



ARTICLE XII. MOBILE FOOD VENDORS

Sec. 13-236. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Approved source. Any facility where food is prepared, handled or stored which complies with all laws relating to food and food labeling.

Commissary. A base of operation or any other place in which food containers or supplies are kept, handled, prepared, packaged or stored and permitted or licensed according to law by an authorized public health regulatory agency from which a mobile vendor shall report at least daily for all food supplies, cleaning and servicing operations.

Food. Any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale, in whole or in part, for human consumption.

Food establishment. Any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless [of] whether consumption is on or off the premises and regardless [of] whether there is a charge for the food. The term does not include private homes where food is prepared or served for individual family consumption.

Itinerant vendor, merchant, or peddler. Any person not having a fixed place of business in a permanent building in the city which is either owned by such vendor, or under lease to such vendor for a period of not less than one hundred eighty (180) days, or any vendor who conducts a business from any truck, trailer, manufactured housing, van or other type of structure or vehicle capable of being transported on the streets or highways of the city.

Mobile food unit. Any motorized vehicle-mounted food service establishment designed to be readily movable.

Mobile packaged food unit. Any motorized vehicle that vends any product from an approved source, and designed to be readily movable.

Packaged. Bottled, canned, cartoned, or securely wrapped and labeled.

Person. Any individual, partnership, association, corporation, corporation, firm, club, trustee, receiver, and body politic and corporate.

Potentially hazardous food. Any food that consists of, in whole or in part, milk or milk products, eggs, meat, poultry, fish, shellfish, edible shellfish, or other ingredients, including synthetic

ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

Pushcart. A non-motorized vehicle propelled by a human or other non-motorized force.

Regulatory authority. Any municipal officer or department of the city appointed by the city manager to administer this article.

Sanitary facilities. Toilet or restroom facilities which discharge the sewage effluent and wastewater into an approved holding tank, on-site sewage disposal system, or municipal sanitary system.

Solicitor. Any person who requests any orders for goods or services for profit or any person who makes requests for money, goods or services on behalf of any religious, veterans', charitable or fraternal organization.

Special event. A temporary event or activity, as defined in the City's Code of Ordinances, Chapter 7.5, lasting no longer than fourteen (14) consecutive days.

Sec. 13-237. Compliance required.

It shall be unlawful for any itinerant vendor, merchant, or peddler to sell, offer or exhibit, for the purpose of taking orders for sale thereof, any food, food product or food additive at any location within the city without first having complied with the provisions of this chapter [article].

(a) Home preparation or storage of any food for consumption by persons other than the members of the vendor's own household or guests in his/her home is expressly prohibited.

(b) No vendor may enter any park for the purpose of vending without first receiving an additional permit from the director of parks and recreation.

(c) The applicant for permit shall be responsible for all activities conducted by any employee or agent of the vendor.

(d) Only farm produce in its natural state or commercially prepared and packaged foods from an approved for handling potentially hazardous foods are provided and approved by the regulatory authority. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-238. Application.

Applicants for permits under this article must file with the regulatory authority during normal business hours, at least forty-eight (48) hours before vending activities begin, an application in writing on a form obtained from the regulatory authority, which shall contain the following information:

- (a) Name, date of birth, and driver's license number of the applicant;
- (b) Applicant's permanent address (both physical and mailing addresses) and telephone number;
- (c) If the applicant is an employee or agent of the company, the name, address and

telephone number of this company;

(d) The number of the limited sales tax permit issued to the business by the state comptroller's office;

(e) Name, address, telephone number and date of birth of all persons having use of the vending vehicle;

(f) A description of the vending vehicle which will be used under this permit. This information shall include the manufacturer, model year, color, and vehicle identification number.

In addition to the application form, the applicant must provide a letter signed by the operator of the commissary stating that the applicant has access to commissary facilities for all food and utensil storage, cleaning and maintenance activities. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-239. Issuance of permit.

(a) Upon completion and presentation of the application, the regulatory authority shall issue a permit in the form of a sticker, which shall be affixed to the vending vehicle in a location to be determined by the regulatory authority. Permits shall be valid for one (1) year from the date of issue. Permits are nontransferable and shall not be prorated.

