

ORDINANCE NO. 2025-

AN ORDINANCE AMENDING SECTIONS 13-403 THROUGH 13-405, AND 13-418 OF DIVISION 2 “OPEN AIR VENDING” OF ARTICLE IX “PROHIBITED ACTIVITIES AND OUTDOOR VENDING” OF CHAPTER 13 “LICENSES, PERMITS AND BUSINESS REGULATIONS” OF THE CODE OF ORDINANCES OF THE CITY OF WACO, TEXAS TO SPECIFY ADDITIONAL PROHIBITIONS; PROVIDING FOR A PENALTY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, open air vending is defined as the sale, bartering, or exchange of goods or services conducted exclusively outside of a permanent structure, that requires a license within the city limits of Waco; and

WHEREAS, these vending facilities are mobile and self-contained, ensuring they can operate independently while adhering to all applicable codes and regulations; and

WHEREAS, each outdoor vending site undergoes a thorough inspection during the licensing process to ensure compliance with city standards,

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

Section 1. That Sections 13-403 through 13-405, and 13-418 of Division 2 “Open Air Vending” of Article IX “Prohibited Activities” of Chapter 13 “Licenses, Permits and Business Licenses” of the Code of Ordinances of the City of Waco, Texas, are hereby amended to read as follows (additions/deletions/relocated text):

Sec. 13-403. Definitions.

Educational institution means a public or private elementary school, middle/junior high school, high school, or institution of higher education.

Feather flag or banner sign means a form of temporary sign composed of durable lightweight fabric with a sturdy frame enclosing only a portion of the material’s edge so that it can remain upright and still be flexible in the breeze, generally shaped to be tall and narrow when affixed into the ground or other bottom support, affixed to a pole which is located outdoors and contains language for advertisement, greeting or similar messaging purposes, which is not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground.

Mobile or mobility means vehicle-mounted, self or otherwise propelled, self-contained operation designed to be readily movable (including trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell a good or service.

Political subdivision means a county, municipality, special district, school district, junior college district, housing authority, or other political subdivision.

Preplanned open air vending site means a site approved through the city’s development process.

Private open air vending means the sale, bartering or exchange of a good or service which is conducted exclusively outside of a permanent structure and not at a flea market as that term is defined in section 28-1, by an individual or to an individual, either of which is within or upon real property which is privately owned, is zoned for commercial use, and is not within or upon real property or easements or other property controlled, in part or in whole, or required to be maintained, in part or in whole, by the city within the corporate limits of the city.

Private open air vendor means persons conducting private open air vending.

Public open air vending means the sale, bartering or exchange of a good or service which is conducted exclusively outside of a permanent structure, by an individual or to an individual, either of which is within or upon real property or easements or other property controlled, in part or in whole, or required to be maintained, in part or in whole, by the city within the corporate limits of the city.

Public open air vendor means persons conducting public open air vending.

Self-contained means a unit that includes all of the necessary equipment and facilities for carrying out the operations of the vending facility without the need for electrical or water source connections.

Vending facility means anything from which open air vending is conducted, including attachments, appurtenances and the like. A vending facility must be completely mobile, and must be completely self-contained or at a preplanned open air vending site.

Vendor means persons conducting open air vending.

Sec. 13-404. Open air vending prohibited without a permit.

- (a) It shall be unlawful for any person to cause public open air vending without a valid public open air vending permit.
- (b) It shall be unlawful for any person to cause private open air vending without a valid private open air vending permit.
- (c) No vendor shall vend other than as stated on the open air vending permit. If at any time a vendor offers anything that was not declared on said permit, then the city shall have the right to require the vendor to discontinue vending until amendment of said permit can be accomplished.

Sec. 13-405. Other prohibitions.

(a) Vending location.

- 1. No vendor shall locate a vending facility within the sight distance zone of any intersection, driveway, or alley.
- 2. No public open air vendor shall leave any vending facility unattended other than in a lawful parking place in conformance with city and state parking regulations and then in a secure manner so to deter any entry by other persons.
- 3. No public or private open air vending shall take place where the vending facility is located within 100 feet of the property line of a place of business that provides the same or similar good or service, unless the public or private open air vendor owns or has written consent from the proprietor of said place of business.
- 4. No public open air vendor shall have a vested right to any specific location.
- 5. All vending facilities shall be stopped or parked on an all-weather surface as

defined in subsection 28-1019(d) of this Code.

