ORDINANCE NO. 23-02

AN ORDINANCE OF THE CITY OF WEBSTER AMENDING CHAPTER 98; ZONING; DELETING SECTION 98-73. MOBILE FOOD TRUCK REGULATIONS AND AMENDING CHAPTER 10; AMUSEMENTS AND ENTERTAINMENTS BY ADDING SECTION 10-1. SPECIAL EVENTS PERMIT TO INCLUDE MOBILE FOOD UNITS; FINDING THAT ALL PROPER NOTICES HAVE BEEN GIVEN; REPEALING INCONSISTENT ORDINANCES; CONTAINING A SAVINGS CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

WHEREAS, the City of Webster, Texas, has requested a code amendment to delete Section 98-73. Mobile food truck regulations; and,

WHEREAS, the Planning & Zoning Commission met on November 30, 2022, in consideration to delete Section 98-73. Mobile food truck regulations; and,

WHEREAS, the Planning & Zoning Commission met on November 30, 2022, and voted unanimously to delete Section 98-73. Mobile food truck regulations; and,

WHEREAS, the City of Webster has requested a code amendment to Chapter 10, Amusements and Entertainments to create Section 10-1, Special Event Permit; and,

WHEREAS, after complying with all notice and hearing requirements, City Council has determined that the proposed changes would ensure the public interest

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

SECTION 1: That Chapter 98, Article III, Section 98-73 of the Code of Ordinances, City of Webster, Texas be amended to read as follows:

~~Strikethrough~~ = Text to be deleted

Underline = Text to be added

All other text to remain as-is

~~**Sec. 98-73. Mobile food truck regulations**~~

~~*Intent:* To provide a means of permitting mobile food trucks while protecting the public interest and health of the patrons and residents of the City of Webster.~~

~~(a) *Location restrictions:*~~

~~(1) Food trucks are not permitted within residential districts after substantial completion of a substantial construction site, but may locate in the C-1, C-2, C-3, M-1, M-2, and NP Zoning Districts. No food truck may locate within 200 feet of a property zoned or used for single-family residential and townhomes (unless the residential zone is a substantial construction site).~~

~~a. Exceptions: 1) A substantial construction site shall be allowed to operate food trucks.~~

~~(2) Permanent locations, in which a food truck is at the same location for more than three consecutive days, shall not be permitted. Additionally, food trucks are not allowed to park overnight on a route location and shall be removed from the premises each day.~~

~~(b) *Health requirements:*~~

~~(1) All food trucks shall have to satisfy the health and safety requirements as all other restaurants within the City of Webster.~~

~~(c) *Hour restrictions:*~~

~~(1) No mobile food truck shall operate between the hours of 1:00 a.m. and 5:00 a.m. substantial construction sites shall be allowed to operate during construction, but shall not operate during the hours prohibited from operation in this section.~~

~~(d) *Submittal requirements:*~~

~~(1) Mobile food truck application and required fees.~~

~~(2) Required plans for building permit submittal.~~

~~a. Elevations of food truck.~~

~~b. Floor plan.~~

~~1. Showing the configuration of the food truck: including such items as sinks, preparation area, refrigerator, gas stove, entrances and exits.~~

~~c. Plumbing schematic.~~

~~d. Electrical schematic.~~

~~e. Gas schematic (If used).~~

~~(3) Verification of property owner and restaurant locations.~~

~~a. A list of locations where the mobile food truck will operate.~~

~~b. Notarized written consent from the property owner or legal representative allowing food truck if at a location for an hour or more.~~

~~c. Notarized written consent from a manager or business owner allowing patrons to use the restroom if at location for an hour or more, if food sold is to be consumed on-site and seating arrangements are provided on site by the applicant.~~

~~(4) Required documentation.~~

~~a. Copy of proof of insurance.~~

~~b. Copy of sales tax permit if satisfactory verification is provided at the time of application or promptly thereafter that Webster, Texas, shall be reported for all sales by applicant in Webster, Texas.~~

~~c. Menu of food items to be sold.~~

~~d. Notarized contract between mobile food truck owner and commissary stating the obligations for both parties.~~

~~e. Copy of the commissary's permit and last inspection.~~

~~f. Copy of driver's license of any person who shall operate the mobile vehicle in question.~~