- (1) Each person who shall work under this permit shall be issued an identification badge which must be worn by the vendor in a place where it is visible by the general public at all times while vending. The identification badge will be issued unless grounds for denial exist under section 13-246 of this article. Such identification badge shall contain the signature of the issuing officer and shall show a photograph of the vendor, the vendor's name, address, and vending vehicle(s) to which the vendor is authorized to use thereunder. The regulatory authority shall keep a permanent record of all identification badges issued.
(Ord. No. 5637, § 2, 8-20-96)

Sec. 13-240. Transfer.

No permit issued under the provisions of this article shall be transferred or assigned.

(a) A person commits an offense if he/she alters or uses the identification badge of any other person;

(b) A person commits an offense if he/she allows another person to use such identification badge. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-241. Exhibiting identification.

Itinerant vendors, merchants or peddlers are required to exhibit their identification badge at the request of an authorized officer of the city or any citizen. Identification badges shall be worn on their person in public view at all times while vending. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-242. Fees.

In advance of the issuance of a permit required herein, there shall be paid an annual fee as prescribed in section 13-20(a) of this Code. An additional fee of ten dollars (\$10.00) shall be paid for an identification badge which will be used by each additional employee working under this permit. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-243. Use of streets.

(a) No vendor shall have any exclusive right to any location in the public streets nor shall any be permitted a stationary location. For the purpose of this article, no vending stop may continue for more than fifteen (15) minutes in any hour.

(b) No vendor shall be permitted to operate in any congested areas where their operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

(c) No vendor may operate within any school zone or within three hundred (300) feet of a school during the period when school zone warning lights are in operation.

(d) As an exception to 13-243(a) above, a mobile hot truck shall be allowed to establish a stationary location on private property upon compliance with the following:

- (1) Written permission is obtained from the private property owner for the establishment of the stationary location and this permission authorizes utilization of the on-site restroom facilities for the employees of the mobile hot truck. This permission shall be submitted to the Regulatory Authority prior to initiation of such activity.
- (2) A mobile hot truck shall only be allowed on the premises from 7:00 am until 7:00 pm.
- (3) The mobile hot truck shall be required to return to a commissary for daily cleaning and maintenance as required by this article.
- (4) Only one (1) mobile hot truck shall be allowed to operate at a stationary location at any one time.
- (5) This exception shall only apply to property zoned as heavy industrial as designated by the city's Planning and Development Department.

Sec. 13-244. Expiration of permit.

Unless otherwise specified, all vehicles' vending permits and badge permits issued under the provisions of this article shall expire one (1) year from the date of issuance. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-245. Records.

The regulatory authority shall maintain a record for each vehicle's vending permit and all

badge permit issued and record of reports of violation therein.

Sec. 13-246. Denial of badge permit.

(a) The regulatory authority may deny or suspend a vehicle's vending permit or a badge permit for failure to comply with any provisions of this article.

(b) The regulatory authority shall make written notification of denial within forty-eight (48) hours from receipt of the application. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-247. Suspension of permit.

(a) A vehicle's vending permit holder or an operator's badge permit holder must immediately cease operation and surrender his or her badge permit upon written notification by the regulatory authority for any violation of this article.

(b) Operation shall remain suspended pending a hearing as prescribed in this article. A request for a hearing must be filed with the regulatory authority within ten (10) days of notice of suspension of permit. If no request for a hearing is received, the suspension shall be upheld and the permit shall be revoked. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-248. Revocation of permit.

(a) Notice of hearing for the revocation of a vehicle's vending permit or an operator's badge permit shall be given in writing setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the permit holder at his address given in the application for a badge permit at least five (5) days prior to the date set for hearing.

(b) A vehicle's permit or an operator's badge permit issued under the provisions of this article may be revoked by the regulatory authority, after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statement contained in the application for permit;
- (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler;
- (3) Any violation of this article;
- (4) Conviction of any misdemeanor or any felony if the crime directly relates to the conduct of a peddler's business;

(a) Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety and general welfare of the public. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-249. Appeal.

