

ORDINANCE NO. 2136

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUGAR LAND, TEXAS AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 2, ARTICLE V, DIVISION 4, SECTION 2-136 (FEES FOR VARIOUS CITY SERVICES) AND CHAPTER 3, ARTICLE IV (FOOD AND FOOD SERVICES) BY REVISING REGULATIONS AND FEES RELATING TO FOOD ESTABLISHMENTS.

**BE IT ORDAINED BY THE CITY COUNCIL
OF THE CITY OF SUGAR LAND, TEXAS:**

Section 1. That Chapter 2, Article V, Division 4, Section 2-136 of the Code of Ordinances is amended by revising subsection f. *Food Inspection* to read as follows:

f. Food inspection:

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|---|--------------------------------|
| 1. Food establishments, per year: | |
| 1—4 employees | \$228.00 |
| 5—9 employees | \$455.25 |
| 10—25 employees | \$683.25 |
| 26—50 employees | \$911.00 |
| 51—100 employees | \$1,139.00 |
| 101 or more employees | \$1,366.75 |
| 2. Nonprofit food establishment | \$113.75 |
| 3. Mobile food establishment medallion fee | \$341.75 |
| 4. Retail frozen dessert manufacturing permit fee.. | \$228.00 |
| 5. Frozen dessert excess sample fee | \$113.75 |
| 6. Temporary food establishment permit TYPE 1... | \$34.50 |
| Plus, per day of operation | \$22.75 |
| 7. Temporary food establishment permit TYPE 2..... | \$475.00 |
| 8. Temporary vendor fee | \$20.00 |
| 9. Food establishment permit special processing fee .. | \$113.75 |
| 10. Food establishment pre-opening inspection fee | \$171.00 |
| 11. Food establishment Construction re-inspection fee ... | \$113.75 |
| 12. Food establishment operations re-inspection fee | 41% of fee for existing permit |
| 13. Replacement of permit or medallion | \$22.75 |
| 14. Expedited Temporary Food Permit | \$25.00 |
| 15. Fire Mobile Food Unit inspection fee..... | \$40.00 |
| 16. Dog variance fee | \$200.00 |

Section 2. That Chapter 3, Article IV. Food and Food Services is amended to read as follows:

**ARTICLE IV. FOOD AND FOOD SERVICES
DIVISION 1. REGULATIONS APPLYING TO ALL FOOD ESTABLISHMENTS.**

Sec. 3-71. Adoption, Amendments and Compliance with the 2015 Texas Food Establishment Rules and Appendix B of NFPA 96.

(a) Except as amended below, the 2015 Texas Food Establishment Rules (TFER) are adopted.

(b) The 2015 TFER is amended as follows:

(1) Section 228.150(d) is amended to read as:

(d) Grease trap. If used, a grease trap shall be located outside of the food preparation area. Access to the grease trap shall also be located outside the food preparation area and must be easily accessible for cleaning, operation, and maintenance.

(2) Section 228.248 is amended by adding a subparagraph (12) to read as:

(12) Required to post informational posters for Heimlich Maneuver and instructions in the kitchen for the proper use of the 3-compartment sink, “wash, rinse, sanitize.”

(3) Section 228.42(a)(1) is amended by adding a prohibition for chewing gum.

(4) Section 228.42(a)(2) is amended by changing “closed beverage container” to “screw top lid” and adding a requirement that management designate a specific location to store all approved employee beverage containers.

(5) Section 228.34(2) is amended by adding the limitation that brief visits and tours may only occur when the Food Establishment is not open for general service to the public.

(c) All provisions within this Article are to be read and construed in a manner that is consistent with state law and the 2015 TFER as amended. Any inconsistency between the requirements of this article, state law and TFER will be resolved in favor of the more restrictive requirement.

(d) All provisions within this Article related to Mobile Food Units are to be read and construed in a manner that is consistent with state law, the 2015 TFER, as amended, and Appendix B of NFPA 96. Any inconsistency between the requirements of this article, state law, TFER and Appendix B of NFPA 96 will be resolved in favor of the more restrictive requirement.

Sec. 3-72. Definitions. In this Article:

Central Operational Facility means a fixed, non-mobile establishment or any other place used for the storage of supplies, the preparation of food to be sold or served on a Mobile Food Unit or the cleaning and servicing of the Mobile Food Unit that is licensed and inspected by the regulatory agency which oversees compliance for the territory in which the Commissary is located.

Commissary means a licensed and approved location that contains a Servicing Area and may contain a Central Operational Facility.

Event Producer means the person, sponsor, promoter, producer or any of their respective agents, representatives or contractors who: (1) file a written application for a Special Events Permit, (2) operate under a Type I permit, or (3) Type II permit. Event Producers are required to be present during setup, duration and breakdown.

