

ORDINANCE NO. O-2015-108

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING TYLER CITY CODE CHAPTER 17, "STREETS AND TRAFFIC", ARTICLE V., "STOPPING, STANDING, OR PARKING", BY ADOPTING AN ADDITIONAL ONE YEAR EXTENSION TO THE MOBILE FOOD UNIT STREET VENDING PILOT PROGRAM; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; ESTABLISHING AN EFFECTIVE DATE; AND ESTABLISHING AN EXPIRATION DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and general welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent by implication or otherwise, the municipality from exercising the authority incident to self-government; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City may license and regulate persons, corporations, and associations engaged in any business, occupation, profession or trade; and

WHEREAS, Section 1 of the Tyler City Charter states that the City may define, prohibit, abate, suppress and prevent all things detrimental to the health, morals, comfort, safety, convenience and welfare of the inhabitants of the City; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

WHEREAS, Section 1 of the Tyler City Charter provides that the City shall have all powers that now are, or hereafter may be granted to municipalities by the constitution or laws of Texas, and that all such powers, whether express or implied, shall be exercised and enforced, in the manner prescribed by the Charter, and when not prescribed by the Charter, in such manner as shall be provided by ordinances and resolutions of the City Council; and

WHEREAS, Section 2 of the Tyler City Charter states that the enumeration of particular powers by the Charter shall not be held or deemed to be exclusive, but in addition to the powers enumerated in the Charter, the City shall have, and may exercise all other powers which, under the constitution and laws of Texas, it would be competent for the Charter specifically to enumerate; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, the powers granted to municipalities under Texas Local Government Code Chapter 211, Subchapter A., are for the purpose of promoting the public health, safety, morals, and general welfare, as well as preserving places and areas of historical, cultural or architectural importance and significance; and

WHEREAS, Texas Local Government Code Section 211.003(a)(5) authorizes the governing body of a municipality to regulate the location and use of buildings, or structures, and land for business, industrial, residential, or other purposes; and

WHEREAS, Texas Transportation Code Section 311.001(a) provides that a home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality; and

WHEREAS, it is important to supplement health and safety regulations enforced by the Northeast Texas Public Health District; and

WHEREAS, it is important to adopt an additional one-year extension to the pilot program for food trucks; and

WHEREAS, major recommended substantive amendments were reviewed and recommended by the Traffic Safety Board;

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

PART 1: That Tyler City Code Chapter 17, "Streets and Traffic", Article V., "Stopping, Standing, or Parking", is hereby amended by amending Section 17-90 to read as follows:

Section 17-90. Mobile Food Unit Street Vending Pilot Program

a. through h. No changes...

i. This pilot program will expire within three years of adoption of this ordinance unless extended by City Council. (Ord. No. 0-2014-112, 12/10/14) (Ord. No. 0-2015-108; 12/9/15)

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be Friday, December 11, 2015.

PASSED AND APPROVED this 9th day of December, A.D, 2015.



MARTIN HEINES, MAYOR
OF THE CITY OF TYLER, TEXAS


ATTEST:

APPROVED:



CASSANDRA BRAGER, CITY CLERK



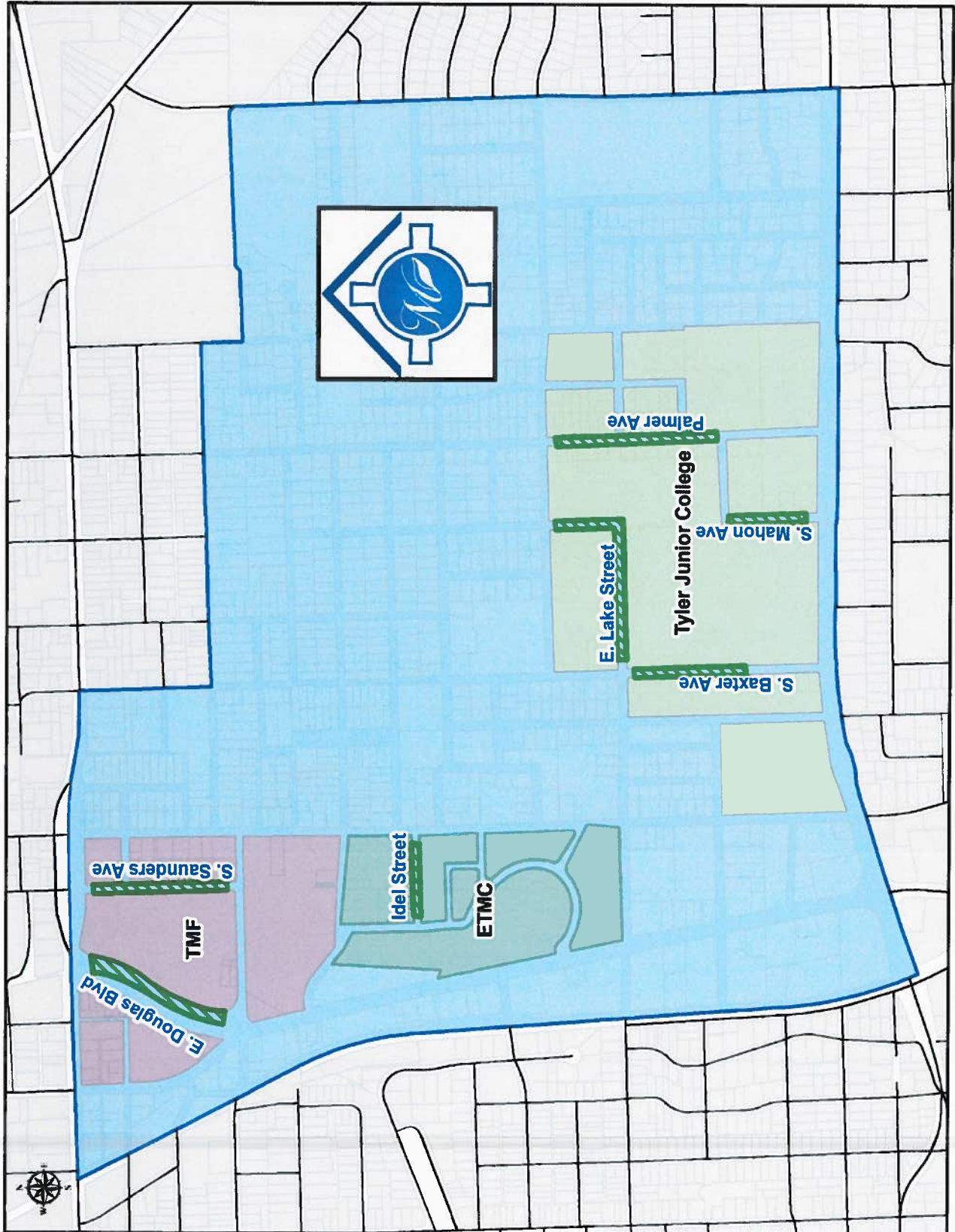


DEBORAH G. PULLUM,
CITY ATTORNEY

ORDINANCE NO. O-2015-108

EXHIBIT "A"