~~(e) *Special events:* A food truck may locate and operate on site or adjacent to the event site (with appropriate written consent of the sale site owner as called for herein) at a special event which is held by the City of Webster, but only during hours of the special event, and only, if the following conditions are satisfied;~~

~~(1) A valid city or county health medallion for the legal operation of a mobile food-truck within the State of Texas.~~

~~(2) An authorization location from the City of Webster for the event, if a temporary site location is needed by the applicant.~~

~~(Ord. No. 13-06, § 1, 4-2-13 ; Ord. No. 14-03, § 1, 4-1-14)~~

~~Editor's note(s)—Ord. No. 14-03, § 1, adopted Apr. 1, 2014, renumbered § 98-72 as § 98-73 to read as set out herein.~~

Secs. 98-73—98-80. – Reserved.

SECTION 2: That Chapter 10, Amusements and Entertainments, Article I, create Section 10-1. Special Event Permit of the Code of Ordinances, City of Webster, Texas be amended to read as follows:

~~Strikethrough~~ = Text to be deleted
Underline = Text to be added
All other text to remain as-is

Chapter 10 - AMUSEMENTS AND ENTERTAINMENTS[1]

*--- (1) --- **Cross reference**— Businesses, ch. 22.*

ARTICLE I. - IN GENERAL

Sec. 10-1. Special Event Permit

(a) **Definitions.**

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Applicant means any person who has filed a written application for a special event permit.

Carnival means an amusement park set up temporarily.

Chairperson means the individual responsible for conducting the special event.

Circus means a public entertainment with performances by acrobats, clowns and/or trained animals.

Closure means the time and equipment used to secure one street at one point from curb to curb.

Concert means a public musical performance in which a number of singers or singer, instrumentalists, or disc jockey perform that draw a significant crowd.

Disc Jockey means a person who selects, plays or announces music at a gathering.

Farmer means a person or entity that produces agricultural products including, but not limited to, fruits, vegetables, fungi, grains, fiber, honey, dairy products, meat, poultry, or eggs, by practice of the agricultural arts upon land that the person or entity owns, rents, leases, or to which the person or entity otherwise has access.

Farmer's Market means a designated location used for a recurring event at which a majority of the vendors are farmers or other food producers who sell food directly to consumers.

Festival means a period or program of activities, cultural events, or entertainment.

Food Producer means a person who grew, raised, processed, prepared, manufactured, or otherwise added value to the food product the person is selling. The term does not include a person who only packaged or repackaged a food product.

Mass Gathering means any meeting or gathering held at one specific location within the city limits, wherein anyone in attendance at the meeting or gathering is or is not expected

to be within a permanent structure and which attracts or can be expected to attract persons who will remain at the location of the meeting or gathering for a period of time.

Mobile Food Unit means motorized, a self-propelled food establishment or a trailer or vehicle towed by a motorized vehicle, that is readily movable, and which typically operates at a remote location.

Nonprofit Event means a fundraising event planned, organized, promoted, managed, and held wholly by a legitimate nonprofit 501(c) (3) corporation, whereby all proceeds raised during the event will benefit the sponsoring agency.

Person means any individual, assumed name entity, partnership, association, corporation or organization.

Special Event means an occurrence which takes place on a periodic or special occasion, wholly or partly on the city's rights-of-way, public property or private property, which may cause interruption of regular activities of the citizens when the needs of traffic, parking, restrooms, crowds, zoning, etc. exceed the original design and intent of the site or location or may require the special attention and involvement of city personnel or facilities. Examples of such activities are, but not limited to, nonprofit fundraising events, tent sales, parking lot sales, political rallies, car shows, boat shows, block parties, farmer's market, event cookouts by restaurants or retail/commercial businesses, disk jockey other than at a permitted dance hall, festival, any event determined by the City of Webster to qualify as a special event not specifically mentioned herein, closing of a public street, and blocking or restriction of public property where otherwise may be prohibited by this Code or any other code adopted by the city.

Special Event Permit means an official document issued by the City of Webster authorizing performance of a special event which shall only be valid for the duration of the event.

Supervised Event means the critical watching or overseeing of a special event by a public law enforcement agency, security company or responsible adult officer(s) or agent(s) of the nonprofit agency sponsoring event, as approved by the Chief of Police.