Fixed Food Establishment means a non-moveable place where food is prepared and intended for individual portion service. This includes the site at which individual portions are provided for consumption on or off the premises and regardless of whether there is a charge for the food. Also known as a “Brick and mortar” food establishment.

Food Establishment includes Fixed Food Establishments and Mobile Food Units.

Layout Plan of Operation means a document submitted by a property owner showing the area a Mobile Food Unit is proposed to be parked for food serving. Also includes a property owner’s acknowledgement form signed by the property owner or the owner’s authorized agent acknowledging an understanding of the operating requirements within this article.

Mobile food Unit or *MFU* means an enclosed unit, truck, trailer, or similar vehicle-mounted establishment used for the preparation, sale, or donation of on-site prepared food.

Retail Frozen Dessert Manufacturing Establishment means a Food Establishment where frozen dessert mixes are frozen or partially frozen within and in contact with an enclosed freezing compartment, and dispensed for retail sale or distribution.

Servicing Area means a base location to which a Mobile Food Unit or transportation vehicle returns regularly for such things as vehicle cleaning, discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food. No preparation, service or utensil/warewashing is conducted in the Servicing Area.

Temporary Food Establishment Type I mean a Food Establishment that operates for up to 14 consecutive days.

Temporary Food Establishment Type II mean a Food Establishment that operates for up to 110 days per permit year.

Sec. 3-73. General regulations.

The provisions of this chapter pertaining to Food Establishments apply to the Commissary or other Fixed Food Establishment where the food supplies are obtained for a Mobile Food Unit. Any suspension or revocation of the Food Establishment permit for an establishment is cause for suspension or revocation of the medallion of any Mobile Food Unit whose food supplies are being obtained from that establishment.

Sec. 3-74. Food service manager and handler certifications.

- (a) Food Establishments must be operated under the supervision of persons holding a valid food service manager's certificate. To be a valid food service manager's certification, the certificate must have been issued within the last five years pursuant to the completion of an approved sanitation training course. The course must impart the knowledge required of a person in charge under the Texas Food Establishment Rules and be recognized by the State or a comparable course offered by the City of Houston.
- (b) Food Establishments having multiple preparation or processing areas or at such a distance that a single individual may not effectively supervise activities in each must have a person in charge who has a valid food service manager's certification located in each area.
- (c) It is a defense to prosecution under subsection (a) or (b) that the Food Establishment area or specific preparation area was not, at the time of the alleged offense, in use for the manufacturing, production, preparation, processing or packaging of food or the conduct of make-ready activities commenced prior to or cleanup activities performed afterward.
- (d) While on duty, a food service manager must keep their valid food service manager's certification card on his or her person and provide it to a city inspector upon request.
- (e) The city may declare a food service manager's certificate invalid if:
 - (1) The food service manager interferes with an inspection of the Food Establishment by the city; or
 - (2) There are repeated or serious violations of these regulations, federal or state food laws, or laws regulating the operation of the Food Establishment at times the food service manager is employed by that Food Establishment.

When a food service certificate is determined to be invalid, the city will identify the certificate, declare it invalid, and indicate on the inspection report the reasons for the declaration. When a certificate has been declared invalid, the person to whom the certificate was issued may not serve as a person in charge or prepare/handle food product until the person has completed and passed another approved certification course.

- (f) All Food Establishment employees that are involved in the preparation of food served to the public must obtain a food handler certification. The course must impart the knowledge required of a person in charge under the Texas Food Establishment Rules and be recognized by the State or a comparable course offered by Fort Bend County. It is a defense to prosecution under this subsection that the Food Establishment is a Temporary Food Establishment Type I or Temporary Food Establishment Type II.
- (g) The city may declare a food handler certificate invalid if:

- (1) The food handler interferes with an inspection of the Food Establishment by the city;
or
- (2) There are repeated or serious violations of these regulations, federal or state food laws, or laws regulating the operation of the Food Establishment at times the food handler is working at that Food Establishment.

Sec. 3-75. Medallion or Permit required.

(a) *Permit required.* It is unlawful for a person to operate a Food Establishment without a valid permit or medallion issued by the city. A Food Establishment permit or medallion is valid for the location specified thereon and may not be transferred from place to place. A Food Establishment permit or medallion will become void upon the closing of any sale of the establishment. A new owner must submit an application for a Change of Occupancy and an annual Food Establishment permit, pass an inspection, and make payment for the annual Food Establishment permit prior to operation. All Food Establishment permits and medallions remain the property of the city.