Any applicant aggrieved by the action of the regulatory authority with reference to the revocation of a permit, as provided in section 13-248 of this article, shall have the right to appeal to the city manager. Such appeal shall be taken by filing with the city manager, within fourteen (14) days after notice of the action complained of has been mailed to such person's address given in the application, a written statement setting forth fully the grounds for the appeal. The city manager shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in section 13-248 of this article for notice of hearing on revocation. The decision and order of the city manager on such appeal shall be final and conclusive. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-250. Exemptions.

The provisions of this article shall not be held applicable to vendors of farm produce, poultry, stock or agricultural products in their natural state if raised on land owned or leased by the vendor, and if such products are sold at the site where these items are grown or raised by any member of such owner's or lessee's household. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-251. Potentially hazardous food—Sale from mobile units.

(a) It shall be unlawful for any itinerant vendor, merchant or peddler to peddle, solicit, sell, offer for sale, or exhibit for sale any fresh, frozen or processed potentially hazardous food from any mobile food unit within the city without first having applied for and received a mobile vending permit from the city as prescribed in section 13-238 of the Code.

(b) The requirements for receipt of a mobile vending permit under this section shall be as follows:

- (1) Vendors must supply an itinerary of all vending stops to the regulatory authority on or before the first workday of each month;
- (2) Mechanical refrigeration must be available in the mobile unit and capable of maintaining the appropriate product temperatures, as adopted in section 13-20, rules on food service sanitation, or the Code of Ordinances. Mechanical refrigeration units must be designed to NSF standards for commercial food service equipment and maintained in proper working condition at all times when food is aboard. Ice, if used as a cooling medium, must be continuously drained and discharged into the waste retention tank;
- (3) A numerically scaled, metal stem, product thermometer must be available;
- (4) Hot and cold potable water under pressure must be provided with a minimum capacity of fifteen (15) gallons required;
- (5) All connections on the mobile unit for servicing of wastewater shall be of a different size and type than those used for supplying potable water, and all waste connections shall be lower on the mobile unit than connections to

potable water;

- (6) A three-compartment sink for utensil washing, rinsing and sanitizing must be provided;
 - (7) A hand-washing lavatory with hot and cold water under pressure must be available in the vending unit, and hand soap and single-use towels must be provided at all times;
 - (8) Waste-retention tanks with a fifteen-per-cent greater capacity than potable water capacity must be provided, and all wastewater must be properly disposed of in a sanitary sewer;
 - (9) Scales for weighing products, if provided, must bear the current seal of the Texas Department of Agriculture verifying the accuracy of the scales;
 - (10) The vending unit must be constructed in a manner which prevents flies, dust and vermin from entering the facility, and all screens must be a minimum of sixteen-mesh per inch;
 - (11) All interior surfaces must be easily cleanable, nonporous, durable and smooth; and all walls and ceilings must be light in color;
 - (12) The name of the vending operation must appear in two-inch block letters on the sides of the mobile vending unit; and
 - (13) Mobile units must return to the commissary for daily servicing and cleaning of the unit as prescribed in the rules.
- (c) The following procedures shall be observed by any mobile unit operator when operating, preparing to operate, or procuring such mobile unit:
- (1) All foods must be in sound condition, from an approved source, free from spoilage, filth or other contamination and safe for human consumption;
 - (2) Both the state department of parks and wildlife and the city's permits must be conspicuously displayed on the mobile unit;
 - (3) Written permission of the property owner must be secured if vending from the property of an individual other than the applicant or owner, and such document must be available upon request;
 - (4) Convenient restroom facilities must be accessible during all periods of operation, and, if nonpublic facilities are utilized, written permission must be secured and maintained;
 - (5) Due to the mobile nature of such operations, labels detailing the name, address and telephone number of the owner must be provided on food containers; and
 - (6) The applicant must comply with all other rules and regulations of the city

which in any way relate to impact upon the sale of potentially hazardous food from a mobile unit.

