



## HIGH POINTS

### Mobile Food Vendors

#### **Section 18-160 - Definitions.**

*Edible goods* shall include, but are not limited to:

- a. Prepackaged food, including but not limited to, candy, beverages, chips and ice cream
- b. Prepared food which is prepared off-location for sale in the mobile food unit
- c. On-site prepared food which is prepared in the mobile food unit

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

- a. Mobile food trucks – a self-contained motorized unit selling items defined as edible goods.
- b. Concession trailers – vending units which are pulled by a motorized unit and has no power to move on its own

*Texas Food Establishment Rules* shall mean those regulations adopted by the State of Texas as codified in Texas Administrative Code, Title 25. "Health Services", Chapter 228, "Texas Food Establishment Rules" as amended from time to time.

#### **Section 18-161 - Permits Required**

No person shall operate as a mobile food vendor in the City of Waller without a City Permit. Every permit must be displayed at all times in a conspicuous place on the mobile food vendor's truck or concession trailer so that it can be read by the general public. No person shall operate as a mobile food vendor in the City of Waller without a Health Permit for Food issued by a governmental entity located in Fort Bend, Harris or Waller County or the State of Texas. Every Health Permit must be displayed at all times in a conspicuous

place on the mobile food vendor's truck or concession trailer so that it can be read by the general public.

### **Section 18-163 - Permit Fee**

The Applicant must pay a non-refundable fee of \$100.00 for each mobile food vendor permit. Each mobile food unit will be permitted separately.

### **Section 18-166 - Location Restrictions**

No mobile food vendor shall be located 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 food vending unit at all times.

A mobile food vendor shall not conduct sales on any public street except during city sponsored events.

A mobile food vendor may not be located within 100 feet of the primary entrance of an open and operating fixed-location food service or eating establishment, except during city sponsored events.

A mobile food vendor may not conduct sales at a stationary location:

- (1) For a duration longer than four (4) hours per day, per location, if the mobile food unit has no interior toilet or hand-washing facilities, and there is no access to an adjacent toilet or hand-washing facilities for use by mobile food unit employees.
- (2) For a duration longer than eight (8) hours per day, per location, if the mobile food unit has interior toilet and handwashing facilities, or is located on private property and has received written permission from the property owner for use of adjacent toilet and hand-washing facilities for the mobile food unit employees.

## **Section 18-167 - Mobile Food Vendor Requirements**

The following regulations shall apply to mobile food vendors at any location:

Each mobile food unit shall be equipped with a portable trash receptacle and shall be responsible for proper disposal of solid waste and wastewater in the sanitation facility legally accessed by the food service establishment. All disturbed areas must be cleaned following each stop to a minimum of 20 feet of the sales location. Waste generated from washing or maintenance of the mobile unit shall be done in a manner to prevent release on public or private property.

An approved portable type ABC fire extinguisher tagged by a licensed company shall be kept accessible as directed by the City fire marshal or designee. A portable type K fire extinguisher is also required in the kitchen area for cooking operations.

All cooking appliances shall be UL approved appliances.

If cooking using compressed gas (such as, propane cylinders) a gas pressure test must be performed by a licensed plumber.

The mobile food unit will be subject to inspection by the City upon permit application and may be subject to random inspection and upon reissuance of the permit.

## **Section 18-169 - Penalty**

A person who violates a provision of this ordinance or a requirement of a mobile food vendor permit is guilty of a separate offense for each day or part of a day during which the violation is committed or continues. Upon conviction, each offense is punishable by a fine not to exceed \$2,000 per occurrence.



**ORDINANCE NO. 610**

**AN ORDINANCE OF THE CITY OF WALLER, TEXAS AMENDING THE CODE OF ORDINANCES, CHAPTER 18 - BUSINESSES AND BUSINESS LICENSES; CREATING ARTICLE IV., "MOBILE FOOD VENDORS"; REQUIRING A PERMIT; STATING CONDITIONS FOR ISSUANCE OR DENIAL OF THE PERMIT; PROVIDING FOR A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000.00 FOR A VIOLATION, WITH EACH DAY CONSTITUTING A SEPARATE VIOLATION; AND PROVIDING FOR SEVERABILITY**

WHEREAS, the number of local restaurants, stores and eateries that provide food for human consumption in the City of Waller has increased and continues to grow; and

WHEREAS, mobile food vendors have expressed growing interest in the sale of edible food products to residents and visitors of the City; and

WHEREAS, in order to ensure the public health, safety and welfare, it is necessary to adopt rules and regulations for mobile food vendors within the City of Waller; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WALLER, TEXAS:

**Section 1.** The facts and matters set forth in the preamble to this ordinance are hereby found to be true and correct.