(b) *Application.* Any person desiring to obtain a Food Establishment permit or medallion must make written application on forms provided by the city. If the application is for a Temporary Food Establishment Type I, the application must be made at the city in person at least five days prior to the beginning of temporary food service operations. If the application is for a Temporary Food Establishment Type II, the application must be made at the city in person at least 14 days prior to the beginning of temporary food service operations. Forms must be completely and accurately filled out, and all required documentation must be submitted.

(c) *Changes.* A permit or medallion holder must notify the city of any change to the information submitted in an application for a permit or medallion, including a change of address, the number of employees or telephone number of the permit or medallion holder. The notification must be given to the city in writing within ten days of the change.

Sec. 3-76. - Retail frozen dessert manufacturing establishments permit.

(a) The Milk and Dairy Rules contained in Title 25, Chapter 217 of the Texas Administrative Code are adopted.

(b) Each applicant for a Food Establishment permit must disclose whether the proposed establishment constitutes a Retail Frozen Dessert Manufacturing Establishment.

(c) Each holder of a valid and unexpired Food Establishment permit issued under this article who desires to commence operating a Retail Frozen Dessert Manufacturing Establishment must make an application for a Retail Frozen Dessert Manufacturing Establishment permit for the affected premises to the city.

(d) Operators of a Retail Frozen Dessert Manufacturing Establishment must allow the timely collection of samples during reasonable morning hours for bacterial lab

assessments. Refusal to allow samples to be collected may result in the suspension or revocation of the Retail Frozen Dessert Manufacturing Establishment permit.

Sec. 3-77. Temporary Food Establishment permits.

(a) Temporary Food Establishment Type I permits will be issued to the Event Producer for a period of time not to exceed 14 consecutive days. A Temporary Food Establishment Type I permit is not required if:

- (1) The Temporary Food Establishment Type 1 is operated by a person who holds a valid Food Establishment permit issued under this article;
- (2) The operation of the Temporary Food Establishment Type 1 is within the scope of the regulated and inspected activities of the holder of a valid Food Establishment permit; and
- (3) All food is prepared inside of the permitted establishment by the holder of the valid Food Establishment permit and then served outdoors on the same premises.

(b) Temporary Food Establishment Type II permits will be issued for events that are temporary or seasonal but do not exceed 110 days in a permit year. To qualify for a Temporary Food Establishment Type II permit:

- (1) A completed application and required documentation must be submitted to the city for approval;
- (2) The event must comply with all State and local regulations pertaining to temporary events;
- (3) The event must not exceed 110 days per permit year; and
- (4) The event producer must take full responsibility for ensuring the Temporary Food Establishments are complying with all permit requirements. Failure to receive City approval of changes in operation dates and Temporary Food Establishments prior to implementation of changes will result in revocation of the Temporary Food Establishment Type II permit. Temporary Food Establishment Type II permits are non-transferable and will be considered void should the event producer change.

Sec. 3-78. Fees.

(a) Fees will be charged at the rates established in chapter 2 of this Code.

(b) The non-refundable annual fee for a Food Establishment permit, other than that issued to a nonprofit organization, will be based on the total number of persons employed full-time or part-time by the Food Establishment. Where the distribution of food is subsidiary to the primary purpose of the business, all persons receiving, storing, stocking, producing, processing, distributing, or selling foods, and those persons conducting maintenance, cleaning or management in support of food operations will be construed as "employees" for the purpose of this section, but persons not performing any such duties will not be so construed.

(c) Mobile Food Unit medallion fee. An annual fee for the Mobile Food Unit medallion will be collected by the city following the annual inspection and approval of a Mobile Food Unit (MFU). Should an individual or entity own more than one MFU, a medallion must be obtained for each individual MFU.

(d) Retail Frozen Dessert Manufacturing Establishment permit fee and term. An annual fee for the Retail Frozen Dessert Manufacturing Establishment permit will be collected by the city in conjunction with and in addition to the fees prescribed for the issuance of a Food Establishment permit. The Retail Frozen Dessert Manufacturing Establishment permit will expire concurrently with the Food Establishment permit. If the initial term of an applicant's Retail Frozen Dessert Manufacturing Establishment permit begins at a later date than its Food Establishment permit, the fee for the Retail Frozen Dessert Manufacturing Establishment permit will be prorated for the unexpired term of the Food Establishment permit at the rate of 1/12 the annual fee for the Retail Frozen Dessert Manufacturing Establishment permit per month for each full month or portion of a month remaining thereon.