- (a) Violation of any of the provisions of this section shall be punishable, upon conviction thereof, by a fine as provided in section 1-8 of this Code.

(Ord. No. 5637, § 2, 8-20-96)

Sec. 13-252. Same–Vending.

No person may vend or solicit to vend any frozen potentially hazardous food from any mobile vending unit without first making application and receiving a permit as prescribed in section 13-238 of this Code.

- (a) Mechanical refrigeration must be available in the mobile unit and capable of maintaining the appropriate product temperatures, as adopted in section 13-20, rules on food service sanitation, of the Code of Ordinances.

- (b) Mechanical refrigeration units must be designed to NSF standards for commercial food service equipment and maintained in proper working condition at all times when food is aboard. The use of ice or “dry ice” as a refrigerant is prohibited.

- (1) All food shall be delivered in commercially prepared packages. The sale of partial packages or mixing or recombining packages of any food products is prohibited. (Ord. No. 5637, § 2, 8-20-96)

Sec. 13-253. Display of card prohibiting solicitors.

- (a) A person desiring that no merchant, itinerant vendor or peddler, or other person engage in a solicitation at his residence or business shall exhibit in a conspicuous place upon or near the main entrance to the residence or business a weatherproof card containing the words “NO SOLICITORS.” The letters shall be not less than one (1) inch in height.

- (b) Every merchant, itinerant vendor or peddler, upon going onto any premises upon which a residence or business is located, shall first examine the residence or business to determine if any notice prohibiting soliciting is exhibited upon or near the main entrance to the residence or business. If notice prohibiting soliciting is exhibited, the itinerant vendor, merchant or peddler shall immediately depart from the premises without disturbing the occupant unless the visit is the result of a request made by the occupant.

- (c) No person shall go upon any residential or business premises and ring the doorbell or knock upon the door or create any sound in a manner calculated to attract the attention of the occupant of the residence or business for the purpose of securing an audience with the occupant and engaging in or attempting to engage in the business of an itinerant vendor, merchant or peddler if a card as described in paragraph (a) is exhibited in a conspicuous place upon or near the main entrance to the residence or business unless the visit is the result of a request made by the occupant.

- (d) No person, other than the occupant of the residence or business, shall remove, deface or render illegible a card placed by the occupant pursuant to paragraph (a) above.

- (1) Any merchant, itinerant vendor or peddler who has gained entrance to a residence or business for an audience with the occupant, whether invited or not, shall immediately depart from the premises without disturbing the occupant further when requested to leave by the occupant.
(Ord. No. 5637, § 2, 8-20-96)

Sec. 13-254. Ice cream vendors.

(a) No person may vend any ice cream or other frozen dessert product unless he/she has first applied for and received a mobile vending permit as specified in section 13-238 of this article.

(b) It shall be unlawful for any person to operate on any public street or highway within the city any vehicle for the purpose of selling ice cream therefrom while on such public streets or highway without first having the following safety equipment on such vehicle:

- (1) One (1) electrically operated, yellow, multidirectional strobe light or one (1) electrically operated, yellow, rotating, double-faced lamp on the top of such vehicle, the face of which shall be a minimum of five (5) inches in diameter, which shall be easily visible for a distance of two hundred (200) feet to the front and the rear of such vehicle.
- (2) An automatic lashing device designed so that at least two (2) of the rear and front lamps of such vehicle shall flash intermittently at all times while the vehicle is vending or soliciting to vend.
- (3) Such other and further safety devices that the chief of police may from time to time reasonably prescribe.

(c) Music or other noises emitted from ice cream vending vehicles which are intended to attract attention to the vending vehicle shall be kept below a level which could not be heard by a person of normal sensitivity while inside of their residence or business building when all outer openings are closed.

- (1) Vending operations may not begin before 10:00 a.m. and shall cease immediately at dusk. Illuminated street lights which are visible in the area shall be prima facie evidence that it is too dark to safely vend.
(Ord. No. 5637, § 2, 8-20-96)

Secs. 13-255—13-274. Reserved.

PASSED AND APPROVED OCTOBER 15, 2013.