

ARTICLE 4.09 MOBILE FOOD VENDOR

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4.09.001 Title And Purpose

This article shall be known as the city's mobile food vendor ordinance. This article has been adopted to regulate mobile food vendors within the corporate limits of the city. (Ordinance 18.06.11B adopted 6/11/18)

4.09.002 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.

Commissary location. An established location where food service providers can prepare and store their food, as well as a location to store a mobile unit while not in use.

Edible goods. All food products designed for human consumption.

Exempt mobile food vendor. Any person that sells edible goods from a mobile unit operating at a stationary location in conjunction with a city event or a community recognized special event sanctioned by any local taxing entity and operating on the premises of any tax supported entity. Exempted mobile food vendors shall be subject to all state requirements for food handling establishments including any requirements or special conditions set by the host entity.

Food service establishment. Any business that sells edible goods from a fixed location and has been inspected and approved by the Texas Department of Health, including commercial kitchens and commissaries, and shall specifically exclude accessory or self serve retail food sales.

Mobile. The state of being in active, but not necessarily continuous, movement; capable of being moved and not permanently fixed or placed.

Mobile food vendor. Any person that sells edible goods from a mobile unit at a stationary location on private property approved for such activity within the city.

Mobile unit. Includes:

- (a) *Concession cart.* A mobile vending unit that must be moved by non-motorized means from which a mobile food vendor offers for sale or sells edible goods to the public;
- (b) *Concession trailer.* A vending unit that is pulled by a motorized unit and has no power to move on its own from which a mobile food vendor offers for sale or sells edible goods to the public; or
- (c) *Mobile food truck.* A self-contained motorized unit from which a mobile food vendor offers for sale or sells edible goods to the public.

Stationary location. The location where the mobile food vendor has obtained written permission from the property owners to sell and dispense edible goods to the public.

(Ordinance 18.06.11B adopted 6/11/18)

4.09.003 Inspections, Permits And Fee

- (a) A mobile food vendor shall submit a completed application for a mobile food vending permit to the building and planning office and shall complete all required inspections through the fire marshal's office and the Texas State Health Department. A mobile food vending permit shall be required for each individual mobile unit utilized. The application fee for submitting an application for a mobile food vending permit shall be \$300.00, said fee to be paid for each unit to be in service.
- (b) A mobile food vendor shall obtain:
 - (1) A mobile food vending permit issued by the building and planning office;
 - (2) A food service permit from the Texas Department of Health prior to conducting business in the city;
 - (3) Inspection from the fire marshal's office must be successfully completed prior to consideration and approval of a mobile food vending permit by the building and planning office;
 - (4) The mobile food vending permit issued by the building and planning office is not transferable and shall be valid for one (1) year from the date of permit issuance;
 - (5) A background check for the owner and each employee is also required as part of the permit process. Up to 5 background checks are included in the application fee. Additional background checks will be conducted for an additional \$5.00 per applicant; and
 - (6) Subsequent renewal shall be subject to all the requirements listed above.

(Ordinance 18.06.11B adopted 6/11/18)

4.09.004 Permitted Locations

Subject to the provisions of this article, mobile food vendors shall be permitted to establish a stationary location and conduct business in the following zoning districts: B-1 (restricted commercial), B-2 (general commercial), B-3 (central business district) with an approved specific use permit and I (industrial). (Ordinance 18.06.11B adopted 6/11/18; Ordinance 2020.11.25A adopted 11/30/20)

4.09.005 Distance Regulations

- (a) A mobile food vendor shall not conduct business within any residential zoning district. A mobile food vendor shall not conduct business within two hundred (200) feet of the boundary line of any residential zoning district.
- (b) A mobile food vendor shall not conduct business within two hundred (200) feet of the primary entrance of an open and operating food service establishment. This distance may be reduced upon receiving written, notarized permission from the owner of said establishment. Mobile food vendor is a mobile food court will follow requirements listed in the mobile food court article.
- (c) If a new food service establishment opens within two hundred (200) feet of a mobile food vendor as set forth in subsection (b) above, the mobile food vendor must receive written, notarized permission from the new establishment's owner to continue operating at that location.

