goods from a Mobile Food Unit (MFU) within the city.

***Owner:*** As used herein, and for the purpose of obtaining permits or receiving citations, includes any persons or persons with apparent care, custody, or control of the MFU or property upon which it is located.

### Section 1.03 Permit Required.

It shall be unlawful for any person to operate a Mobile Food Unit within the city limits without having obtained a permit issued by the city. Permits may be acquired for various durations from

the date of issuance. Permits are not transferrable. Permits must be posted in or on every Mobile Food Unit.

#### **Section 1.04 Permit Application and Inspections.**

- (a) Application requirements. Any request for a Mobile Food Vending Permit shall be accompanied by an application and supporting documents prepared in accordance with the requirements of the City. The City Administrator or their designee shall be responsible for determining the form and content of the Mobile Food Vending Permit application.
- (b) Processing of Application and Decision.
  - (1) Submittal. An application for a Mobile Food Vending Permit shall be submitted to the City Administrator or their designee.
  - (2) Decision by the City Administrator. The City Administrator or their designee may approve, approve with conditions, or deny the Mobile Food Vending Permit.
  - (3) Inspections.
    - (A) Mobile food units must pass a health inspection for the mobile food unit or submit a copy of a valid mobile food vending health inspection from another municipal, county, or State of Texas health inspection agency.
    - (B) Mobile food units must pass a fire safety inspection or submit a copy of a valid fire safety inspection from another municipal, county, or State of Texas agency duly authorized to perform fire safety inspections.
    - (C) Mobile Food Units may be inspected at any time by the code enforcement officer, fire marshal, or county health authority.
  - (4) Appeals. Any person aggrieved by any decision of the City Administrator or their designee, or any taxpayer or any officer, department, or board of the City may appeal the decision of the City Administrator or their designee to the City Council.

#### **Section 1.05 Locations Permitted.**

- (a) Private property zoned for MFV. A MFV may only locate on property zoned for Mobile Food Vending Court or Accessory Mobile Food Vending as set forth in the City's Zoning Ordinance.
- (b) Temporary. A MFV may only locate temporarily on non-residentially zoned property for less than 8 consecutive hours and no more than two times in a consecutive 7-day period. A temporary MFV may utilize a portable generator to provide electricity provided that the noise created by the generator shall not exceed 80 decibels.
- (c) No public streets. A MFV is prohibited from operating on a public street or within the public right of way except in conjunction with an approved special event permit or authorization granted by City Council.
- (d) Special event exception. A MFV permit may be issued by the City Administrator or their designee for temporarily locating within the public right of way, within a public park or facility, or in the absence of a Specific Use Permit when such issuance is in conjunction with a special

event of limited duration. A special event MFV may utilize a portable generator to provide electricity provided that the noise created by the generator shall not exceed 80 decibels.

**Section 1.06 Certified Food Manager Required.**

- (a) A Certified Food Manager must be present at the Mobile Food Unit during each day of operation.

**Section 1.07 Food Protection.**

- (a) The provisions of 25 TAC 228, 25 TAC 229, and Texas Health and Safety Code Chapters 437 and 438, as amended, are adopted and incorporated into this ordinance as if fully set out herein, and govern all requirements for food storage, temperature, protection and preparation; water, ice, and wastewater facilities and provision; insect and rodent control; general sanitation and ventilation; and other matters relating to mobile vending of food.

**Section 1.08 Vehicle or Unit Requirements.**

- (a) All Mobile Food Units shall be readily identifiable by business name, printed in bold letters not less than 3 inches in height, not less than one and one-half inches in width, permanently affixed, and prominently displayed upon at least 2 sides of the unit.
- (b) All Mobile Food Units shall maintain a current state motor vehicle inspection sticker and a current state motor vehicle license plate registration sticker.
- (c) All Mobile Food Units must be readily movable (capable of moving immediately upon the request of the City Administrator or their designee).

**Section 1.09 Trash and Other Facilities.**

- (a) Restroom access and trash receptacles. MFVs who prepare food on their Mobile Food Units shall:
  - (1) Provide one or more trash receptacles for disposal of waste from customers, and shall provide for the disposal of such waste; and
  - (2) Provide access to restroom facilities for employees and customers in accordance with the City's Zoning Ordinance.

**Section 1.10 Penalties.**

A violation of this Ordinance shall be an offense punishable upon conviction as a Class C Misdemeanor punishable by a fine not to exceed \$2,000.00. Additionally, any violation of this ordinance may result in immediate revocation of any MFV permit. Any citation may be issued to either the operator of the MFV or the owner of the property upon which the MFV is located in violation of this ordinance.

# Ordinance No. 317 – Exhibit B

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 Umland, Texas, Ordinance No. 268 as amended, City of Umland Fee Schedule, is hereby amended as follows:

*{Addition of Mobile Food Vending Permit Fees to Ordinance No. 306 City of Umland Fee Schedule}*

## **Section 15. Food and Beverage.**

### **Mobile Food Vending Permit Fee**

<u>Monthly Permit (per month):</u>	<u>\$45.00</u>
<u>Annual Permit (per year):</u>	<u>\$150.00</u>