(1) Excess sample fee. When the sample from an enclosed freezing compartment contains numbers of bacteria unacceptable under Texas law, and adequate sanitation is not demonstrated for the enclosed freezing compartment by a second sample, a processing fee will be due and payable to the city upon notice to the operator that the second sample produced unacceptable results. This fee will be due each time that a subsequent sample for that enclosed freezing compartment produces unacceptable results, until testing reveals adequate sanitation in the enclosed freezing compartment. The fee will be assessed per compartment that is found to be in violation.

(e) Temporary Food Establishment.

(1) Type I fee. Base permit fee plus an additional fee for each day that the permit is valid.

(2) Type II fee. Flat fee as listed in chapter 2 of this Code.

(3) Expedited temporary event permit review fee. An expedited review fee will be imposed for each application for a Temporary Food Establishment Type I submitted within 5 business days of the start date for the event and for each application for a Temporary Food Establishment Type II submitted within 14 business days of the start date for the event.

(4) Temporary Vendor fee. Event Producers that utilize Temporary Food Establishments that do not have a current Food Establishment permit or medallion issued by the City will be charged a temporary vendor fee per vendor.

(f) Replacement fee. An individual who has lost a valid, current Food Establishment permit, Temporary Food Establishment permit (Type I or Type II), Retail Frozen Dessert Manufacturing Establishment permit, or Mobile Food Unit medallion may obtain a replacement from the city for the fee specified in Chapter 2 of this Code.

(g) Special processing fee. A special processing fee will be charged to renew a Food Establishment permit if the permit fee is not received by the city on or before the date of

expiration of the permit. Any new permit issued to the owner for a Food Establishment at the same location will be deemed a renewal, unless the owner demonstrates to the city, by clear and convincing evidence, that the Food Establishment has not operated since the prior Food Establishment permit expired.

(h) Pre-opening inspection. An applicant must pay a pre-opening health inspection fee at the time the applicant submits payment for the annual Fixed Food Establishment permit.

(i) Construction re-inspection fee. When the city conducts a pre-opening inspection and determines that the owner has failed to complete more than three-quarters of the modifications specified during the previous inspection of that construction or remodeling, the owner must pay a re-inspection fee prior to receiving another inspection.

(j) Operations re-inspection fee. When the city determines that the operation of a Food Establishment has repeated or serious violations, such that upholding the public health and welfare requires a scheduled re-inspection to confirm timely abatement of the violations, a fee will be imposed by the city on the owner to defray the cost for follow-up inspection. The owner must pay the re-inspection fee prior to receiving another inspection to confirm abatement. In setting the date for any re-inspection, the city may consider both the seriousness of the violations, and the resources available to the owner that may be used to achieve compliance.

(k) Fire Inspection fee. A fire inspection fee will be charged on an annual basis in conjunction with the Mobile Food Unit medallion fee. Mobile Food Units operating under a current permit or medallion issued by another jurisdiction located in Fort Bend County with comparable regulations (as determined by the Sugar Land Fire Department) will be exempted from the annual fire inspection.

Sec. 3-79. Suspension of permit or medallion.

(a) *Suspension.* The City is authorized to suspend a permit or medallion issued under this article when the City finds:

- (1) Any Food Establishment in a condition which poses an imminent risk to the health or safety of the public or the employees of the Food Establishment;
- (2) An Event Producer failed to provide the required updated information;
- (3) The bacterial counts exceed twice the allowed bacterial counts or if the Retail Frozen Dessert Manufacturing Establishment fails three consecutive tests;
- (4) Repeated critical violations (e.g. faulty equipment, cleanliness, or pest issues);
- (5) A violation of a provision of this article that lists suspension as a penalty.

At the time the permit or medallion is suspended, the city will issue an inspection report to the Food Establishment stating that the permit or medallion has been suspended, and specifying the reasons for the suspension. When the inspection report is issued, all food

operations must cease immediately. When a permit or medallion has been suspended, the City may physically remove it from the premises.

(b) Reinstatement of suspended permit. When a permit or medallion required by this article has been suspended, the party to whom the permit was issued may file a request for reinstatement of the permit or medallion with the City. The request must include a statement signed by the applicant that the violations specified by the City at the time of the suspension no longer exist. Within 72 hours after the receipt of the request, the city will make an inspection and thereafter as many re-inspections as the City may deem necessary to determine that the applicant has complied with the requirements of this chapter. When the City's findings indicate compliance, the city will reinstate the permit or medallion.

Sec. 3-80. Revocation of permit or medallion.