- (d) A mobile food vendor shall not locate closer than nine (9) feet to any front property line (adjacent to any street) or any rear property line (adjacent to any alley). The mobile food vendor shall not locate a mobile unit in such a manner or location that obstructs or causes to be obstructed the passage of any sidewalk, street or alley or any other public place, by causing people to congregate at or near the mobile unit.
- (e) A mobile food vendor shall not locate on any private property without written permission to do so and if told to leave, must comply and leave the property immediately. A copy of the owner's written, signed, and notarized permission to operate in a stationary location shall be kept within the mobile unit for documented verification.

(Ordinance 18.06.11B adopted 6/11/18)

4.09.006 Hours Of Operation

Mobile food vendors shall not operate between 11:00 p.m. and 6:00 a.m. During these prohibited hours of operation, the mobile unit shall be removed from the stationary location and properly stored at its commissary location as required by section 4.09.008 of this article. (Ordinance 18.06.11B adopted 6/11/18)

4.09.007 Mobile Food Vendor Requirements

The following regulations shall apply to mobile food vendors:

- (a) A mobile food vendor shall comply with all regulation established by the Texas Food Establishment Rules, city code and the fire marshal's office and maintain compliance with all requirements noted in section 4.09.003.
- (b) Each mobile unit shall be equipped with a portable trash receptacle and the mobile food vendor shall be responsible for proper disposal of solid waste and waste water in compliance with this code.
- (c) Each mobile unit may have permanently attached signage on the mobile unit and one (1) each sandwich board no larger than 36" tall x 24" wide. Signage shall not be placed in the right-of-way. Signage must be removed when mobile unit is not on location.
- (d) No loud or disruptive music or narrative shall project from the mobile unit.
- (e) A mobile unit shall be parked on an all-weather surface when at a stationary location.
- (f) A mobile unit shall not block any fire lane or drive aisle.
- (g) No mobile unit may park on a lot without a notarized document from the property owner granting permission to the mobile food vendor to utilize the property for that purpose.
- (h) A mobile food vendor shall register a commissary location with the building and planning office stating where the unit is to be stored when not in operation.
- (i) No mobile food vendor shall conduct business in the public right-of-way and shall not block access to any parcel or alley.
- (j) No mobile unit shall locate in such a manner as to cause any visibility obstruction at a street intersection.
- (k) It shall be unlawful for any person to operate as a mobile food vendor without complying with the Texas Food Establishment Rules.
- (l) It shall be unlawful for any mobile food vendor to sell or distribute alcoholic beverages, or allow anyone to consume alcoholic beverages on the premises.

