

ORDINANCE NO. 2026-02

AN ORDINANCE OF THE PORT ARANSAS CITY COUNCIL OF THE CITY OF PORT ARANSAS, TEXAS AMENDING CHAPTER 12, "LICENSES AND BUSINESS REGULATIONS," ARTICLE III "FOOD ESTABLISHMENTS" BY ADDING SECTION 12-45 "MOBILE FOOD VENDING" TO ESTABLISH REGULATIONS SPECIFIC TO MOBILE FOOD VENDORS, INCLUDING OPERATIONAL CATEGORIES, SITE STANDARDS, PARKING, WASTE MANAGEMENT, RESTROOM AVAILABILITY, AND NOISE LIMITATIONS; AND PROVIDING FOR SEVERANCE, READING, AND EFFECTIVE DATE.

WHEREAS, the 89th Texas Legislature enacted House Bill 2844, codified in part in Chapter 437B of the Texas Health and Safety Code, establishing a statewide licensing framework for mobile food vendors; and

WHEREAS, House Bill 2844 preempts municipal ordinances that require local health licenses or permits to operate as a mobile food vendor, while preserving limited municipal authority to regulate land use, zoning, parking, traffic circulation, public safety, nuisance conditions, and the use of City owned property, to the extent permitted by state law; and

WHEREAS, the City of Port Aransas previously prohibited mobile food vendors with limited exceptions and now seeks to adopt regulations that are consistent with state law while providing clear, objective, and non-discriminatory standards governing where and how mobile food vendors may operate; and

WHEREAS, the City Council finds that reasonable site standards and operational regulations are necessary to protect public health, safety, and general welfare, minimize adverse impacts on surrounding properties, and ensure compatibility with existing development patterns; and

WHEREAS, the City Council further finds that administrative review of mobile food vendor locations and site conditions is necessary to ensure compliance with zoning, parking, sanitation, and nuisance standards, and that reasonable fees may be imposed to recover the cost of such administrative review; and

WHEREAS, the City Council intends for this ordinance to establish local site, zoning, parking, sanitation, utilities, nuisance, and operational standards that may be applied to mobile food vendors when the statewide mobile food vendor licensing framework under Chapter 437B of the Texas Health and Safety Code is in effect, and does not intend for this ordinance to create an independent local right to operate as a mobile food vendor in the absence of a valid state-issued mobile food vendor license or other state-authorized proof of eligibility to operate;

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

Section 1. AMENDMENT

That Chapter 12, "Licenses and Business Regulations," Article III "Food Establishments" is hereby amended to wit:

Sec. 12-45 MOBILE FOOD VENDING

The City Council finds that mobile food vendors are a lawful commercial activity regulated by the State of Texas and that local regulations are permitted to address land use compatibility, traffic and parking impacts, sanitation, utilities, noise, and public safety, to the extent allowed by state law.

The City Council further finds that mobile food vendors, if located or operated without appropriate site and operational standards, may create adverse impacts including inadequate parking, traffic congestion, obstruction of emergency access, improper waste handling, noise and lighting impacts, and conflicts with surrounding uses.

The purpose of this section is to establish clear, objective, and location-based standards governing the operation of mobile food vendors in a manner consistent with state law, to mitigate potential impacts on surrounding properties and the public, while allowing mobile food vendors to operate in appropriate locations throughout the City.

This section is adopted pursuant to the City's home rule authority and police powers and shall be interpreted and applied in a manner consistent with Texas House Bill 2844 and other applicable state laws.

Nothing in this section shall be construed to require a local license or permit to operate as a mobile food vendor or to regulate food preparation, food safety, or health inspections beyond what is expressly authorized by state law.

If any provision of this section is determined to conflict with state law, such provision shall be deemed limited to the extent necessary to avoid such conflict.

This section applies to all mobile food vendors operating within the City limits, whether on private or public property.

Compliance with this section does not relieve any person from compliance with zoning regulations, fire codes, building codes, special event regulations, or other generally applicable ordinances.

Sec. 12-46 Definitions

All terms not defined in this section shall have the meanings assigned by applicable state law, including definitions contained in Chapter 437B of the Texas Health and Safety Code.