(a) A Food Establishment permit or medallion may be revoked if:

- (1) The permit holder or his agents or employees interfere with the city's inspection of the food establishment;
- (2) There are repeated or serious violations of the applicable portions of this article or the law;
- (3) In the case of Mobile Food Units, the permit holder or his agent has not reported an accident to the City within 24 hours of the time the accident occurred if the accident resulted in the damage of the water system, waste retention tank, food service equipment, or any facility which may result in the contamination of the food being carried or any damage which results in a violation of the provisions of this article;
- (4) Any other violation of this article that specifically lists revocation as a penalty.

(b) Upon service of a written notice that the permit or medallion has been revoked as provided herein, all food operations must cease immediately.

(c) When a permit or medallion is revoked, the City may physically remove it from the premises or vehicle.

Sec. 3-81. Condemnation of food.

(a) City inspectors are authorized to condemn any food, food ingredient, or item of food equipment that is suspected to be adulterated or misbranded. The City may utilize the resources of all available state, county or federal offices and agencies as needed in the prosecution of condemnation actions.

(b) Pending disposition, the City may direct that a food product, ingredient, or equipment item not be used, removed, distributed or sold by placing a tag declaring a quarantine and specifying those products or items to be held.

Sec. 3-82. Inspections.

(a) The City will conduct inspections of Food Establishments within the City limits to implement the requirements of applicable state and federal laws and regulations, and the provisions of this Code. Failure to allow the City to conduct inspections of the establishment will result in the revocation of the Food Establishment's permits or medallions.

(b) When a food inspection report is issued, that document must be retained in the Food Establishment to which it applies, posted on an interior wall so that staff may refer to its findings. The report may not be removed or defaced until another food inspection report is issued by the City.

(c) The permit or medallion holder or his designee will ensure that a person in charge is present at the Food Establishment during all hours of operation. If no designated person in charge is present on the premises during inspection, the inspecting sanitarian may select a person from among employees present to serve as the person in charge, to implement those corrections requiring immediate action, and communicate the findings of the inspection to the owner or absent person in charge.

DIVISION 2. REGULATIONS APPLYING TO FIXED FOOD ESTABLISHMENTS.

Sec. 3-83. Construction, remodeling of fixed food establishments.

(a) Fixed Food Establishments may not be constructed, remodeled, or altered except in accordance with plans and specifications approved by the City.

(b) Plans must be submitted in compliance with the requirements for obtaining construction permits. The plans and specifications must indicate the proposed layout, arrangement, and construction materials of areas to be modified or constructed, and proposed equipment and facilities.

(c) The City will approve the plans and specifications only after the applicant has made all modifications necessary to comply with State and City requirements.

(d) A Fixed Food Establishment must be inspected by the City and obtain a Certificate of Occupancy prior to commencing operation to verify compliance with the approved plans and specifications.

Sec. 3-84. Allowing dogs on patio.

(a) A Fixed Food Establishment may obtain a dog variance from the City to allow domesticated dogs at an outside patio. A dog variance will not be granted for any other type of domesticated animal.

(b) A dog variance is not required for service animals or police K-9s.

(c) To obtain a dog variance, the owner or operator of a Fixed Food Establishment must submit an application and fee to the City. Dog variances are non-transferable and become void upon the closing of any sale of the establishment.

(d) Owners and operators of Fixed Food Establishments with dog variances must post the regulations contained in subsection (e) and (f) below in a location visible to all restaurant employees.

(e) Regulations applying to Fixed Food Establishments with a dog variance:

- (1) Patio access provided for dogs by exterior patio access only;
- (2) Installation of Signage – “Dog Friendly Patio: Dog Access to Outdoor Patio Only”;
- (3) Hand sanitizer available to customers on the patio;
- (4) Outdoor patio cleaned with animal friendly chemicals at the beginning of each shift during which food or beverages will be served;
- (5) Outdoor patio continuously maintained free of visible dog hair, dog dander and other dog-related waste or debris;
- (6) Employees prohibited from petting or having contact with any dog on the patio;
- (7) Elimination of potential for contamination of food preparation areas/utensils;
- (8) Dogs must remain on the ground. Dogs are prohibited from sitting on any table, countertop, chair, or any other surfaces that customers use in the outdoor patio area. Dog carrier bags/purses may not be stored on dining chairs; and
- (9) Employees may not provide any food items to dogs. Water may be provided in disposable bowls. No dining ware may be used.

(f) Regulations applying to owners or handlers of dogs while at a Fixed Food Establishment with a dog variance:

- (1) Dogs must wear collar with current rabies vaccination and identification tags with owner name and contact information;
- (2) Owners or handlers may not leave a dog outside and unattended;
- (3) Dogs deemed Dangerous by any municipality or acts aggressively towards people or dogs are prohibited from entering the patio. Aggressive behavior is defined as unprovoked, snapping or biting;
- (4) Dogs must be leashed at all times. The owner or handler must keep the dog under restraint and be in constant control of the dog; and
- (5) The owner or handler must immediately remove and properly dispose of feces left by their dog on public or private property.

