

## ARTICLE 30.05 MOBILE FOOD VENDORS

### Division 1. Generally

#### Sec. 30.05.001 Popular name

This article may commonly be referred to as the “mobile food vendor ordinance.”

#### Sec. 30.05.002 Purpose

This article is adopted so that the city council may remove the temporary moratorium on mobile vendors, and enact the appropriate administrative and regulatory rules and procedures pertaining to mobile food vendors.

#### Sec. 30.05.003 Scope of jurisdiction

All of the provisions of this article shall apply within the city limits (i.e., incorporated municipal boundary) of the city.

#### Sec. 30.05.004 Effective date and duration

This article shall take effect immediately upon publication following the passage of this article.

#### Sec. 30.05.005 Definitions

City. The City of Dripping Springs, a municipality located in Hays County, Texas.

City limits. The incorporated municipal boundary of the city.

Food establishment. An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:

- (1) Such as a restaurant; retail food store; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; vending location; conveyance used to transport people; institution; or food bank; and
- (2) That relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

Location. A mobile food vendor must relocate at least 2,000 feet from its current work location in order to not be considered located in the “same location.”

Mobile food court. Two or more mobile food vendors in the same location.

Mobile food establishment/mobile food vendor. A vehicle-mounted food establishment that is readily moveable.

Permit. A license, certificate, approval, registration, consent, contract or other form of authorization required by law, rule, regulation, order or ordinance that a person shall obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.

Person. A human individual, agency, association, corporation, partnership or sole proprietorship.

*Site.* A platted or unplatted lot in the city limits treated as a single tract for purposes of the assessment of property taxes. A site may be identified by its address, or legal property description.

**Sec. 30.05.006 Water and electricity**

- (a) Water provided or used by the mobile food vendor shall not come from a temporary connection to potable water.
- (b) Electricity shall be only from a generator or an electrical outlet via a portable cord that conforms to the city's electrical code and permitted by the electric provider.

**Sec. 30.05.007 Fire safety**

Mobile food vendors shall comply with all city fire and explosion safety standards. This requirement also applies to mobile food establishments that:

- (1) Maintain food at a hot holding temperature by mechanical means; and
- (2) Use a pressurized fuel system or container.

**Sec. 30.05.008 Trash**

All mobile food vendors shall:

- (1) Be equipped with an attached trash receptacle approved by the city's health authority;
- (2) Hold, store, and dispose of solid and liquid waste in a receptacle approved by the health authority and comply with any other applicable city code requirements;
- (3) Provide a trash receptacle for use by customers; and
- (4) Maintain the area around the mobile unit clear of litter and debris at all times.

**Sec. 30.05.009 Provisions**

- (a) All mobile food vendors shall comply with all city adopted health regulations regarding:
  - (1) Time, temperature, plumbing, operation and maintenance requirements for mobile food establishments;
  - (2) If a mobile food vendor does not have a self-contained kitchen, as determined by the health authority, then the mobile food vendor must have a central preparation facility;
  - (3) All requirements prohibiting alteration, removal, attachments, placement or change in, under, or upon the mobile food establishment that would prevent or otherwise reduce ready mobility of the mobile food establishment unit.

- (b) All mobile food vendors shall acquire a food-handling permit from the city; but rules are more substantial, as deemed appropriate by the city, if vendor is at a same location for at least 10 days out of a month.
- (c) If any mobile food vendor remains at a same location for longer than 10 consecutive days, a conditional use permit is required. If after 10 days, a mobile food vendor wishes to relocate to a different location within the city, the vendor may do so for an additional 5 days. In any given month, a vendor may not locate within the city limits for more than 15 days without a CUP per the requirements in this section.
- (d) All mobile food vendor courts with multiple vendors set up shall provide city-approved portable restrooms for customers.
- (e) The city shall require a mobile food vendor to come, on an annual basis, to a location designated by the health authority for an inspection.
- (f) The city may require that mobile food vendors found to violate this section shall come for a reinspection at a location designated by the city.
- (g) All mobile food vendors are required to store all food and supplies within the mobile unit.
- (h) All mobile food vendors are required to have displayed on the mobile unit the proper city-issued permits and licenses in order to operate within the city.
- (i) All mobile food vendors are permitted to operate only in office, GUI, industrial, public recreation, public park and reserve, and commercial and retail zoning districts.
- (j) All mobile food vendors are prohibited from operating between the hours of 11:00 p.m. and 6:00 a.m.
- (k) All mobile food vendors are prohibited from being located within 150 feet of a restaurant as defined in [chapter 30, exhibit A, section 1.6](#) of the city's code, measured from property line of the mobile food vendor to the property line of the restaurant, unless granted permission from all said restaurants. The noise level of mechanical equipment or outside sound equipment used in association with any mobile food vendor may not exceed 70 decibels when measured at the property line.
- (l) A drive-in service is not permitted for any mobile food vendor.
- (m) All mobile food vendor lighting shall comply with the city's lighting ordinance.

