

ARTICLE VIII. - MOBILE FOOD VENDORS^[3]

DIVISION 1. - GENERALLY

Sec. 8-381. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Edible goods shall include, but are not limited to:

- (1) Prepackaged food, including, but not limited to, candy, beverages, and ice cream.
- (2) Prepared food, including, but not limited to, hot dogs, desserts, and pizza.
- (3) On-site prepared food, including, but not limited to, shaved ice, sandwiches, and tacos.

Food service establishment means businesses that sell edible goods and have been inspected and approved by the County Health Department, including commercial kitchens and commissaries, and shall specifically exclude accessory or self-serve retail food sales.

Mobile means the state of being in active, but not necessarily continuous, movement.

Mobile food court means a land use approved through a conditional use permit (see Unified Development Ordinance (see App. A)) and developed in conformity with an approved site plan (see Unified Development Ordinance (see App. A)), where two or more mobile food vendors congregate to offer edible goods for sale to the public and amenities are provided for all vendors' customers.

Mobile food vendors means any business that sells edible goods from a non-stationary location within the City. The term "mobile food vendors" shall include, but not be limited to:

- (1) Mobile food trucks. A mobile food truck is a self-contained motorized unit selling items defined as edible goods.
- (2) Concession carts. Concession carts are mobile vending units that must be moved by non-motorized means.
- (3) Concession trailers. A concession trailer is a vending unit which is pulled by a motorized unit and has no power to move on its own.

Non-refrigerated means edible goods that are not required to be kept at a temperature below 41 degrees Fahrenheit according to the Federal Food and Drug Administration and the Texas Food Establishment Rules.

Sell means the act of exchanging a good for a profit or in return for a donation.

Stationary location means the position of the mobile food vendor when not in motion and addressing the public for the purpose of sales.

(Code 2011 (Repub.), § 4-20(A))

Sec. 8-382. - Exemptions.

Individuals selling only non-refrigerated farm products in an unrefined state shall be considered as a mobile food vendor, as defined by this article, but shall be exempt from the requirements of this article.

(Code 2011 (Repub.), § 4-20(F))

Sec. 8-383. - Miscellaneous offenses and regulations.

- (a) It shall be unlawful for any individual as the agent or employee of another regulated under this article to sell edible goods in the City unless its principal or employer has received a permit under this article.
- (b) A permit issued under this article is not transferable.
- (c) It shall be unlawful for an individual to sell edible goods while displaying a valid permit issued by the City in the name of another individual, organization, or entity.
- (d) It shall be unlawful for any individual directly or through an agent or employee to sell goods within the corporate limits of the City after the expiration of the permit issued by the City under this article.
- (e) It shall be unlawful for an individual directly or through an agent or employee to misrepresent on the permit affidavit any acts that are regulated under this article.
- (f) It shall be unlawful for any individual directly or through agents or employees to represent that the issuance of a permit by the City constitutes the City's endorsement or approval of the product for sale.
- (g)

It shall be unlawful to operate a mobile food vendor operation that is not in compliance with the Texas Food Establishment Rules as amended from time to time.

- (h) A mobile food vendor permit may only be granted to a business that is associated with a food service establishment, as defined by this article, unless the mobile food vendor is not required to obtain a permit from the County Health Department.
- (i) A violation of this article shall be punished as provided in Section 1-7.

(Code 2011 (Repub.), § 4-20(E))

Sec. 8-384. - Zoning and location restrictions.

- (a) Distance regulations.
 - (1) No mobile food vendor shall conduct business within any single-family residential or agricultural zoning district, including townhouse districts, but may be located in such districts when serving and within 100 feet of a property with an active building permit or located within a public park facility.
 - (2) A mobile food vendor may not be located within 100 feet of the primary entrance of an open and operating fixed-location food service establishment outside of Northgate. This buffer may be reduced upon receiving written permission from said establishments.
 - (3) In Northgate only, a mobile food vendor may not be located within 100 feet of an existing business lawfully operating as a restaurant as defined by the Unified Development Ordinance (see App. A) within Northgate. This buffer may be reduced upon written permission from said restaurant.
 - (4) Minimum distance regulations for mobile food courts are described in Section 6.4, Specific Use Standards, of Article 6, Use Regulations, of the Unified Development Ordinance (see App. A). Minimum distance requirements may be increased through the conditional use permit process described in Article 3, Development Review Procedures, of the Unified Development Ordinance (see App. A). Individual mobile food vendors within a mobile food court shall be located as identified on the approved mobile food court site plan.
- (b) A mobile food vendor shall not conduct sales at a stationary location:
 - (1) For a duration exceeding five hours per location per day.

- (2) In NG-1 Core Northgate and NG-2 Transitional Northgate zoning districts only; for a duration exceeding 21 hours per location per day.
 - (3) For a duration exceeding 30 minutes on any public street designated on the City's Thoroughfare Plan as a minor collector or lesser.
 - (4) On any public street designated on the City's Thoroughfare Plan as a major collector or greater.
 - (5) In congested areas where the operation impedes vehicular or pedestrian traffic.
 - (6) In a designated bike lane.
 - (7) Between the hours of 2:00 a.m. and 5:00 a.m., mobile food vendors within a mobile food court shall not be open between the hours of 3:00 a.m. and 5:00 a.m. Sales shall only be within the approved hours of operation for the court, which may be restricted through the conditional use permit.
 - (8) Mobile food vendors on an approved pad site within a mobile food court may remain at the mobile food court with the following exceptions:
 - a. Mobile food vendors shall leave a short-term mobile food court site at least once a year to retain their status as mobile food vendors.
 - b. Mobile food vendors shall leave a long-term mobile food court site, or a pad site within the court, at least once a year to retain their status as mobile food vendors.
- (c) Concession carts, permitted as mobile food vendors, may be located only within the Northgate zoning districts and Wolf Pen Creek District when operating at a mixed-use development, or within an approved mobile food court. Carts must be positioned as to not disrupt pedestrian traffic and must maintain an abutting five-foot clear space.
- (d) Location regulations.
- a. No mobile food vendor shall locate on any private property without written permission to do so and must comply if asked to leave by the property owner or City official. A copy of the written permission to operate in a specific location, signed by the private property owner, shall be kept within the mobile vending unit at all times.
 - b.

A mobile food vendor may not be located within 20 feet of another mobile food vendor unless they are within a mobile food court and located in accordance with the approved mobile food court site plan.

(Code 2011 (Repub.), § 4-20(C))

Sec. 8-385. - Mobile food vendor requirements.

The following regulations shall apply to mobile food vendors within any zoning district:

- (1) Each unit shall be equipped with a portable trash receptacle, and shall be responsible for proper disposal of solid waste and waste water in the sanitation facility legally accessed by the food service establishment. All disturbed areas must be cleaned following each stop at a minimum of 20 feet of the sales location.
- (2) With the exception of the required trash receptacles, mobile food vendors shall not provide freestanding fixtures (e.g., tables, chairs, tents, and canopies).
- (3) Continuous music or repetitive sounds shall not project from the mobile unit.
- (4) A five-foot clear space shall be maintained around the mobile food vending unit.
- (5) The mobile unit will be subject to inspection upon permit application through the Planning and Development Services Department and the Fire Marshal, and may be subject to random inspection and upon renewal of the permit.
- (6) No sales are allowed within public park facilities while park concession units are operating.
- (7) A "No Smoking" sign must be posted next to the order window or area.
- (8) A tagged fire extinguisher shall be kept accessible as directed by the City Fire Marshal or designee.
- (9) An extinguishing vent hood, Type 1 or other if approved by the City Fire Marshal, shall be required when the cooking process produces grease laden particles within the mobile unit. Said hood shall require testing in the presence of a College Station Fire Marshal designee.
- (10)

A service log for the mobile food vendor, documenting the date and time of arrival and departure from the food service establishment where the vendor's services are performed shall be maintained. The mobile food vendor shall make the service log available for inspection upon request.

(Code 2011 (Repub.), § 4-20(D))

Secs. 8-386—8-413. - Reserved.

DIVISION 2. - PERMIT

Sec. 8-414. - Permit.

Every mobile food vendor shall have a permit issued by the City Planning and Development Services Department to conduct business in the City.

(Code 2011 (Repub.), § 4-20(B)(1))

Sec. 8-415. - Application.

An applicant shall apply for a permit on a form promulgated by the City Planning and Development Services Department. A complete application shall require the following information from the applicant to be considered:

- (1) Name of applicant;
- (2) Legal name of business or entity;
- (3) State of incorporation or filing of a partnership or articles of association;
- (4) If applicable, copy of Charter or Articles of Incorporation and current listing of directors, partners, or principles (publicly traded companies are exempted);
- (5) Sales tax number with a copy of sales tax permit;
- (6) Signed permission from the private property owner to use the property and its amenities;
- (7) Name, phone number, and driver's license number of business owner;
- (8) Contact name and phone number for mobile food vending unit while en route;
- (9) Copy of permits to do business in the State for foreign companies;

- (10) Description of product being sold;
- (11) Description of attached signage;
- (12) Vehicle identification number and description of mobile food vending unit;
- (13) Proof of business auto liability insurance covering the mobile food vending unit;
- (14) A signed affidavit under oath with photo identification that each individual applicant has no unpaid civil judgments against him or her in any state or U.S. possession which arise from a business activity which would have been covered by this article if in effect at the time in the jurisdiction where such judgments are of record;
- (15) A statement of all convictions in any state, the United States or U.S. possession within the last ten years;
- (16) A bond in the sum of not less than \$1,000.00, executed by the mobile food vendor with two or more good and sufficient sureties satisfactory to the Finance Director, which bond shall be payable to the City, for the use and benefit of any person or persons entitled thereto, and conditioned that the principal and sureties will pay all damages to persons caused by or arising from or growing out of any action of the mobile food vendor while conducting business in the City. The bond shall remain in full force and effect for the entire duration of the permit provided herein. The bond shall not be required for the sale of goods in interstate commerce;
- (17) Copy of the County Health Department permit issued to the food service establishment;
- (18) Copy of written permission to utilize the private facilities of the food service establishment.

(Code 2011 (Repub.), § 4-20(B)(2), (4))

Sec. 8-416. - Issuance procedures.

The application shall be processed through the following method:

- (1) Application submitted to the City;
- (2) Application shall be reviewed by designated City staff;
- (3) City staff shall inform the County Health Department when the application is

eligible for approval by the City;

- (4) County Health Department may then accept an application from a mobile food vendor;
- (5) Following notification from the City, the County Health Department may issue a permit when their application is eligible for approval;
- (6) Applicant shall submit their County Health Department permit to the City;
- (7) The City may then, and only then, approve a mobile food vendor permit.

(Code 2011 (Repub.), § 4-20(B)(3))

Sec. 8-417. - Permit denial.

A permit may be denied where:

- (1) An applicant is found to have an unpaid civil judgment against him or her which relates to the duties and responsibilities of the permitted occupation which shall be determined by the nature and the amount of the judgment, the relationship of the judgment to the purpose of the permit and the extent that the permit would allow someone to engage in further activity that would lead to unsatisfied civil judgments;
- (2) An applicant has been convicted of a crime which directly relates to the duties and responsibilities of the licensed occupation which shall be determined by the nature and seriousness of the crime, the relationship of the crime to the purpose of the permit and the extent that the permit would allow someone to engage in further criminal activity;
- (3) The required information is incomplete or incorrect or shows that a person is not otherwise entitled to conduct business as a mobile food vendor; or
- (4) The opportunity to reissue a permit has been denied due to previous violations as described in this article.

(Code 2011 (Repub.), § 4-20(B)(6))

Sec. 8-418. - Permit fee.

- (a) The application fee for a mobile food vendor permit shall be established in Section 2-117. Each mobile food vendor unit shall be permitted separately.

- (b) Mobile food vendor permits shall be valid for one year from the date of permit issuance.
- (c) Upon renewal, the applicant must provide a new complete application, payment of a renewal fee established in Section 2-117, and new permitting documentation. The applicant must submit the application and renewal fee within 30 days after expiration of the permit or must reapply as a new applicant.
- (d) Concession carts shall apply under a reduced fee for initial application, and a reduced fee for a renewal, all as established in Section 2-117.

(Code 2011 (Repub.), § 4-20(B)(5); altered in 2017 recodification)

Sec. 8-419. - Display of permit.

Every permit, including those from the City and the County Health Department, shall be displayed at all times in a conspicuous place where it can be read by the general public on the mobile food vendor's truck, concession cart, or concession trailer.

(Code 2011 (Repub.), § 4-20(B)(7))

Sec. 8-420. - Permit revocation or suspension.

- (a) A permit may be revoked upon conviction of any offense committed by an individual operating as a mobile food vendor in the City while engaged in the permitted business, or if a final conviction occurs or is found to have existed at the time of application, or if civil judgments, as set forth above, are placed or found of record against an applicant. A permit may be suspended in the event of pending charges of a crime, as set forth above, upon a Magistrate's determination of probable cause in connection with such charges.
- (b) A permit may be revoked for nonconformity to the application location specifications or requirements as well as to nonconformity to an approved location plan or diagram.
- (c) Any employee working for an applicant permitted as an employer under this article may be denied the right to solicit under such permit, or such rights may be suspended or terminated, under the same circumstances and procedures which apply to the holder of the permit. Revocation or suspension of an employer's permit terminates all employee permits.
- (d) A permit may be suspended or revoked for not complying with the requirements

of this article, or any other ordinances, or laws.

(Code 2011 (Repub.), § 4-20(B)(8))

Sec. 8-421. - Appeal of permit revocation, suspension, or denial.

- (a) The notice of revocation, suspension, or denial of a permit shall include the procedure for appealing the suspension, revocation, or denial.
- (b) If a City official revokes, suspends or denies a mobile food vendor permit, the holder or applicant of the permit which has been revoked, suspended, or denied shall have the right of appeal to the City Planning and Development Services Director or designee by submitting an appeal in writing to the Director within ten business days of the revocation, suspension, or denial.
- (c) Pending action on the appeal, a permit which has been revoked or suspended shall be considered revoked or suspended.
- (d) If a written appeal is not submitted within ten business day of revocation, suspension, or denial, or if the appeal is denied, the permit shall hence be considered revoked, suspended, or denied.

(Code 2011 (Repub.), § 4-20(B)(9))

Sec. 8-422. - Reapplication after revocation, suspension, or denial of permit.

- (a) If a mobile food vendor or applicant is not in compliance with this article or any other ordinances, laws, or the approved vendor application, the following actions will be taken:
 - (1) *First violation.* A warning may be issued, or the permit may be revoked or suspended and the vendor may become ineligible for new or reissued permit for three months.
 - (2) *Second violation.* Permit will be revoked and the vendor may become ineligible for new or reissued permit for three months.
 - (3) *Third violation.* Permit will be revoked and the vendor will become ineligible for new or reissued permit for one year.
- (b) If an applicant's permit has been denied and the appeal is denied the applicant may not reapply for three months.

(Code 2011 (Repub.), § 4-20(B)(10))

Secs. 8-423—8-442. - Reserved.