(g) A dog variance may be revoked for violations of this section. Once revoked, the Fixed Food Establishment may not allow dogs on the patio. A new application and inspection is required prior to the issuance of another dog variance.

DIVISION 3. REGULATIONS APPLYING TO MOBILE FOOD UNITS.

Sec. 3- 85. General Operations.

(a) All Mobile Food Units operating in the City must have a City-issued Medallion. It is a defense to prosecution under this section that the Mobile Food Unit was (i) permitted as part of a Special Event as defined in Chapter 5, Article 8 of this Code, or (ii) utilized as a catering truck for a private catered event, where no sales to the public are made.

(b) An itinerary for Mobile Food Units must be filed with the City in accordance with the written policy adopted by the Environmental and Neighborhood Services Department. Written notice of at least three business days must be given before implementation of any changes to the filed itinerary. The itinerary must include:

- (1) The address of each premises to be serviced and the name and telephone number of the owner or person in control of the premises;
- (2) The scheduled times of arrival at and departure from each premises to be serviced, which at times must be accurate to within 30 minutes; and
- (3) A description of the food to be sold or served at each premises.

(c) Food preparation.

- (1) No food may be stored or prepared at any location except in the Mobile Food Unit or in a licensed Commissary or Fixed Food Establishment as listed in the application submitted for the Mobile Food Unit permit.
- (2) Cooking may not be conducted while the vehicle is in motion.
- (3) All cooking equipment and hot holding units must be located at the rear of the Mobile Food Unit. All cooking equipment must be properly vented.
- (4) Covers with secure latches for deep fryers, steam tables, and similar equipment must be installed and used while the Mobile Food Unit is in motion.

(d) Mobile Food Units must have a least 10 feet clearance from any building, structure, vehicle, and any combustible materials.

(e) No public seating may be located within the Mobile Food Unit.

(f) Mobile Food Units must remain at least 15 feet from a fire hydrant and must not block fire lanes and fire access roads.

(g) A Mobile Food Unit must be fully serviced daily at the licensed Commissary noted on the application for the Mobile Food Unit Medallion.

(h) Sewage and other liquid wastes must be removed from the Mobile Food Unit at an approved waste servicing area or by a sewage transport truck in a manner that prevents the creation of a public health hazard or nuisance.

Sec. 3-86. Location of Operations.

Mobile Food Units may serve food at the following stationary sites:

(a) Active Construction Site. A Mobile Food Unit may provide food services to active construction sites with a City-issued Medallion as follows:

- (1) Nonresidential- Must serve on private property within a 100-foot radius of a property for which an active building permit has been issued for non-residential construction.
- (2) Residential- Must serve within a 100-foot radius of a property which an active building permit for the construction of at least three residential dwelling units has been issued.

(b) Professional Office Site Location. A Mobile Food Unit may provide food services to (i) a professional office building (not less than 50,000 square feet in size) or (ii) group of professional office buildings (not less than 50,000 square feet in size) developed on a single platted reserve with a City-issued Medallion and a City-issued Temporary Food Establishment Type I or Type II Permit. The property owner or owner's agent must submit and receive approval of a Layout Plan of Operation prior to commencement of service. Service must be conducted only on the private property.

(c) Multi-family Site Location. A Mobile Food Unit may provide food services to a multi-family site with a City-issued Medallion and a City-issued Temporary Food Establishment Type I or Type II Permit. The Mobile Food Unit must serve on private property located internally to the overall multi-family site. Approval and oversight of the on-site multi-family management representatives is required.

(d) Residential Homeowner Association (HOA) / Property Owner Association (POA) Site Location. A Mobile Food Unit may provide food services at a HOA or POA site with a City-issued Medallion and City-issued Temporary Food Establishment Type I or Type II Permit. Service must occur at the association's community facility under the oversight of the HOA / POA management representatives.

(e) Residential Single-Family Site Location. A Mobile Food Unit may provide food services to a private party at a residential single-family site without a City-issued medallion or City-issued permit if the food service is sponsored by the property owner and has no individual sale to the general public. Under this subsection, Mobile Food Unit operations must cease by 10:00 p.m. Sunday through Thursday, and by 10:00 p.m. Friday and Saturday.

(f) City Facilities and Destination Venues. Regulations for Mobile Food Units on City Facilities are governed by each Facility's operational requirements and the Parks and Recreation Department's Food Truck reservation policies. Regulations for Mobile Food Units at Destination Venues are governed by the City's Special Events Policy and Procedures (DE-101).