(b) **Intent.**

The intent of this chapter is to provide requirements to safeguard life or limb, health, property, public safety and welfare by regulating and controlling the location, duration, hours of operation and quality of materials and appurtenances for specific events within the city.

(c) **Application for permit.**

a. Any person or organization who wants to conduct a special event shall apply to the City of Webster for a permit at least 30 days in advance of the date of the proposed special event. The City Manager may, in his or her discretion, consider any application for a permit to conduct a special event which is filed less than 30 days prior to the date such special event is to be conducted. The application for such permit shall be made in writing on a form approved by the City Manager. In order that adequate arrangements may be made for the proper policing, sanitation and overall public safety of the special event, the application shall contain the following information:

i. The name of the applicant, the sponsoring organization, the special event chairman and the addresses and telephone numbers of each;

ii. The purpose of the special event, the date when it is proposed to be conducted, the location of the assembly area, the location of the disbanding area, the route to be traveled and the approximate time when the special event will assemble, start and terminate. Street closings must be approved by the City Council prior to issuance of permit;

iii. A brief description of the type and number of individual floats, marching units, vehicles, bands and/or boats, including a description of any sound amplification equipment to be used;

iv. A map indicating the route of the special event;

v. What portions of streets to be traversed or occupied by such special event;

vi. The maximum length of such special event in miles or fractions thereof;

vii. The disbanding area and disbanding time;

viii. The number of persons and vehicles required to monitor the special event;

(d) **Issuance or denial of permit**.

a. Standards for issuance. The City Manager or designee shall issue a special event permit conditioned upon the applicant's written agreement to comply with the terms of such permit.

b. Standards for denial. The City Manager or designee shall deny an application for a special event and notify the applicant of such denial where:

i. The City Manager or designee makes any finding contrary to the findings required to be made for the issuance of a permit;

ii. The information contained in the application is found to be false or nonexistent in any material detail;

iii. The applicant refuses to agree to abide by or comply with all conditions of the permit.

(e) **Appeal Procedure**

a. Upon a denial by the City Manager of an application made pursuant to this Section, the applicant may appeal from the determination of the City Manager within 5 days thereafter to the City Council by filing a written notice of appeal for hearing by the City Council at its next meeting. Upon such appeal, the City Council may reverse, affirm or modify in any regard the determination of the City Manager.

b. In the event an application is not filed within the required time, as specified in this Section, the applicant may request a waiver of such requirement by the City Council at its next regular meeting, or at a special meeting which may be called prior thereto by said City Council to consider such matter, and the City Council, if it finds unusual circumstances and in the exercise of its sound discretion, may waive such requirement.

(f) **Revocation of permit.**

Any permit for a special event issued pursuant to this chapter may be summarily revoked by the City Manager at any time when by reason of disaster, public calamity or other emergency the City Manager determines that the safety of the public or property requires such revocation. Notice of such action revoking a permit shall be delivered in writing to the permittee by personal service or by certified mail.

(g) **Events exempt from permit.**

a. A special events permit will not be required for the following:

i. City-sponsored events;

ii. Private party when private property is used and the event does not infringe on the rights of others;

iii. Church-sponsored and supervised events when church property is used;

iv. Clear Creek Independent School District-sponsored and supervised events when school property is used;

v. Tent sales, truck load sales and promotions when private property is used and the activity/event is not otherwise prohibited by ordinance;

vi. Funeral procession;

vii. Weddings and wedding receptions when private or church property is used;

viii. Grand Openings or Ground Breaking events for businesses; and

ix. Construction projects.

b. Exemption from permit shall not be deemed to grant authorization for any special event to be held in violation of the provisions of this subchapter or any other laws, ordinance's or codes of the city.

c. Nothing in this subchapter shall be construed to waive any other requirement for separate plumbing, electrical, mechanical, health and fire prevention related permits when these trades are applied.

(h) **Expiration.**

Every permit issued under the provisions of this subchapter shall expire by limitation and become null and void if the special event authorized by such permit is not held on the permitted date. In order to renew after this expiration, the applicant shall pay a new full permit fee.

(i) **Fees.**

The fees for each special event permit shall be as set forth below:

a. Special events: $100.00

b. Local nonprofit organizations shall be exempt from special event permit fee.

