

ORDINANCE NO. 8115

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMARILLO, TEXAS: AMENDING THE AMARILLO MUNICIPAL CODE, CHAPTER 8-5, TO ELIMINATE THE SEASONAL PUBLIC/SEMI-PUBLIC POOL, SPA, OR PIWF PERMIT, TO ELIMINATE THE REQUIREMENT FOR CERTIFIED FOOD MANAGERS AND CERTIFIED POOL TECHNICIANS TO REGISTER THEIR CERTIFICATIONS WITH THE ENVIRONMENTAL HEALTH DEPARTMENT, AND TO DOG-FRIENDLY PATIO REGULATIONS ALREADY CONTAINED IN STATE LAW; AND AMENDING CHAPTERS 8-5, 14-6, AND 4-10 TO FURTHER CLARIFY REQUIREMENTS FOR MOBILE FOOD UNITS AND TO ALLOW MOBILE FOOD UNITS TO OPERATE IN THE PUBLIC RIGHT-OF-WAY IN CERTAIN SITUATIONS; PROVIDING FOR SEVERABILITY, REPEALER, CONTINUATION OF PRIOR LAW, PENALTY, PUBLICATION, AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Amarillo desires to simplify the Public/Semi-public pool, spa, or PIWF permit program to no longer offer a Seasonal permit and to offer only an Annual permit; and

WHEREAS, under current City Ordinance, a food manager who holds a state-issued food manager certificate must register that certification with and pay a fee to the Environmental Health Department, but the 88<sup>th</sup> Regular Session of the Texas Legislature passed SB 577, which prohibits that requirement; and

WHEREAS, the City Council of the City of Amarillo desires to eliminate a similar local requirement for certified pool technicians; and

WHEREAS, the allowance of and requirements for dogs in outdoor dining areas is governed by state law and no longer may be regulated by city ordinance; and

WHEREAS, the City Council of the City of Amarillo desires to clarify the Mobile Food Unit requirements and allow Mobile Food Units to operate in the public right-of-way in certain situations;

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

**SECTION 1.** The Amarillo Municipal Code, Chapter 8-5, Article IV, Section 8-5-16 be and hereby is amended as follows:

**Sec. 8-5-16 – Permits required; nontransferable; term; other.**

(a) *Permits required.*

(1) [NO TEXT CHANGE]

(2) [NO TEXT CHANGE]

(3) [NO TEXT CHANGE]

(4) Entities that possess a Food Manufacturing License from the Texas Department of State Health Services must also obtain a Food Establishment Permit from the City of Amarillo. All USDA and State of Texas Meat and

Poultry inspected meat processing facilities are exempted from Amarillo Area Public Health District permitting requirements if the facility does not have a retail component which will require permitting under this chapter.

(5) No person shall modify the structural integrity of a pool or pool equipment from the original or approved design without a permit. This section does not apply to or require a permit for the changing of filter media, hoses, trap covers, and similar routine pool maintenance and repair that does not require a licensed plumber, electrician, or pool contractor to perform.

(b) [NO TEXT CHANGE]

(c) Term. Unless sooner revoked or suspended, the term of the following permits shall be as stated:

(1) All Food Establishment and Annual Public/Semi-public pool, spa, or PIWF permits issued under this section shall remain in force for one (1) year from the date of application.

~~(2) All Seasonal Public/Semi-public pool, spa, or PIWF permits issued under this section shall be valid from March 1 to October 31.~~

~~(32) All On-Site Sewage Facility permits issued under this section shall remain in force for one (1) year from the date of issuance.~~

(d) [NO TEXT CHANGE]

(e) [NO TEXT CHANGE]

**SECTION 2.** The Amarillo Municipal Code, Chapter 8-5, Article IV, Section 8-5-18 be and hereby is amended as follows:

**Sec. 8-5-18. – Certificate; Food Manager, Pool Technician.**

~~(a) It shall be unlawful for any food establishment to operate for a period of thirty (30) days or more without a valid Certified Food Manager registered with the Environmental Health Department. Every permitted establishment must have at least one (1) individual certified and registered annually. The Director of Environmental Health may modify the requirements of this section based upon the permitting structure or type of food service provided at the licensed facility.~~