**Section 2.** Chapter 18 "Businesses and Business "Licenses" is hereby amended to add Article VI. "Mobile Food Vendors" and shall read in its entirety as follows:

## **Division IV.**

### **Mobile Food Vendors**

#### **Section 18-160 - Definitions.**

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

*Applicant* shall mean a person, as defined herein, who has filed a written application for a mobile food vendor permit

*Chief of Police* shall mean the Chief of the Police Department for the City of Waller, Texas

*City* shall mean the City of Waller, Texas

*Edible goods* shall include, but are not limited to:

- d. Prepackaged food, including but not limited to, candy, beverages, chips and ice cream
- e. Prepared food which is prepared off-location for sale in the mobile food unit
- f. On-site prepared food which is prepared in the mobile food unit

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

- c. Mobile food trucks – a self-contained motorized unit selling items defined as edible goods.
- d. Concession trailers – vending units which are pulled by a motorized unit and has no power to move on its own

*Mobile Food Vendor Permit or Permit* shall mean the City's written authorization to operate a mobile food truck, concession trailer, or other vending unit. The permit may

impose terms and conditions, with written authorization being subject to the guidelines of the permit.

*Mobile Food Unit* shall mean the mobile food truck, the concession trailer, or other motorized unit, including the equipment, supplies and apparatus, used on site for the sale of edible goods.

*Person* shall mean an individual, firm, partnership, corporation, association, organization, or other legal entity.

*Texas Food Establishment Rules* shall mean those regulations adopted by the State of Texas as codified in Texas Administrative Code, Title 25. "Health Services", Chapter 228, "Texas Food Establishment Rules" as amended from time to time.

### **Section 18-161 - Permits Required**

No person shall operate as a mobile food vendor in the City of Waller without a City Permit. Every permit must be displayed at all times in a conspicuous place on the mobile food vendor's truck or concession trailer so that it can be read by the general public. No person shall operate as a mobile food vendor in the City of Waller without a Health Permit for Food issued by a governmental entity located in Fort Bend, Harris or Waller County or the State of Texas. Every Health Permit must be displayed at all times in a conspicuous place on the mobile food vendor's truck or concession trailer so that it can be read by the general public.

### **Section 18-162 - Application**

Mobile Food vendor permits are issued by the Police Department. An application for a mobile food vendor permit may be obtained from the Police Department or as otherwise provided by the city. An Applicant for a permit must provide the following information:

- a. Name of Applicant.
- b. Legal name of business or entity.
- c. Type of business organization or corporation.

- d. If applicable, copy of charter or articles of incorporation and current listing of partners, or principles.
- e. Sales tax number, with a copy of the sales tax permit.
- f. Signed permission form from all private property owners granting permission for placement of the mobile food unit.
- g. Site plan where the mobile food unit will be located on the property.
- h. Name, address, phone number, and photocopy of the driver's license of the applicant and all employees operating on the mobile food unit;
- i. Description of products to be sold.
- j. Vehicle and/or unit make, model, vehicle number, and license plate number;
- k. Proof of motor vehicle insurance.

**Section 18-163 - Permit Fee**

- A. The Applicant must pay a non-refundable fee of \$100.00 for each mobile food vendor permit. Each mobile food unit will be permitted separately.
- B. Mobile food vendor permits are valid for 1-year from the date of permit issuance.
- C. Upon renewal, the Applicant shall pay a non-refundable renewal fee of \$50.00 and update any changes in the permitting document upon permit renewal. The Applicant must submit the application and the renewal fee within 15 days before expiration of the permit or must reapply as a new applicant.
- D. Permits are non-transferrable.