(j) **Mobile Food Unit.**

A Mobile Food Unit(s) will have to meet the following requirements if it is participating in a special event:

(a) *General regulations.*

(1) All Mobile Food Units shall be inspected on site at City Hall located at 101 Pennsylvania Avenue Webster, Texas, and approved, by the Building Division of City of Webster prior to participating in a special event.

(2) All Mobile Food Units shall comply with the current, and future editions of the International Building Codes (IBC), and all applicable state and local laws, including the requirements of this article, except as otherwise provided in this section. The provisions of this section shall be enforceable the Building Division of the City of Webster.

(3) There will be no permitting or inspection fees for a Mobile Food Unit to participate in a special event; however, compliance with the regulations as contained herein shall be required.

(4) The Special Event application shall include, but not limited to, the Mobile Food Unit's owners full name, post office address and street address, phone number and email address.

(5) National Fire Protection Association (NFPA) and International Fire Code (IFC) standards and requirements shall apply, including future editions, for Mobile Food Unit inspections.

(6) Mobile Food Units shall be allowed at events as defined in Section 202 of this chapter.

(7) Discontinuance of current permitted Food Trucks and Mobile Food Units.

(a) All current Mobile Food Units or Food Trucks that have a valid Food Dealer Permit from the City of Webster may continue to operate until April 3, 2023 at which time that permit will be deemed null and void and will be discontinued and may not be renewed.

(b) Henceforth, after April 3, 2023 Food Dealer Permits shall be withdrawn as acceptable permits within the City of Webster. On April 3, 2023 a Mobile Food Unit or Food Truck will not be allowed to apply for a Food Dealer Permit and all pending Food Dealer Permits shall be deemed permanently discontinued.

(b) *Health requirements:*

(1) All Mobile Food Units shall have to satisfy the local and state health and safety requirements as all other restaurants within the City of Webster in order to protect public interest and health of the patrons.

(2) A valid local jurisdiction (city or county) health permit for the legal operation of the Mobile Food Unit within the State of Texas shall be required.

(3) Food prepared in a private home shall not be used or offered for human consumption from a Mobile Food Unit. Food products must comply with all labeling laws.

(4) Mobile Food Units shall operate from a commissary or other fixed food service establishment and shall report at least daily to such location for all supplies and for all cleaning and servicing operations. A letter from the commissary shall be required at the time of permit application.

(5) The City of Webster may impose additional requirements to protect against health hazards related to the conduct of Mobile Food Units and may prohibit the sale of potentially hazardous foods.

(6) The operator of a Mobile Food Unit must have and post in a conspicuous place in plain view of the public at all times a current food manager certificate.

(7) A Mobile Food Unit shall must have at least a three-compartment sink and shall be convenient for use by employees and properly provisioned as required in the Texas Food Establishment Rules (TFER).

(8) Every Mobile Food Unit must have a separate hand wash sink.

(9) Every Mobile Food Unit must be readily identifiable by business name, printed, permanently affixed, and prominently displayed upon at least two sides of the units.

(10) Mobile Food Units shall provide only single-service articles for use by the consumer.

(11) A Mobile Food Unit shall have a potable water system under pressure. All water used in connection with the Mobile Food Unit shall be from sources approved by the health officer. The water system shall include a potable water tank of not less than 30 gallons capacity for conventional Mobile Food Units. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitization, and hand-washing, in accordance with the requirements of this article.

(c) *Submittal requirements:*

(1) Required plans for special event permit.

a. Elevations of the Mobile Food Unit.

b. Floor plan showing the configuration of the Mobile Food Unit: including such items as sinks, preparation area, refrigerator, gas stove, entrances and exits.

d. Plumbing schematic.

e. Electrical schematic.

f. Gas schematic (If used).

g. Site plan of the property indicating the location of the Mobile Food Unit(s).

(2) Required documentation.

a. Menu of food items to be sold.

b. Notarized contract between mobile food truck owner and commissary stating the obligations for both parties.

c. Copy of the commissary's permit and last inspection.

e. All other information or documentation deemed necessary by the City of Webster.