6. No more than two vending sites can be assigned for each side of a block face.

(b) Site setup.

1. No vending facility shall have flashing, strobing or blinking lights.
2. No vending facility shall have a permanent awning.
3. No vending facility shall have an accessory structure.
4. No vending facility shall have more than two tables available for seating. Appurtenances shall be limited to tables, chairs, and umbrellas and must not be permanent.
5. No vendor shall sell food for immediate consumption unless the vendor has available for public use, a trash receptacle that is available for his/her patrons' use. City litter receptacles may be substituted for this purpose, if approved on the public open air vending permit. No vendor shall leave any location without first picking up, removing and disposing of all trash or refuse remaining.
6. Only signs that are attached to the vending facility itself shall be permitted. Sign size per vending facility vertical face, including canopies, shall be limited to 25 per cent of each vertical face, up to a maximum of ten square feet per face. Signs shall be limited to the vertical faces of the vending unit or temporary canopy. A maximum of two additional temporary feather flag or banner signs will be allowed per location and should not exceed 5 feet tall by 2 feet wide. Temporary signs shall be removed outside the hours of operation or when vending facility is unattended. Signs shall not cause any site obstructions for vehicular traffic. Signs shall be professionally rendered and shall be subject to the review and approval of city staff and/or appropriate board(s). The zoning ordinance provisions related to the location of the vendor shall regulate any other signs.
7. All current permits and licenses pertaining to the vending shall be displayed on the vending facility in a nearly permanent, and visible manner.
8. All vending facilities must be mobile. All parts, attachments and appurtenances of the vending facility and goods, within or upon said vending facility shall be secured so as to prevent movement during transit and to prevent detachment in the event of an overturn or collision.
9. The off-street parking requirement for private open air vendors shall be one space for each 800 square feet of gross site area. No private open air vendor shall place the vending facility or merchandise in parking areas if to do so would cause the remaining parking areas to not meet this or other off-street parking requirements of the city ordinances.

(c) Water, wastewater, and electricity.

1. Electrical power shall be supplied by a generator. No vending facility shall have a permanent or temporary connection to a nearby permanent structure, except when located at a preplanned open air vending site.
2. Vending facility shall not be connected to city water or wastewater directly.
3. All holding tanks and appliances, other than propane tanks, shall be contained within the vending unit. Propane tanks shall be connected to the vending unit and shall not be on the ground.

(d) Pedestrian and vehicular traffic.

1. Vending shall be done in such a manner so as the vendor, vending facility or any patron thereof, shall not obstruct or hinder the movement of pedestrian or vehicular traffic.
 2. No vendor shall employ or permit the use of artificial lighting devices on the vending facility, which would ~~that~~ create a hazard to motorists and/or pedestrians.
 3. No public open air vendor shall solicit or conduct business with persons that are within or upon motor vehicles.
 4. Pedestrian passageways shall have a minimum width of not less than 45 inches as measured by any reasonable means or direction between the vending facility and the curb, edge of street, vehicle travel path or street amenities including, but not limited to signs, signals, lamp posts, trees, landscape beds, benches or other amenities.
- (e) General requirements and prohibitions.
1. Vendors shall not create a nuisance by the generation of noxious odors, loud or offensive noises.
 2. Any portion of the vending facility for which the state requires registration must maintain a valid vehicle registration as established by the Texas Transportation Code.
 3. Any vendor that does not carry the equipment necessary to comply with state law or does not properly dispose of grease and other cooking waste shall operate from a central preparation facility in accordance with the Texas Food Establishment Rules. A copy of the most current health inspection of the central preparation facility must be maintained on the mobile unit at all times.
- ~~(a) No vending facility shall have flashing, strobing or blinking lights.~~
- ~~(b) No vendor shall locate a vending facility within the sight distance zone of any intersection, driveway, or alley.~~
- ~~(c) Vending shall be done in such a manner so as the vendor, vending facility or any patron thereof, shall not obstruct or hinder the movement of pedestrian or vehicular traffic.~~
- ~~(d) No public open air vendor shall leave any vending facility unattended other than in a lawful parking place in conformance with city and state parking regulations and then in a secure manner so to deter any entry by other persons.~~
- ~~(e) No vendor shall sell food for immediate consumption unless the vendor has available for public use, a trash receptacle that is available for his/her patrons' use. City litter receptacles may be substituted for this purpose, if approved on the public open air vending permit.~~
- ~~(f) No vendor shall leave any location without first picking up, removing and disposing of all trash or refuse remaining.~~
- ~~(g) No public open air vendor shall solicit or conduct business with persons that are within or upon motor vehicles.~~
- ~~(h) No vendor shall vend other than as stated on the open air vending permit. If at any time a vendor offers anything that was not declared on said permit, then the city shall have the right to require the vendor to discontinue vending until amendment of said permit can be accomplished.~~
- ~~(i) No vendor shall employ or permit the use of artificial lighting devices on the vending~~