Authorization means an administrative approval issued by the City confirming compliance with zoning, site, parking, sanitation, and operational standards. Authorization is not a license or permit to vend food.

City Public Vendor Concessionaire means a mobile food vendor authorized by City Council to operate on City owned property through a concession agreement or contract.

Mobile Food Vendor Multi-Vendor Site means a site designed or operated to accommodate more than one mobile food vendor at the same time. Also commonly referred to as a Food Truck Park.

Seating means tables, chairs, benches, picnic tables, or similar furnishings provided for customer use on site.

Site Operator means the property owner, lessee, or designated entity responsible for the overall operation, maintenance, and compliance of a Mobile Food Vendor Multi Vendor Site

State Mobile Food Vendor License means a mobile food vendor license issued by the Texas Department of State Health Services pursuant to Chapter 437B of the Texas Health and Safety Code, as amended, or any successor state licensing authority or licensing program established by state law.

Sec. 12-47. Mobile Food Vendor Authorization Required; Fees

No mobile food vendor shall operate within the City without first obtaining an annual site/location authorization from the Development Services Department.

Authorization shall be administrative in nature and shall be issued upon demonstration of compliance with the objective standards of this section and applicable zoning regulations.

Authorization does not automatically authorize food preparation, food sales, or alcohol sales and does not create a zoning entitlement.

As a condition of issuance and continued validity of any City administrative authorization under this section, the applicant shall provide proof of one of the following:

1. A valid State Mobile Food Vendor License for each mobile food vending unit proposed to operate within the City; or
2. During any state-authorized transition period, written documentation recognized by the Texas Department of State Health Services as sufficient to allow the mobile food vendor to operate while a State Mobile Food Vendor License application is pending.

No City administrative authorization shall be construed to authorize operation as a mobile food vendor unless the vendor is legally eligible to operate under applicable state law. If the state requirement for mobile food vendor licensure under Chapter 437B of the Texas Health and Safety Code is delayed, suspended, stayed, repealed, amended to postpone implementation, or otherwise made unenforceable by state statute, court order, state agency rule, or formal written state agency guidance, then any City authorization issued under this section shall be automatically stayed and shall not authorize operation unless and until the vendor demonstrates that operation is authorized under then-current state law.

An annual administrative authorization fee shall be required. The fee shall be established by resolution of City Council and shall be based on recovery of the City's administrative costs associated with review of authorization applications.

Authorization fees are not licenses or permits to vend food and do not include health or fire inspection fees.

The Administrator shall maintain a record of all Mobile Food Vendors authorized under this section for a period of two (2) years following the expiration of each authorization. The record shall include, at a minimum:

1. Name and contact information of the owner and, if different, the site operator
2. The approved operating location or locations
3. The authorization issuance date and expiration date
4. Sufficient identifying information for the mobile food vending unit, including make, model, color, license plate number, and any assigned permit or identification number

The Administrator shall provide a duplicate copy of the current record to the Port Aransas Police Department on the first business day of each month.

Sec. 12 48 Mobile Food Vendor Operational Categories

A. Mobile Food Vendors as a Primary Use on Private Property

- Mobile food vendors may operate as a primary use on private property only where permitted by zoning and upon obtaining an approved administrative authorization from the city. Authorization is limited to zoning, site, and operational compliance and does not regulate food preparation, food safety, or state licensed activities.
- Mobile food vendors operating under this subsection shall comply with all applicable provisions of Section 12-50, General Rules Applicable to All Mobile Food Vendors.

B. Mobile Food Vendors as a Secondary Use on Improved Private Property

- Mobile food vendors may operate on improved private property only where permitted by zoning and upon obtaining an approved administrative authorization from the city. Authorization is limited to zoning, site, and operational compliance and does not regulate food preparation, food safety, or state licensed activities.
- Mobile food vendors operating under this subsection shall comply with all applicable provisions of Section 12 -50, General Rules Applicable to All Mobile Food Vendors.

C. Mobile Food Vendor Multi-Vendor Sites

- Mobile Food Vendor Multi-Vendor sites are a distinct use and require separate city administrative authorization and may be subject to additional requirements as determined by the City Building Official, Fire Marshal, or City Engineer. Authorization is limited to zoning, site, and operational compliance and does not regulate food preparation, food safety, or state licensed activities.
- Mobile food vendors operating under this subsection shall comply with all applicable provisions of Section 12-50, General Rules Applicable to All Mobile Food Vendors, unless expressly modified by this subsection.
- A designated site operator shall be responsible for overall site compliance with this section, including but not limited to parking, circulation, sanitation, utilities, and general site maintenance.
- Any shared seating, customer areas, or common spaces shall be maintained by the site operator in a clean, safe, and orderly condition at all times.
- The number of mobile food vendors permitted on a multi vendor site may be limited through the administrative authorization process based on site size, parking availability, access, utilities, and other operational considerations.

D. City Public Vendor Concessionaires

- Mobile food vendors are prohibited from operating on City owned property unless authorized by City Council, the City Manager, or their designee through a concession agreement, authorization or contract.
- Mobile food vendors operating under this subsection shall comply with all applicable provisions of Section 12 50, General Rules Applicable to All Mobile Food Vendors, unless expressly modified by City Council, the City Manager or their designee.

E. Public or Institutional Property Uses

Mobile food vendors may operate on property owned or controlled by a public, governmental, or institutional entity, including but not limited to public schools, during special events upon administrative authorization.

Mobile food vendors operating under this subsection shall:

- Be limited to service primarily for students, staff, event attendees, or invited guests and shall not be open to the general public unless otherwise authorized;
- Utilize existing on-site parking and circulation infrastructure without requiring additional parking spaces, provided the administrator determines that the operation will not create off-site parking demand or unsafe traffic conditions;
- Comply with all applicable provisions of Section 12-50, General Rules Applicable to All Mobile Food Vendors, unless modified by the administrator based on the nature of the site and use; and
- Not operate within public rights-of-way or other areas not specifically authorized for such use.

The administrator may impose reasonable conditions related to hours of operation, location on site, traffic circulation, and safety to ensure compatibility with the primary use.

Sec. 12-49 Location of Mobile Food Vendors

- A. Mobile food vendors may operate only in zoning districts where such use is permitted pursuant to Chapter 25 of the Port Aransas Code of Ordinances. This section does not modify or expand zoning permissions. All zoning standards, including restrictions related to alcohol sales, shall apply.
- B. Mobile food vending operations shall be permitted only on private property, subject to compliance with all applicable zoning, parking, and operational requirements of this Code.
- C. Mobile food vending on public property, including but not limited to streets, rights-of-way, sidewalks, parks, and other City-owned property, is prohibited unless authorized through a valid City Public Vendor Concessionaire Agreement.
- D. The City may authorize mobile food vending on designated public property through a City Public Vendor Concessionaire Agreement. Such agreement shall establish the terms and conditions of operation, including but not limited to location, duration, hours of operation, utilities, insurance, indemnification, and any applicable fees.
- E. Nothing in this section shall be construed to create a right to operate on public property. Authorization to operate on public property is at the sole discretion of the City and may be granted, conditioned, or denied as deemed appropriate.
- F. All mobile food vendors operating under this section shall comply with all applicable federal, state, and local laws, including any requirements associated with state-issued licenses.

Sec. 12-50 General Rules Applicable to All Mobile Food Vendors

- A. Only one mobile food vendor shall be permitted per site unless the site is approved and authorized as a Mobile Food Vendor Multi-Vendor Site pursuant to this section.
- B. Each mobile food vendor shall provide parking in accordance with the requirements of Chapter 25, Section 25-158 "Off-Street Parking and Loading." Emergency access, fire lanes, and traffic circulation shall be maintained at all times.
 - 1. Notwithstanding the parking requirements of this section or Chapter 25, a mobile food vendor operating within a fully enclosed, controlled-access, or gated area of an existing principal use may utilize existing on-site parking without providing additional parking spaces, provided that:
 - a. The mobile food vendor is located entirely within the controlled-access or gated portion of the site and is not accessible to the general public independent of the principal use;
 - b. The administrator determines that the mobile food vendor is clearly incidental and subordinate to the primary use of the site;
 - c. The operation of the mobile food vendor does not create off-site parking demand, traffic congestion, or unsafe circulation conditions; and
 - d. Required parking for the principal use remains available and is not reduced below minimum code requirements.
 - 2. The administrator may impose reasonable conditions to ensure continued compliance with parking, circulation, and public safety standards.
- C. Mobile food vendor sites, including single vendor locations and multi vendor sites, shall provide safe and efficient vehicular and pedestrian access designed to minimize traffic conflicts, prevent vehicle stacking onto adjacent streets, and allow for safe ingress and egress under normal operating conditions. Sites should provide a minimum of two points of vehicular access; however, where two access points are not feasible due to site constraints, the applicant may propose an alternative access and circulation plan that demonstrates equivalent or improved traffic flow, safety, and accessibility. Alternative compliance may include shared access with adjacent properties, widened driveways to accommodate two way traffic, internal circulation and turnaround areas, or limitations on the number of vendors or intensity of use. All sites shall be designed to avoid vehicles backing into public rights of way and to maintain adequate access for emergency vehicles. The city may approve, conditionally approve, or deny proposed access and circulation plans through the administrative authorization process based on site specific conditions and compliance with

applicable city standards, and all access points shall comply with applicable city driveway standards and any required state regulations.

D. Restroom Facility Requirements

1. Restroom requirements are intended to address site and customer impacts and shall not be interpreted to regulate food preparation or health standards governed by state law.
2. Mobile Food Vendor Employees shall have access to restroom facilities at all times during operation. Employee restroom must be located no more than 200 feet from the Mobile Food Vending site.
3. Customer restroom facilities are required when seating is provided.
4. Restroom requirements shall be satisfied by one of the following methods:
 1. A written agreement with a restroom facility located within two hundred feet of the mobile food vendor site. Such agreement shall be submitted with the authorization application and maintained during operation
 2. An administrator approved ADA compliant restroom trailer located on site or within two hundred feet.
 3. Portable or screened portable restrooms are prohibited.

E. Trash and Refuse Management

1. Each mobile food unit shall provide at least one (1) trash receptacle for patron use. The receptacle shall have a minimum capacity of forty (40) gallons, be constructed of leak proof and non-absorbent material, and be equipped with a tight fitting or self-closing lid. The receptacle shall be placed within ten (10) feet of the unit during all hours of operation and maintained in a clean and sanitary condition. The operator shall be responsible for the proper and timely disposal of all collected waste and shall keep the site and adjacent areas free of litter at all times, including through sufficiently frequent waste collection and servicing. The city may approve alternative waste containment methods through the administrative authorization process upon a determination that such methods adequately control and prevent windblown litter and provide equal or greater protection than the standard receptacle requirements.
2. Multi vendor sites shall provide centralized waste collection facilities adequate to serve the number of vendors and anticipated patron demand. Individual mobile food units may be required to provide additional receptacles as determined by the city based on site conditions and operational intensity. Centralized waste facilities shall be conveniently located, accessible to patrons, and designed to prevent the dispersal of litter, including the use of covered, enclosed, or otherwise secured containers where necessary. The site operator shall be responsible for the maintenance, servicing, and timely removal of all

waste generated on site, including waste from individual vendors and patrons, and shall ensure the site and surrounding areas remain free of litter at all times. Waste collection areas shall be maintained in a clean and sanitary condition and screened or located as necessary to minimize visual and nuisance impacts. The city may require additional waste capacity, more frequent servicing, or enhanced containment measures based on the number of vendors, hours of operation, or observed site conditions, and may approve alternative waste management plans through the administrative authorization process upon a determination that such plans provide equal or greater protection against litter and windblown debris.

F. Water Utilities and Waste Requirements

- On site discharge of water or wastewater is prohibited.
- All operations shall comply with applicable state and environmental regulations.
- Adequate grease containment shall be provided and maintained. The site shall be kept in a clean and sanitary condition at all times.
- The Mobile Food Vendor shall provide with the Application for authorization an Approval Certificate from the Nueces County Water Control and Improvement District No. 4 (the "District") stating that the District approves the vendor's plan for disposal of water and wastewater as well as grease.
- Failure to dispose of water and wastewater as well as grease in the manner approved by the District shall be grounds for suspension of the vendor's authorization.