(k) **Requirements.**

All special events shall comply with the following requirements unless specific exemptions are noted on the special event permit.

a. When required, the Public Works Department will provide all required barricading for street closures. Any request for street closures must be accompanied by a Traffic Control Plan sealed by a Professional Engineer, licensed in the state of Texas.

b. When required, all owners of property abutting a special event location shall be notified in writing by the applicant of any upcoming event that may by scope and nature impact such owners.

c. Applicants shall submit evidence of adequate parking. Parking on property not owned by the applicant shall require a written agreement signed by the legal owner of the property.

d. Amusement rides and/or attractions associated with special events shall comply with statutory rules and regulations set forth in the Texas Occupations Code, designated as Amusement Ride Safety Inspection and Insurance Act. Acceptable proof of a "Ride Safety Certification Inspection Report," issued within six months of the time the amusement rides and/or attractions are to be provided the city.

e. Special events that include the use of tent(s), canvas material or any temporary structures shall comply with the requirements as set forth in the Fire and Building Codes as contained herein and as adopted by the city. When required, fire lanes

shall be provided and maintained and the site shall be maintained in such manner that fire hazards are not created.

f. Where food service is provided, such service shall be in self-contained units or in a manner as specified by the Texas Department of State Health Services.

g. Sufficient number of sanitary facilities shall be provided on the premises as determined by estimate of guests or participants.

h. Animals shall not be kept closer than 300 feet to any residential use districts or commercial use districts during nonoperating hours of such event. Waste from animals shall be removed daily from the premises.

i. When required, provisions for purchase of city water shall be made through the designated city office.

j. Provisions for the disposal of solid waste shall be required for all outdoor special events.

k. An applicant for a special events permit, when such special event is to be held on public property as defined herein, and circuses or carnivals held on private property shall furnish the city with a certificate of public liability insurance, with the city as an additional named insured before such special events permit is issued. The certificate shall serve as evidence of a policy written by a company licensed in the State of Texas. The policy is to be in effect for the duration of the event, with minimum limits of liability of $250,000.00 per person and $500,000.00 per occurrence for bodily injury or death and $100,000.00 for property damage per occurrence.

   Exception: The provisions stated above shall not apply to private parties that will not be open to the general public.

l. An applicant for any special events permit shall sign an agreement to indemnify and hold harmless the city, its officers, employees, agents and representatives against all claims and liability in causes of action resulting from injury or damage to persons or property arising out of the special event.

(l) **Prohibitions.**

a. Safe and orderly movement of normal traffic shall not be substantially interrupted. ("Substantially interrupted" shall be determined by the city.)

b. The event shall not impede the safe movement of emergency vehicles such as firefighting equipment or ambulances.

c. An event shall not conflict in time or location with any other event for which a permit has been issued.

d. It is unlawful for a person to use or cause to be used any loudspeaker, loudspeaker system, sound amplifier, or any other machine or device that produces, reproduces, or amplifies sound outside of a building or enclosed structure or causes sounds produced, reproduced, or amplified within a building or enclosed structure to exceed 85 decibels as specified in Texas Penal Code, § 42.01 when measured, without first obtaining a permit to do so.

(m) **Restrictions.**

a. An event may not require the assignment of so great a number of police, ambulances or firefighting equipment that normal emergency services could be hindered.

b. The concentration of people, vehicles and animals at assembly points for any event may not unduly interfere with fire and police protection or ambulance service to areas near such assembly points.

c. The city may prohibit or restrict parking when in the opinion of the City Manager or his or her designee it is reasonable and necessary.

Secs. 10-2—10-25. Reserved.

SECTION 3: That it is hereby found and declared that the City has complied with all of the statutory requirements concerning notice and hearing of the proposed amendments.

SECTION 4: That if any provisions, section, exception, subsection, paragraph, sentence, clause or phrase of this ordinance or the application of same to any person or set of circumstances, shall for any reason be held unconstitutional, void, or invalid, such invalidity shall not affect the validity of the remaining provisions of this ordinance or their application to other persons or sets of circumstances and to this end all provisions of this ordinance are declared to be severable.

SECTION 5: That all ordinances or parts of ordinances inconsistent with the terms of this ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this ordinance.

SECTION 6: That this Ordinance shall become effective after its approval and adoption upon second and final reading.

PASSED AND APPROVED on the first reading this 20th day of December 2022.

PASSED, APPROVED AND ADOPTED on the second and final reading this day 3rd of January 2023.

CITY OF WEBSTER, TEXAS

Donna Rogers, Mayor

Michael Muscarello, TRMC
City Secretary

WEBSTER LINKED TO THE FUTURE TEXAS