**Section 18-164 - Permit Denial or Revocation**

- A. An application for a mobile food vendor permit may be denied for any of the following reasons:
  - a. Failure to provide all required information.
  - b. Providing false, misleading or inaccurate information.
  - c. The Applicant's record of any past violations of city ordinances, or violations of the health, safety or environmental laws of any other governmental entity.
- B. A permit may be revoked for any of the following reasons:

- a. Violation of any provision of this ordinance, or any other laws or regulations of the City.
- b. Failure to comply with the application location specifications or requirements.
- c. The City determines that operations or management methods are no longer adequate for the safe and efficient provision of services.
- d. Failure to comply with the applicable provisions of the Texas Food Establishment Rules.

### **Section 18-165 - Appeal**

If the City denies the issuance of a permit or revokes a permit, the City shall issue written notice of the denial or revocation and of the right to an appeal. The applicant or permittee may appeal the decision of the City to the Mayor of the City of Waller within five (5) days after the date of the denial or revocation. The appeal shall be decided by the Mayor within (5) business days after the date of a timely filed appeal, and the decision of the Mayor shall be final.

### **Section 18-166 - Location Restrictions**

- A. No mobile food vendor shall be located 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 food vending unit at all times.
- B. A mobile food vendor shall not conduct sales on any public street except during city sponsored events.
- C. A mobile food vendor may not be located within 100 feet of the primary entrance of an open and operating fixed-location food service or eating establishment, except during city sponsored events.
- D. A mobile food vendor may not conduct sales at a stationary location:



(1) For a duration longer than four (4) hours per day, per location, if the mobile food unit has no interior toilet or hand-washing facilities, and there is no access to an adjacent toilet or hand-washing facilities for use by mobile food unit employees.

(2) For a duration longer than eight (8) hours per day, per location, if the mobile food unit has interior toilet and hand-washing facilities, or is located on private property and has received written permission from the property owner for use of adjacent toilet and hand-washing facilities for the mobile food unit employees.

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- A. Each mobile food unit shall be equipped with a portable trash receptacle and shall be responsible for proper disposal of solid waste and wastewater in the sanitation facility legally accessed by the food service establishment. All disturbed areas must be cleaned following each stop to a minimum of 20 feet of the sales location.
- B. Waste generated from washing or maintenance of the mobile unit shall be done in a manner to prevent release on public or private property.
- C. An approved portable type ABC fire extinguisher tagged by a licensed company shall be kept accessible as directed by the City fire marshal or designee. A portable type K fire extinguisher is also required in the kitchen area for cooking operations.
- D. All cooking appliances shall be UL approved appliances.
- E. If cooking using compressed gas (such as, propane cylinders) a gas pressure test must be performed by a licensed plumber.
- F. The mobile food unit will be subject to inspection by the City upon permit application and may be subject to random inspection and upon reissuance of the permit.

### **Section 18-168 - Offenses**

- A. It shall be unlawful for any person directly or through an agent or employee of another regulated under this ordinance to sell edible goods within the corporate limits of the City unless its principal or employer has received a valid permit .

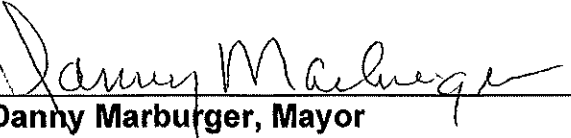
- B. It shall be unlawful for any person to sell edible goods while displaying a valid permit issued by the City in the name of another individual, organization or entity.
- C. It shall be unlawful for any person, directly through an agent or employee, to sell edible goods within the corporate limits of the City after expiration of the permit issued by the City under this ordinance.
- D. It shall be unlawful for any person, directly or through an agent or employee, to misrepresent on the permit application any acts that are regulated under this ordinance.
- E. It shall be unlawful for any person, directly or through an agent or employee, to represent that the issuance of a permit by the City constitutes the City's endorsement or approval of the product for sale.
- F. It shall be unlawful to operate a mobile food vendor operation that is not in compliance with the applicable provisions of the Texas Food Establishment Rules, as amended from time to time.

### **Section 18-169 - Penalty**

A person who violates a provision of this ordinance or a requirement of a mobile food vendor permit is guilty of a separate offense for each day or part of a day during which the violation is committed or continues. Upon conviction, each offense is punishable by a fine not to exceed \$2,000 per occurrence.

**Section 3.** In the event any section, paragraph, subdivision, clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional, and the City Council of the City of Waller, Texas declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED AND APPROVED on this 20<sup>th</sup> day of February 2023.

  
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Danny Marburger, Mayor

ATTEST:

  
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Cynthia Ward, City Secretary