~~(1) A Food Manager's registration will be issued to any person who:~~

~~a. — Completes a course of study and obtains a current, valid certificate of any course recognized by the Texas Department of State Health Services as an accredited Food Managers Course.~~

~~b. — Pays the required annual registration fee.~~

~~(2) — A course of study for a Food Manager's certificate will be offered once each month or as determined by the Director of Environmental Health or designee.~~

~~(3) — A Food Manager's registration that is not renewed prior to its annual expiration shall be revoked.~~

(ba) A Certified Food Manager with a valid certification must be present at the food establishment during all hours of operation as required in the Food Code. Food establishments with an assigned risk level of one (1) or two (2) are deemed low risk and are exempted from this requirement if the following provisions are met:

(1) At least one (1) supervisory employee is certified as a Food Manager and is registered with the Environmental Health Department.

(2) All other food employees have successfully completed an accredited food handler training course within thirty (30) days of employment and the certification is kept valid.

(b) The Environmental Health Department will offer a Certified Pool Technician (CPT) course that will meet the operator training and certification requirement found in 25 Texas Administrative Code § 265.194 as an equivalent course that requires testing and provides certification. The CPT course and certification are hereby valid within the Amarillo Area Public Health District.

~~(c) — It shall be unlawful for the operator of a Public or Semi-public Pool, Spa, or PIWF to operate for without conducting or causing to be conducted daily water quality monitoring by a Certified Pool Service Technician (CPT) or Certified Pool Operator (CPO) who is registered with the Environmental Health Department. Annually and sooner as needed for an amendment, the operator of a Public or Semi-Public Pool, Spa or PIWF location shall report to the Environmental Health Department the name of the Certified Pool Service Technician or Certified Pool Operator.~~

~~(1) — A CPT or CPO registration will be issued to any person who:~~

a. ~~Completes a course of study and obtains a current, valid certificate. The following Certified Pool Operator certifications will be accepted by the Department: NRPA "Aquatic Facility Operator", PHTA "Certified Pool Operator", ASPSA "Licensed Aquatic Facility Technician", or other equivalent certification with Department approval.~~

b. ~~Pays the required annual registration fee.~~

(2) ~~A course of study for a Certified Pool Technician and Certified Pool Operator will be offered from May through October as determined by the Director of Environmental Health or designee.~~

(3) ~~A CPT or CPO registration that is not renewed prior to its annual expiration shall be revoked.~~

**SECTION 3.** The Amarillo Municipal Code, Chapter 8-5, Article IV, Section 8-5-19 is hereby is amended as follows:

**Sec. 8-5-19. – Application and Variance procedures.**

(a) [NO TEXT CHANGE]

(b) [NO TEXT CHANGE]

(c) [NO TEXT CHANGE]

(d) [NO TEXT CHANGE]

(e) [NO TEXT CHANGE]

(f) [NO TEXT CHANGE]

(g) ~~Variance for establishments seeking to permit dogs in outdoor eating area. Pursuant to Texas Health & Safety Code section 437.025, a variance is automatically granted for an establishment pursuant to the following regulations. In the event of an amendment to state law or a discrepancy between this ordinance and state law, state law shall control:~~

(1) ~~A food service establishment may permit a customer to be accompanied by a dog in an outdoor dining area if:~~

a. ~~the establishment posts a sign in a conspicuous location in the area stating that dogs are permitted;~~

- ~~b. the customer and dog access the dining area directly from the exterior of the establishment;~~
- ~~c. the dog does not enter the interior of the establishment;~~
- ~~d. the customer keeps the dog on a leash and controls the dog;~~
- ~~e. the customer does not allow the dog on a seat, table, countertop, or similar surface; and~~
- ~~f. in the dining area, the establishment does not prepare food or permit open food other than food that is being served to a customer.~~

~~(2) The regulations in subsection (1) do not apply to a service animal as defined in state law.~~

**SECTION 4.** The Amarillo Municipal Code, Chapter 8-5, Article IV, Section 8-5-21 be and hereby is amended as follows:

**Sec. 8-5-21. – Additional Requirements for Food Establishments and Vended Water or Ice.**

- (a) [NO TEXT CHANGE]
- (b) [NO TEXT CHANGE]
- (c) Mobile Units requirements:
  - (1) [NO TEXT CHANGE]
  - (2) [NO TEXT CHANGE]
  - (3) In accordance with the Texas Food Establishment Rules, 25 Texas Administrative Code § chapter 228.221(a)(1), Mobile Food Units, determined to be completely self-sufficient and compliant by the Environmental Health Officer, may operate without a Central Preparation Facility/Commissary. If it is determined a Central Preparation Facility/Commissary is required, a separate Food Establishment permit for the Central Preparation Facility/Commissary shall be obtained before the Mobile Food Unit permit may be issued. A Central Preparation Facility/Commissary shall meet all minimum requirements in the Texas Food Establishment Rules and City ordinance. ~~Have at least the following: floors, walls, and ceilings, three (3) compartment sink, handwashing sink~~

~~with hot/cold running water under pressure and a service sink or curbed cleaning facility.~~

(4) [NO TEXT CHANGE]

(5) All Mobile Food Units must meet all of the following requirements related to location:

a. Must obtain and provide written approval from the property owner, if located on private property;

b. [NO TEXT CHANGE]

c. [NO TEXT CHANGE]

d. [NO TEXT CHANGE]

e. Must comply with all zoning ordinances for Mobile Food Units or Mobile Ice-Cream/Frozen Dessert Vehicles, as applicable; If the Mobile Food Unit has been located in the same location for more than ninety (90) days, the MFU shall be treated as a long term use, and therefore must comply with adopted site development requirements, including but not limited to:

i. ~~— Parking requirements such as dimensions drive lanes, off-street location, and number of spaces;~~

ii. ~~— Zoning requirements such as allowed usage in the zoning district and performance standards;~~

iii. ~~— Site improvements such as paving, landscaping, screening, and signage; and,~~

iv. ~~— Any other requirements deemed necessary by the Environmental Health Officer;~~

f. [NO TEXT CHANGE]

g. [NO TEXT CHANGE]

h. A Mobile Food Unit may operate from a public right-of-way as long as the unit is at least 300 feet from the property line of any permanent structure being operated as a Food Establishment;

i. Mobile Food Units operating from a public right-of-way may only serve curbside, or the side opposite of vehicular traffic, and may not impede traffic (pedestrian or vehicular) in any way.

(6) [NO TEXT CHANGE]

(7) [NO TEXT CHANGE]

(8) [NO TEXT CHANGE]

(9) [NO TEXT CHANGE]

(10) A Mobile Food Unit shall not make a connection to a permanent water supply longer than necessary to fill the Mobile Food Unit's permanently installed potable water tank(s).

(11) A Mobile Food Unit shall not make a connection to a wastewater collection system longer than necessary to discharge the Mobile Food Unit's permanently installed wastewater tank(s).

(12) A Mobile Food Unit shall not permanently connect to a power source that would prevent or otherwise reduce it being readily moveable.

(d) [NO TEXT CHANGE]

**SECTION 5.** The Amarillo Municipal Code, Chapter 8-5, Article IV, Section 8-5-23 be and hereby is amended as follows:

**Sec. 8-5-23. - Other enforcement.**

(a) [NO TEXT CHANGE]

(b) However, to better protect the public health and safety, a violation of a regulation listed below, within the City limits of Amarillo, may be enforced by any on-duty peace officer by either a class "C" misdemeanor citation or custodial arrest upon viewing an offense described in these listed regulations:

(1) Amarillo Municipal Code of Ordinances, section 8-5-21(c)(5), the requirement of written permission of private property owner for mobile food unit;

(2) Amarillo Municipal Code of Ordinances, section 4-6-182, the prohibition on displaying or selling goods, wares or merchandise or to serve or permit to be served any kind of food or drinks in or upon any Street, Sidewalk or Alley;

(32) ~~Title 37 Texas Administrative Code, Part 128, Rule 228.174(e)(1-5) 2017~~  
Food and Drug Administration Food Code section 6-202.15, the requirement that food establishments have and use tight-fitting closed exterior doors and windows, subject to the further exemptions and provisions of such regulations.

Further, this subsection (b) is enacted with the express intent that should there be any recodification, renumbering, amendment, or successor enactment to any ordinance, statute, or regulation cited herein, then such renumbered, re-codified, or amended provision is deemed to be listed here and is enforceable as though it were listed here, until such time as this subsection may itself be amended to reflect such recodification, renumbering or amendment of a listed ordinance, statute or regulation.

**SECTION 6.** The Amarillo Municipal Code, Chapter 4-6, Article IV, Section 4-6-182 be and hereby is amended as follows:

**Sec. 4-6-182. – Prohibited activities and uses on public right-of-way.**

The following activities, uses, conditions or occurrences on the Public Right-of-Way shall be deemed unlawful:

- (1) [NO TEXT CHANGE]
- (2) [NO TEXT CHANGE]
- (3) [NO TEXT CHANGE]
- (4) [NO TEXT CHANGE]
- (5) To display and sell goods, wares or merchandise ~~or to serve or permit to be served any kind of food or drinks~~ in or upon any Street, Sidewalk or Alley, except as allowed by section 8-5-21 of this Code;
- (6) [NO TEXT CHANGE]
- (7) [NO TEXT CHANGE]

**SECTION 7.** The Amarillo Municipal Code, Chapter 14-6, Article II, Division I, Section 14-6-18 be and hereby is amended as follows:

**Sec. 14-6-18. – Street peddlers.**



No person shall peddle or in any manner sell, barter or exchange, or offer to sell, barter or exchange any goods, wares, merchandise, groceries, patent medicines or nostrums of character upon any Street, Sidewalk, Alley or other public ground unless issued a Food Establishment permit under section 8-5-16 of this Code.

**SECTION 8.** The Amarillo Municipal Code, Chapter 4-10, Article IV, Division 1, Section 4-10-82, Table I is hereby amended to add two uses as follows:

| Type Use                                      | SIC Code     | A | R-1 | R-2 | R-3 | MD | MF-1 | MF-2 | MH | O-1 | O-2 | NS | GR | LC | CB | HC | I-1 | I-2 |  |
|---|--------------|---|-----|-----|-----|----|------|------|----|-----|-----|----|----|----|----|----|-----|-----|--|
| <b>I – RETAIL AND RELATED SERVICE USES</b>    |              |   |     |     |     |    |      |      |    |     |     |    |    |    |    |    |     |     |  |
| Liquor Store                                  | (72) 5921    |   |     |     |     |    |      |      |    |     |     |    |    |    |    |    |     |     |  |
| Medical Appliances-Fitting, Sales, or Rentals | 7352         |   |     |     |     |    |      |      |    |     | S   |    |    |    |    |    |     |     |  |
| Mobile Food Unit                              | (96) 5610    |   |     |     |     |    |      |      |    |     |     |    |    |    |    |    |     |     |  |
| Mobile Ice-Cream/Frozen Dessert Vehicles      | (97) 5610    |   |     |     |     |    |      |      |    |     |     |    |    |    |    |    |     |     |  |
| Morgue, Mortuary, or Ambulance Service        | 4119<br>7261 |   |     |     |     |    |      |      |    |     | S   |    |    |    |    |    |     |     |  |