G. Electrical power for mobile food vending operations shall be provided through permanent or temporary electrical connections that comply with all applicable building, electrical, and fire codes.

1. The use of combustion powered generators is strongly discouraged and shall be subject to the following requirements:
 - a. Generators shall comply with all applicable fire code requirements, including fuel storage, placement, and clearance from structures.
 - b. Generators shall not create excessive fumes or odors that adversely impact adjacent properties or the public right of way.
 - c. Generators shall comply with the noise regulations set forth in Chapter 10, Section 10-55 of this Code.
 - d. Generators shall not be operated in a manner that constitutes a public nuisance or safety hazard.
 - e. The City may prohibit or require removal of any generator that does not comply with these standards.

H. Mobile food vendors shall comply with all setback requirements:

- 1. The setback from the front lot line shall be a minimum of twenty (20) feet**
- 2. The setback from the side lot line shall be a minimum of five (5) feet**
- 3. On the side of a corner lot which abuts a street, the minimum setback from the side lot line adjacent to such street shall be fifteen (15) feet**
- 4. The setback from the rear lot line shall be a minimum of ten (10) feet. On lots where the rear lot line abuts on a street (double frontage), the rear setback shall be twenty (20) feet, if through a plat note, the rear of a double frontage property prohibits driveway access then the rear setback shall be fifteen (15) feet. On lots where the rear lot line abuts an alley, the setback shall be ten (10) feet.**

I. Nuisance and Operational Compliance: Mobile food vendors shall comply with all applicable City ordinances regulating noise, lighting, odor, smoke, vibration, signage, and visual impacts.

Sec. 12-51 Mobile Food Vendor Alcohol Sales

- **Alcohol sales by mobile food vendors are permitted only where allowed by zoning and upon compliance with all Texas Alcoholic Beverage Commission requirements.**
- **Authorization to operate as a mobile food vendor does not include or imply authorization to sell alcohol. Alcohol sales require separate approvals and compliance with all applicable local and state permitting requirements.**

Sec. 12-52 Special Events involving Mobile Food Vendors

- **Mobile food vendors operating as part of a permitted special event shall comply with applicable special event regulations. In the event of conflict, special event regulations shall control.**

SECTION 2. FINDINGS.

The foregoing recitals are hereby found to be true and correct and are hereby adopted by the CITY and made a part of this ordinance for all purposes and findings of fact.

SECTION 3. EFFECTIVE DATE.

This ordinance shall be effective from and after its date of passage; however, the provisions of this ordinance authorizing the operation of mobile food vendors within the City shall become operative only when the statewide mobile food vendor licensing framework under Chapter 437B of the Texas

Health and Safety Code is in effect and enforceable, unless operation is otherwise expressly authorized by state law.

If implementation or enforcement of Chapter 437B of the Texas Health and Safety Code is delayed, suspended, stayed, repealed, amended to postpone implementation, or otherwise made unenforceable by state statute, court order, state agency rule, or formal written state agency guidance, then the City's authorization of mobile food vending under this ordinance shall be automatically delayed or suspended to the same extent. In that event, no person shall acquire a vested right to operate a mobile food vendor within the City solely by virtue of this ordinance or by the issuance of a City administrative authorization.

SECTION 4. SEVERABILITY.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

SECTION 5. OPEN MEETINGS.

It is hereby found and determined that the meetings at which this ordinance is considered are open to the public and that notice of the time, place and purpose thereof was given in accordance with the provisions of the Texas Government Code – Chapter 551, as amended, and that a quorum of the City Council was present.

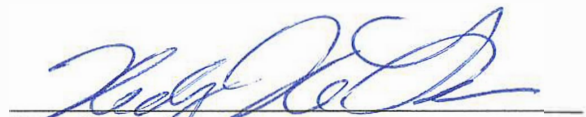
PASSED, ORDAINED, APPROVED and ADOPTED this the 18th day of JUNE, 2026.



ATTEST:


Francisca Nixon, City Secretary

CITY OF PORT ARANSAS, TEXAS


Wendy Moore, Mayor

First Reading: April 21, 2026

Second Reading: May 20, 2026

Third Reading: June 18, 2026