~~facility, which would create a hazard to motorists and/or pedestrians.~~

- ~~(j) Pedestrian passageways shall have a minimum width of not less than 45 inches as measured by any reasonable means or direction between the vending facility and the curb, edge of street, vehicle travel path or street amenities including, but not limited to signs, signals, lamp posts, trees, landscape beds, benches or other amenities.~~
- ~~(k) Only signs that are attached to the vending facility itself shall be permitted. Sign size per vending facility vertical face, including canopies, shall be limited to 25 per cent of each vertical face, up to a maximum of ten square feet per face. Signs shall be professionally rendered and shall be subject to the review and approval of city staff and/or appropriate board(s). The zoning ordinance provisions related to the location of the vendor shall regulate any other signs.~~
- ~~(l) All current permits and licenses pertaining to the vending shall be displayed on the vending facility in a nearly permanent, and visible manner.~~
- ~~(m) No public or private open air vending shall take place where the vending facility is located within 100 feet of the property line of a place of business that provides the same or similar good or service, unless the public or private open air vendor owns or has written consent from the proprietor of said place of business.~~
- ~~(n) All parts, attachments and appurtenances of the vending facility and goods, within or upon said vending facility shall be secured so as to prevent movement during transit and to prevent detachment in the event of an overturn or collision.~~
- ~~(o) Vendors shall not create a nuisance by the generation of noxious odors, loud or offensive noises.~~
- ~~(p) No public open air vendor shall have a vested right to any specific location.~~
- ~~(q) The off-street parking requirement for private open air vendors shall be one space for each 800 square feet of gross site area. No private open air vendor shall place the vending facility or merchandise in parking areas if to do so would cause the remaining parking areas do not meet this or other off-street parking requirements of the city ordinances.~~

Sec. 13-418. Enforcement.

- (a) A person who violates a provision of this article, or who fails to perform an act required of the person by this article, commits an offense. A person commits a separate offense each day or portion of a day during which a violation is committed, permitted, or continued.
- (b) The penalties provided for in Subsection (a) are in addition to any other enforcement remedies and penalties that the city may have under city ordinances and state law. Prosecution for an offense under this article does not prevent the use of other administrative enforcement remedies or procedures applicable to the conduct involved in the offense.

Section 2. That a violation of this ordinance shall be a Class C misdemeanor and the penalty for violating this ordinance shall be as provided for in Sec. 1-14 of the Code of Ordinances of the City of Waco, which shall be a fine of not less than \$1.00 and no more than \$500.00, and each day a violation exists shall be a separate offense.

Section 3. That the terms and provisions of this ordinance shall be deemed to be severable

and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 4. That nothing in this ordinance shall be constructed 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 prior ordinance; nor shall any legal right or remedy of any character be lost, impaired, or affected by this ordinance.

Section 5. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 6. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become and be a part of the Code of Ordinances of the City of Waco, Texas, and that sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 7. That this ordinance shall take effect on January 1, 2026.

Section 8. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required.

PASSED AND APPROVED:

First Reading: this 7th day of October, 2025.

Second Reading: this 21st day of October, 2025.

Jim Holmes, Mayor
City of Waco, Texas

ATTEST:

Michelle Hicks, City Secretary

APPROVED AS TO FORM & LEGALITY:

Kristen L. Hamilton-Karam, City Attorney