Any additional lighting for any of the mobile food vendor's signs shall comply with the city's lighting ordinance.

(n) All mobile food vendors are limited to signs attached to the exterior of the mobile vendor. The signs shall:

- (1) Be secured and mounted flat against the mobile unit;
- (2) Not project more than six inches from the exterior of the mobile unit; and
- (3) Not exceed 50% of the side of the surface area of the vehicle, trailer, etc., to which it is affixed.

(o) All mobile food vendors shall comply with the federal Americans with Disabilities Act.

(p) All mobile food vendors shall be located in areas where they shall have allowed access to three parking spaces, including off-street and on-street parking, or the reasonable equivalent, each. Parking spaces that are required for another business shall not be counted towards the required spaces for the mobile food vendor unless authorized by the business and approved by the city. Parking spaces shall comply with the city's parking standards found in the Code of Ordinances, chapter 30, exhibit A: zoning ordinance, section 5.3, including ADA standards. Mobile food vendors located in the Mercer Street historic district under the requirements of [section 30.05.032](#)(d) of this article are exempt from this provision.

(q) A mobile food vendor (longer than 10 days) or a mobile food court may request to have amplified sound/music as part of the CUP application. Staff will review the appropriateness of the request on a case-by-case basis and determine conditions in the CUP.

#### **Sec. 30.05.010 Enforcement**

(a) Civil and criminal penalties. The city shall have the power to administer and enforce the provisions of this article as may be required by governing law. Any person violating any provision of this article is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this article is hereby declared to be a nuisance.

(b) Criminal offense.

(1) It is a criminal offense to erect, install, park or operate a mobile food

establishment in violation of this article.

(2) Per section 6.02(b) of the Texas Penal Code, an offense under this article is a strict liability offense requiring no showing of a culpable mental state.

(3) An offense under this article is a misdemeanor punishable by a fine not to exceed two thousand dollars (\$2,000.00).

(c) Civil remedies. Nothing in this article shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this article and to seek remedies as allowed by law, including, but not limited to the following:

(1) Injunctive relief to prevent specific conduct that violates this article or to require specific conduct that is necessary for compliance with this article;

(2) A civil penalty up to five hundred dollars (\$500.00) a day when it is shown that the defendant was actually notified of the provisions of this article and after receiving notice committed acts in violation of this article or failed to take action necessary for compliance with this article; and

(3) Other available relief.

**Secs. 30.05.011–30.05.030 Reserved**

## **Division 2. Permits, Prohibitions, and Exceptions**

### **Sec. 30.05.031 City authority**

The city's acceptance, review, and approval of all permits for mobile vendors is hereby reenacted.

### **Sec. 30.05.032 Permit required**

(a) It is an offense for a person to operate a mobile food establishment in the city limits without a mobile food vendor permit.

(b) It is an offense for a person to conduct sales at a mobile food establishment in the city limits without a mobile food vendor permit.

(c) It is an offense for a person to erect, install or park a mobile food establishment in the city limits without a mobile food vendor permit.

(d) It is an offense for a person to erect, install, or park a mobile food establishment within the boundaries of the Mercer Street or Hays Street historic districts, as defined in section 24.07.032 [[chapter 30, exhibit A, section 4.3.2](#)] of the

Code of Ordinances, unless:

- (1) The location or operation of the mobile food establishment is for a special event or city-sponsored event, for which the mobile food vendor is included in the permit application for which the event organizer must obtain a permit (see Code of Ordinances [section 6.02.071](#)); or
- (2) The mobile food vendor is a complementary extension, or outlet, of a brick-and-mortar restaurant or business and the applicant of a mobile food vendor applies for and is granted a certificate of appropriateness under the requirements of chapter, 24, article 24.07 [[chapter 30, exhibit A, section 4, division 2](#)] of the city code and applies for and is granted a conditional use permit under the requirements of [chapter 30, exhibit A: zoning, section 3.17](#) of the city code. A conditional use permit shall not be granted prior to a certificate of appropriateness being granted. The mobile food vendor shall only operate during the operating business hours of the brick-and-mortar business of which the mobile food vendor is an extension or outlet.
- (e) Applicants of mobile food vendors (longer than 10 days) or mobile food courts wishing to locate in the Old Fitzhugh historic district as defined in section 24.07.032 [[chapter 30, exhibit A, section 4.3.2](#)] of the Code of Ordinances must apply for and be granted a certificate of appropriateness under the requirements of chapter 24, article 24.07 [[chapter 30, exhibit A, section 4, division 2](#)] of the city code and apply for and be granted a conditional use permit under the requirements of [chapter 30, exhibit A: zoning, section 3.17](#) of the city code. A conditional use permit shall not be granted prior to a certificate of appropriateness being granted.