- (m) A mobile unit shall be inspected by the city's fire marshal's office prior to the issuance of a mobile food vending permit. The inspection shall take place at the fire marshal's office and shall include the following:
- (1) A valid driver's license and current Texas Department of Public Safety License plates and state inspection sticker, except for a concession cart which is not required to have license plates or an inspection sticker. The mobile unit must be in good working order.
 - (2) A mobile unit must have a 2A:10B:C sized extinguisher with an annual inspection tag from a state-licensed inspection company or a receipt indicating purchase within the past year. If frying media (grease) is used, a class K extinguisher shall be required in the mobile unit. Any mobile unit equipped with an automatic extinguishing system shall have a current (biannual) inspection tag from a state-licensed inspection company. All mobile units shall maintain ten (10) feet of clearance for access. Mobile units equipped with an automatic extinguishing system shall maintain ten (10) feet of clearance from combustible structures. Mobile units not equipped with an automatic extinguishing system that produce grease laden vapors shall maintain a fifty (50) foot distance from combustible structures or parked, unattended vehicles.
 - (3) All cooking appliances in the mobile unit shall be of an approved type, commercial grade, listed and labeled, for the use intended. Appliances shall be installed in accordance with the manufacture's instruction. Portable cap stoves or the equivalent shall be prohibited. All cooking appliances shall have an approved, labeled and listed on-off valve.
 - (4) All propane and natural gas appliances shall be pressure tested annually and have only approved listed parts and no rubber hoses shall be allowed. All piping shall be in accordance with applicable city ordinances and adopted codes and protected from physical damage. Mounting and placement of containers shall comply with all applicable city ordinances, adopted codes and Texas Department of Transportation Regulations. The capacity limit of propane and natural gas containers or cylinders shall be determined by the fire marshal's office after consideration of features that secure and protect the container.
 - (5) Cooking surfaces in the mobile unit shall be kept clean of grease build-up. Trash containers and debris shall be emptied regularly. Extension cords shall not be utilized for appliances. Appliances shall be plugged directly into electrical outlets.
 - (6) Each enclosed vehicle must have two outward opening fire exits. Each exit must be properly label "emergency exit." Exits may not be blocked.
 - (7) The fire marshal's office is herein authorized to conduct all inspections as necessary to determine the extent of compliance at any time.
- (n) Residing and/or dwelling within a mobile food unit overnight is strictly prohibited.
- (o) Failure to comply with these standards may result in revocation of vendor permit. If vendor permit is revoked, the vendor must wait 6 months before they can reapply.

(Ordinance 18.06.11B adopted 6/11/18)

4.09.008 Commissary Location

- (a) Any mobile unit stored on a commercial lot within the city limits shall be entirely enclosed within a building, or hidden from view behind the primary structure, or approved opaque screening.
- (b) Any mobile unit stored in a residential area within the city limits shall be stored entirely enclosed within a building or hidden from public view. All city residential parking requirements apply.

(Ordinance 18.06.11B adopted 6/11/18)

4.09.009 City-Sponsored Events

- (a) Any mobile unit/food vendor participating in a city-sponsored event shall be considered an exempt mobile food vendor as described herein and comply with all regulation established by the Texas Food Establishment Rules and city code. Texas Food Establishment licenses (if required) and food handlers license from the state must be submitted to the events director along with the vendor application for each event.
- (b) The mobile food unit fee will be waived, however all applicable event fees will remain in effect.
- (c) Inspections by the fire marshal's office may be waived, however on-site inspections may be required.

(Ordinance 18.06.11B adopted 6/11/18)

4.09.010 Variances

If special circumstances prevent a mobile food vendor from complying with or make it too burdensome to comply with all the requirements of this article, an application for a variance may be submitted to the city council as follows:

- (a) The applicant must identify which specific requirements cannot be or are too burdensome to be met, and why they cannot be or are too burdensome to be met.
- (b) The applicant must provide payment of the fee established by the city at the time the application is submitted.
- (c) The city council shall conduct a public hearing concerning the application within 45 days of receipt of the application. City staff must notify property owners within 200' of the location where the mobile food vendor seeking the variance is proposing to operate at least 10 days prior to the date of the public hearing at which the application will be considered.
- (d) The city council shall consider the application and may approve or deny the variance as presented or may stipulate conditions and restrictions before approving it.
- (e) Unless the city council provides otherwise, the variance shall be effective for as long as the mobile food vendor continues to do business, at least once a month, at the location identified in the variance application.
- (f) The variance is not transferable.
- (g) The city council reserves the right, upon receipt of a written complaint against the mobile food vendor operating under the variance and after providing the applicant with thirty (30) days prior notice, to reconsider the matter and stipulate additional conditions and restrictions or revoke the variance.
- (h) No application for a variance which has been denied wholly or in part by the city council shall be resubmitted for a period of 90 days from the date of the denial.

(Ordinance 2020.11.25A adopted 11/30/20)