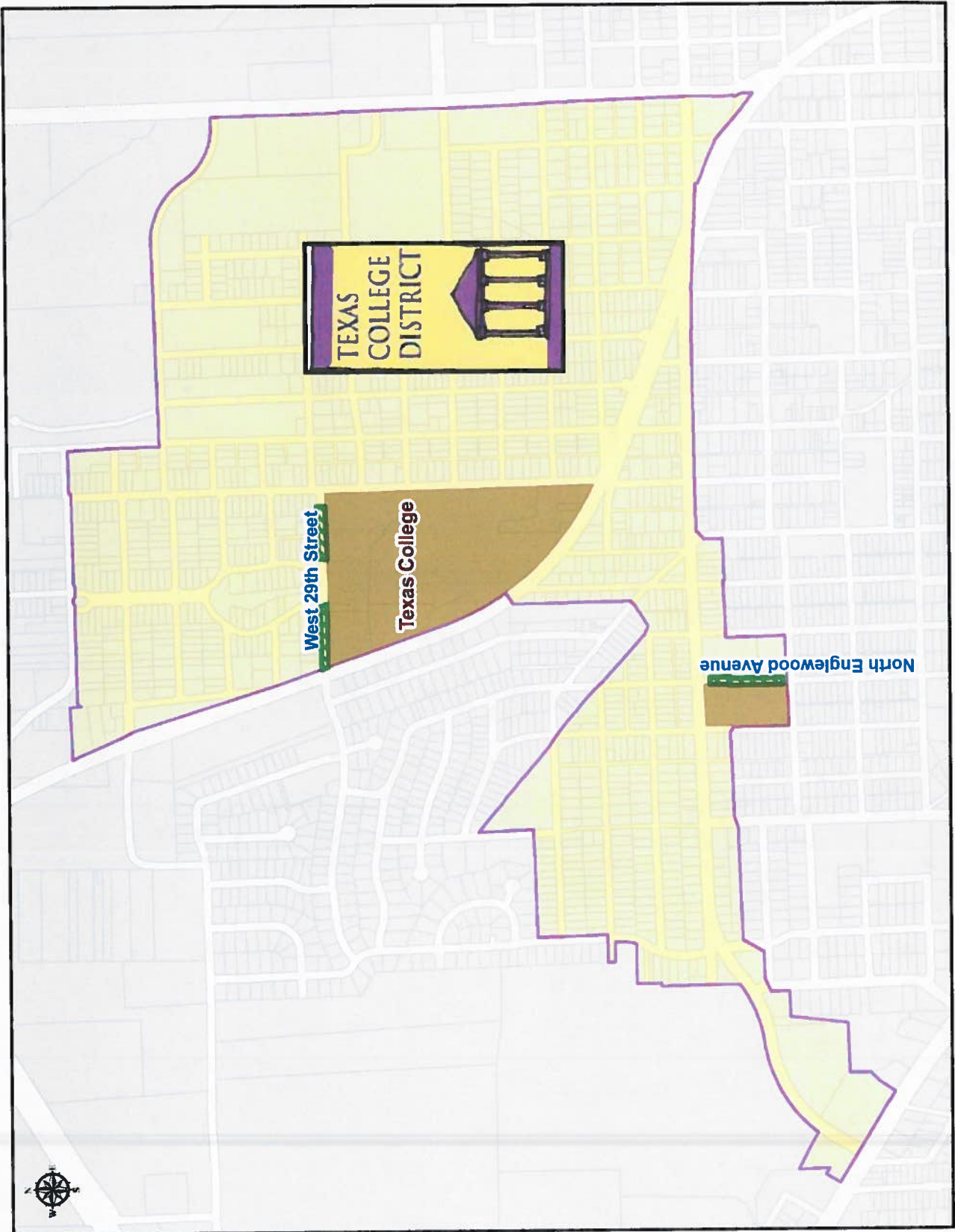
MIDTOWN DISTRICT MOBILE STREET VENDING LOCATIONS



ORDINANCE NO. O-2015-108

EXHIBIT "B"

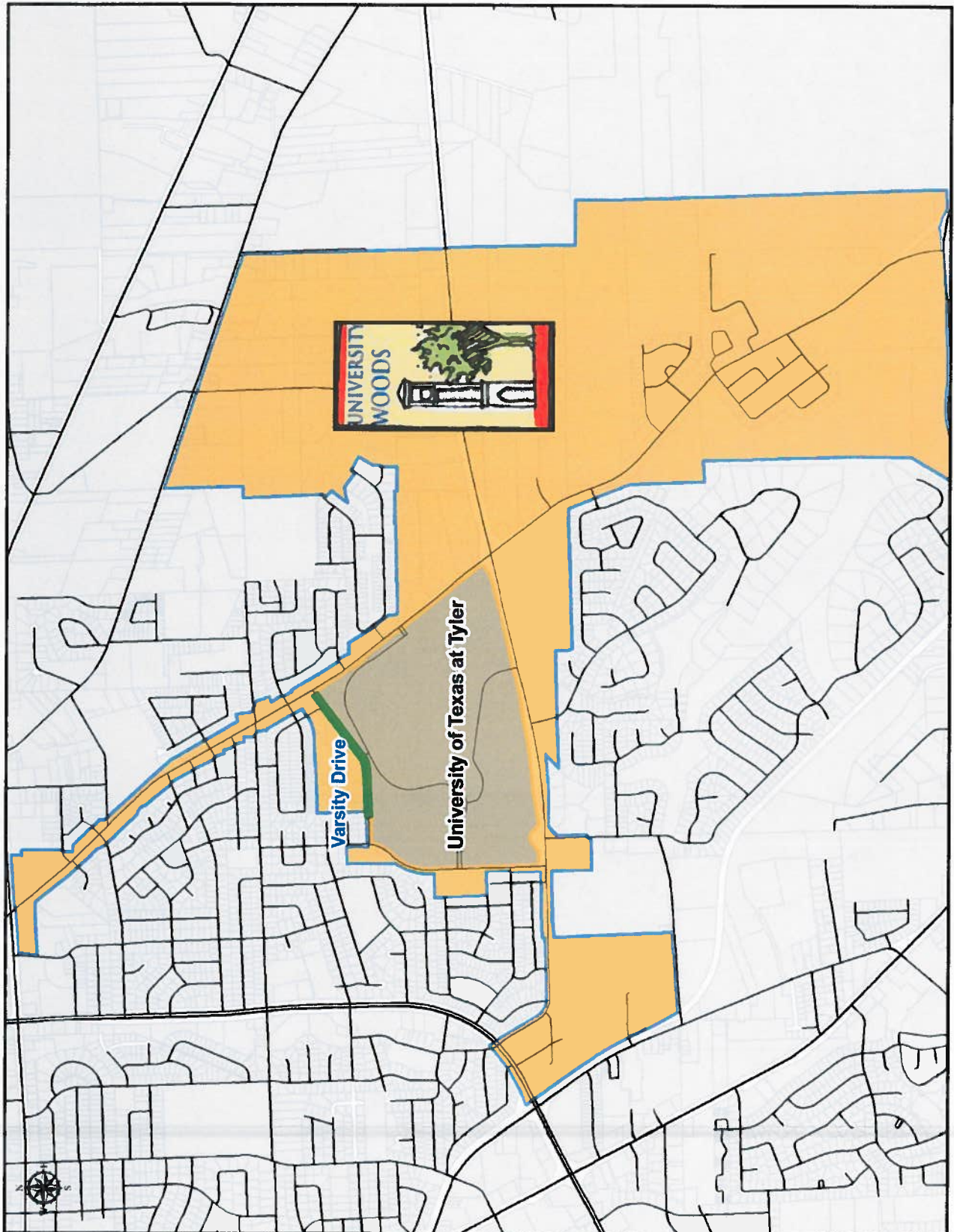
TEXAS COLLEGE DISTRICT MOBILE STREET VENDING LOCATIONS



ORDINANCE NO. O-2015-108

EXHIBIT "C"

UNIVERSITY WOODS DISTRICT MOBILE STREET VENDING LOCATIONS



Attachment "A"

ORDINANCE NO. O-2015-108
EXHIBIT "E"
APPLICATION PROCESS MAP