*(Note to codifier: "Mobile Food Unit" is a permitted use (shown by gray shading) within the Office District 1 (O-1), Office District 2 (O-2), Neighborhood Service (NS), General Retail (GR), Light Commercial (LC), Central Business (CB), Heavy Commercial (HC), Light Industrial (I-1), Heavy Industrial (I-2), and Planned Development (PD) zoning districts. "Mobile Ice-Cream/Frozen Dessert Vehicle" is a permitted use (shown in gray shading) within all zoning districts.)*

**SECTION 9:** The Amarillo Municipal Code, Chapter 4-10, Article IV, Division 1, Chapter 4-10-83(a) be and hereby is amended in part to add the following definitions:

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**(96) Mobile Food Unit:** A vehicle-mounted, self or otherwise propelled, self-contained food service operation designed to be readily moveable (including catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, service, or sell food. A MFU must completely retain its mobility at all times. An

MFU does not include a stand or a booth. A roadside vendor is classified as an MFU. MFUs do not include restaurant delivery and catering vehicles or preordered home delivery services. MFUs must be licensed and meet the presentation standards contained in section 4-10-295 of this Code.

(97) *Mobile Ice-Cream/Frozen Dessert Vehicle:* A Mobile Food Unit that serves exclusively prepackaged frozen dessert products. Mobile Ice-Cream/Frozen Dessert Vehicles must be licensed and meet the presentation standards contained in section 4-10-295 of this Code.

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**SECTION 10:** The Amarillo Municipal Code, Chapter 4-10, Article V, Division 8 is amended to add a new Section 4-10-295 to read as follows:

**Sec. 4-10-295. - Performance Standards for Mobile Food Units.**

- (a) *License Required.* All Mobile Food Units must be licensed by the Environmental Health Department as a Food Establishment and shall meet all of the requirements of section 8-5-21 of this Code.
- (b) *Lighting.* Exterior lighting must be hooded or shielded so that the light source is not directly visible to a residential use.
- (c) *Signs.* A Mobile Food Unit is limited to signs attached to the exterior of the mobile unit. The signs must:
  - (i) Be secured and mounted flat against the Mobile Food Unit; and
  - (ii) Not project more than 6 inches from the exterior of the Mobile Food Unit.
- (d) *Trash.* During business hours, the Mobile Food Unit shall provide a trash receptacle for use by customers, and the area around the Mobile Food Unit must be kept clear of litter and debris.

**Secs. 4-10-295~~6~~—4-10-325. - Reserved.**

**SECTION 11. Severability.** If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance or the application thereby shall remain in effect, it being the intent of the

City Council of the City of Amarillo, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

**SECTION 12. Repealer.** Subject to the provision in Section 13 (Continuation of Prior Law), all ordinances, parts of ordinances resolutions and parts of resolutions in conflict with this ordinance are hereby repealed to the extent of conflict with this ordinance.

**SECTION 13. Continuation of Prior Law.** That nothing in this ordinance (or any code adopted herein) shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this ordinance; no shall any just, vested, or legal right or remedy of any character be lost, impaired, or affected by this ordinance.

**SECTION 14. Penalty.** A violation of this ordinance is a health and safety offense punishable as a health and safety violation, in accordance with Section 1-1-5 of this Code of Ordinances.

**SECTION 15. Publication.** This ordinance shall be published as required by law.

**SECTION 16. Effective Date.** This ordinance shall become effective ten (10) days after the date of its second publication as required by the Charter of the City of Amarillo.

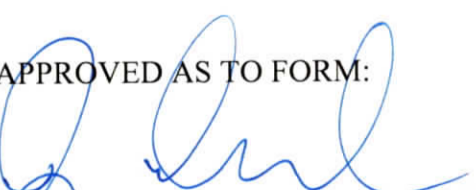
**INTRODUCED AND PASSED** by the City Council of the City of Amarillo, Texas, on First Reading this the 24th day of January, 2024; and **PASSED** on Second and Final Reading the 13th day of February, 2024.

  
\_\_\_\_\_  
Cole Stanley, Mayor

ATTEST:

  
\_\_\_\_\_  
Stephanie Coggins, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bryan S. McWilliams, City Attorney