(g) Public School Locations. A Mobile Food Unit may provide food services at a site owned or operated by a public school with a City-issued Medallion and City-issued

Temporary Food Establishment Type I or Type II permit. Approval and oversight of the public school is required.

Sec. 3-87. Vehicle design requirements.

Mobile Food Units will be inspected annually by the Environmental and Neighborhood Services Department (or its successor department). To receive a City-issued medallion, Mobile Food Units must comply with the following regulations:

(a) External requirements. Mobile food units must be:

- (1) Free of visible damage or rust
- (2) Equipped with four-way hazard lights
- (3) Equipped to the left and right with outside rearview mirrors
- (4) Identified by the placement of the business name or person responsible for the operation of the mobile food unit on at least two sides of the vehicle in clearly legible letters, contrasting against their background and no less than three inches high.

(b) Internal Requirements.

- (1) All equipment installed on the mobile food unit must be certified or classified for sanitation by the American National Standard Institute (ANSI) accredited certification program and be properly maintained and fully operational.
- (2) The Mobile Food Unit must be equipped with a stainless steel, three compartment sink, with each compartment measuring at least 12 inches long, 12 inches wide, and 10 inches deep to allow for proper ware washing. The sink must be equipped with:
 - a. A mixing faucet with a swivel spigot capable of servicing all sink compartments, and
 - b. An integral stainless steel drain board at least 12 inches long, which must be installed with a minimum of one-half inch lip or rim to prevent the draining liquid from spilling to the floor.

(c) Sewage tank. All sewage tanks installed on a Mobile Food Unit must be:

- (1) Properly maintained and leak-proof;
- (2) Sized at least 15% larger in capacity than the water supply tank; and
- (3) Sloped to a drain that is 25 millimeters (1 inch) in inner diameter or larger and equipped with a shut-off valve.

(d) Plan review for Mobile Food Units created by converting or retrofitting vehicles from their originally manufactured state.

- (1) All Mobile Food Units will undergo an initial plan review to verify compliance with applicable State and Local codes.
- (2) Submittal documents must be submitted via electronic format and must include:
 - a. accurate dimensions of the Mobile Food Unit

- b. equipment and finish schedules
 - c. Vent system
 - d. fire safety equipment details
 - e. location and tank size of flammable materials
 - f. any additional information requested by the City to review the applications
- (3) Should it be determined that a Mobile Food Unit does not comply with applicable State and Local code, an inspection will not be conducted and a Medallion will not be issued.
- (4) Additional plan review is required when modifications are made to the Mobile Food Unit.

Sec. 3- 88. Mobile Food Unit fire safety requirements.

Mobile Food Units will be inspected annually by the City's Fire Marshal's Office. Mobile Food Units operating under a current permit or medallion issued by another jurisdiction located in Fort Bend County with comparable regulations will be exempted from the annual fire inspection. To receive a City-issued medallion or participate in a Special Event, Mobile Food Units must comply with the following fire regulations:

- (a) Storage of flammable and combustible liquids must occur in a UL or FM approved flammable liquid safety container and at a city approved location.
- (b) MFUs must be equipped with the following:
 - (1) Portable fire extinguishers selected and installed in accordance with NFPA 10 with a minimum 2A:10BC rating. An approved Class K fire extinguisher must be provided for protection of grease cooking fires. All fire extinguishers must have a current inspection/service tag from a licensed fire extinguishing company.
 - (2) A Type 1 hood installed where cooking appliances produce grease or smoke as a result of the cooking process.
 - (3) Beginning on October 1, 2019, an automatic fire extinguishing system installed to protect cooking equipment.
- (c) Compressed Gas LPG/CNG:
 - (1) LP-Gas systems for MFUs must comply with NFPA 58.
 - (2) LP-Gas containers installed on vehicles must not exceed 200-gallon aggregate water capacity and each container cannot exceed 100 gallons.
 - (3) Disconnected LP-Gas cylinders may not be transported or stored inside the vehicle.
 - (4) The LP-Gas supply system must be installed on the outside of the vehicle or in a recess or cabinet that is vapor tight to the inside of the vehicle but accessible from and vented to the outside with vents located near the top and bottom of the enclosure.
 - (5) LP-Gas containers must be mounted to prevent jarring loose and slipping or rotating, and the fastenings must be designed and constructed to withstand static loading in any direction equal to four times the weight of the container when filled with fuel.