**Sec. 30.05.033 Permit application**

A person who seeks to operate a mobile food establishment shall:

- (1) Submit a written application to the city;
- (2) Include with the application proof of:
  - (A) Sales tax certificate; and
  - (B) Sales tax report.

**Sec. 30.05.034 Tax certificate**

Mobile food vendors shall possess during hours of operation a city tax certificate showed as paid.

**Sec. 30.05.035 Permit revocation**

A vendor's mobile food vendor permit shall be revoked if any of the provisions of this article are not strictly adhered to.

**Sec. 30.05.036 Special exceptions**

Exceptions for relief of hardship caused by this article may be made in writing to the board of adjustment (BOA). Special exceptions may be granted by BOA when it determines in writing that one or more of the conditions listed below are satisfied:

- (1) Undue hardship.
  - (A) The applicant shall otherwise suffer undue hardship, that being something beyond or in addition to financial hardship;
  - (B) The current regulations are adequate to address the particular type of development and construction proposed by the applicant;
  - (C) It is in the public's interest to allow a limited exception to this article in the particular instance; and
  - (D) Authorizing the special exception will not adversely impact neighboring properties.
- (2) Planned development district agreement. The site is subject to a valid, written planned development district agreement between the property owner and the city.
- (3) Grandfathered. The site has grandfathered development status that has been recognized by the city in accordance with this code.

**Sec. 30.05.037 Mobile food courts**

- (a) Permanent food courts authorized by conditional use permit. A conditional use permit (CUP) is required to establish a permanent food court, following procedures for CUPs per [chapter 30, exhibit A: section 3.17](#) of the Code of Ordinances. A mobile food vendor who wishes to locate within 2,000 feet of another food vendor may do so only upon application for a conditional use permit for a mobile food court. Minimum spacing between mobile food courts is 2,000 feet.
- (b) Permanent mobile food courts shall comply with the following requirements:
  - (1) All mobile food establishments situated on the property shall be located on an impermeable surface such as concrete or rolled asphalt, or a stable permeable surface such as decomposed granite or other similar material;
  - (2) All mobile food establishments that remain on the property overnight shall have temporary connections for electricity, potable water, and sewage disposal, or a

system to adequately provide these services to each mobile food establishment;

(3) A restroom equipped with flush type toilets and properly plumbed to a sanitary sewage system with sufficient capacity to meet the needs of the mobile food court's mobile food establishments, employees, and customers shall be available on the property. The restroom shall be equipped with hand sinks, hot and cold water and either hand towels or forced air hand dryers. Within sixty (60) days of approval of the conditional use permit for the mobile food vendor court, the restroom facility must be constructed and fully functional.

(c) Pavilions with shade and similar seating areas (i.e. shaded picnic tables) for customers shall be provided, at minimum of eight places for seating at a table or tables for every three (3) mobile food vendors.

(d) Landscaping shall comply with parking lot landscaping requirements per [article 28.06](#) of the Code of Ordinances. Pedestrian pathways may also be provided.

(e) Special event temporary food court. A mobile food court at which no mobile food vendor shall be in place for more than 10 days may apply for a mobile food court permit without applying for a conditional use permit, but only in districts in which a mobile food court is allowed in the use chart. Special event temporary food courts shall provide all information required by the special event permit application and mobile food vendor permit application before establishing the temporary food court. The applicant for the special event at which the mobile food court desires to locate must provide written approval of the mobile food court at the special event.

(f) Signage. All mobile food vendor courts must comply with provisions of this article and the city's sign ordinance, [chapter 26](#) of the Code of Ordinances.

(g) Exterior design. All permanent structures in a mobile food court must comply with the city's exterior design ordinance, [article 24.03](#) of the Code of Ordinances.

(h) Amplified sound/music. Must comply with provisions in [section 30.05.009\(q\)](#) above.

(i) Outdoor lighting. All mobile food vendor courts must comply with the city's outdoor lighting ordinance, [article 24.06](#) of the Code of Ordinances.

(j) Mobile food courts in a historic district. A vendor wishing to locate a mobile food court within any historic district as defined in section 24.07.032 [[chapter 30, exhibit](#)

[A, section 4.3.2](#)] of the city's code must comply with all applicable regulations of this article.

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