- (6) The LP-Gas containers must be installed above the height of the bumper and positioned in an upright position and in a manner that will reduce the exposure from vehicle impact.
- (7) Only containers designed, constructed, tested, and marked in accordance with the U.S. Department of Transportation specifications, Title 49, Code of Federal Regulations can be used.
- (8) Main shutoff valves on LP-Gas containers must be readily accessible. There must be a quarter-turn manual gas ball valve installed within the LP-Gas piping for emergency shutoff use and must be installed on the exterior of the vehicle and readily accessible. The quarter-turn valve must be labeled with signage stating "EMERGENCY SHUT-OFF" or similar approved signage with minimum 1-inch lettering. The signage can either be white letters with red background or red letters with white background.
- (9) Regulators must be installed in accordance with NFPA 58 as well as the manufactures instructions.
- (10) Piping must be installed in accordance with NFPA 58. The fixed piping system must be designed, installed, supported, and secured to minimize the possibility of damage due to vibrations, strains, or wear and to preclude any loosening while in transit.
- (11) A flexible connector must be installed between the regulator outlet and the fixed piping system as well as between the cylinder and the gas regulator to protect against expansion, contraction, jarring and vibration.
- (12) Piping systems, including hose, must be pressure tested and proven free of leaks in accordance with NFPA 58.
- (13) The operator of the MFU must perform a manual leak test after making connection to a cylinder.
- (14) A listed LP-gas alarm must be installed, in accordance with manufacturer's instructions, within the Mobile Food Unit in the vicinity of the LP gas system components.
- (15) Where CNG systems are provided for cooking purposes, the maximum aggregate capacity of CNG containers transported on the vehicle must not exceed 1,300 pounds (590kg) water capacity.
- (16) CNG containers must be securely mounted and restrained to prevent movement. Containers must not be installed in locations subject to a direct vehicle impact.
- (17) CNG system piping, including valves and fittings, must be adequately protected to prevent tampering, impact damage, and damage from vibration.
- (18) Where CNG containers and systems are used to supply fuel for cooking purposes in addition to being used for transportation, the containers and systems must be installed in accordance with NFPA 52.
- (19) A listed methane gas alarm must be installed, in accordance with the manufacturer's instructions within the Mobile Food Unit.
- (20) "No Smoking" signs must be visible near gas cylinders.

(d) Cooking Appliances:

- (1) Cooking appliances must be constructed and secured in place.
- (2) Grease must be regularly removed from all cooking equipment, including the ventilation system.

- (3) Gas-fired cooking appliances must be equipped with shutoffs in accordance with NFPA 58.

(e) Generator/Electrical:

- (1) Refueling of fuel tanks for generators may only occur during non-operating hours.
- (2) Portable generators must be separated from the public by barriers.
- (3) All electrical appliances, fixtures, equipment, and wiring must comply with NFPA 70. Improper use of electrical accessories and overloading of circuits is prohibited.

Sec. 3- 89. Miscellaneous offenses.

In addition to the regulations contained above, the following actions are prohibited by Mobile Food Unit operators:

- (a) Operating without a valid servicing record or Commissary receipt which must be kept within the Mobile Food Unit at all times;
- (b) Selling or offering for sale non-food items from the Mobile Food Unit;
- (c) Storing or preparing food outside of the Mobile Food Unit (except in a licensed Central Preparation Facility);
- (d) Displaying, selling, or serving food outside of the Mobile Food Unit;
- (e) Altering the Mobile Food Unit in such a manner that would prevent or otherwise reduce ready mobility;
- (f) Blocking public right-of-way, a dedicated fire lane, or a public sidewalk;
- (g) Creating / operating a drive-thru in conjunction with the Mobile Food Unit;
- (h) Allowing items such as brooms, hoses, equipment, containers or boxes to be located adjacent to or beneath the Mobile Food Unit;
- (i) Providing or allowing signs or banners not attached to and solely supported by the Mobile Food Unit to be set up at the serving area;
- (j) Allowing trash or debris at the site of the Mobile Food Unit during operation, and leaving the site with trash or debris following operation;
- (k) Allowing any audio speakers or amplification devices to be heard outside of the Mobile Food Unit; or
- (l) Allowing outside furniture such as tables or chairs, to be set up adjacent to the Mobile Food Unit.

Sec. 3-90. Reserved.

Section 3. That any person found guilty of violating this ordinance will be fined not more than \$2,000.00 for each offense. Notice of the enactment of this ordinance will be given by publishing the ordinance or its descriptive caption and penalty in the City's official newspaper one time within thirty days of passage.

Section 4. That the provisions of this ordinance are severable and the invalidity of any part of this ordinance will not affect the validity of the remainder of the ordinance.

APPROVED on first consideration on _____, 2018.

ADOPTED on second consideration on _____, 2018.

Joe R. Zimmerman, Mayor

ATTEST:

APPROVED AS TO FORM: