

## ARTICLE II. - FOOD SERVICE

*Footnotes:*

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**State Law reference**— *Food service establishments, V.T.C.A., Health and Safety Code ch. 437.*

## DIVISION 1. - GENERALLY

Secs. 18-31—18-50. - Reserved.

## DIVISION 2. - PERMITS

Sec. 18-51. - Required; eligibility; transfer; posting.

No person shall operate a food service establishment who does not have a valid permit issued to him by the city. Only a person who complies with the requirements of this article shall be entitled to receive or retain such a permit. Permits are not transferable. A valid permit shall be posted in every food service establishment at all times in an area that is clearly visible to the public upon entry of the food service establishment.

(Code 1999, § 18-51; Ord. No. O-06-04, § 1, 2-20-2006)

Sec. 18-52. - Application.

Any person desiring to operate a food service establishment shall make written application for a permit on a form provided by the city. Such application shall include the name and address of each applicant, the location and type of the proposed food service establishment, the signature of each applicant and payment of a pre-opening health inspection fee in the amount specified in a resolution adopted by the city council establishing a schedule of fees.

(Code 1999, § 18-52; Ord. No. O-06-04, § 1, 2-20-2006)

Sec. 18-53. - Inspection of premises.

Prior to approval of an application for a permit to operate a food service establishment, the city shall inspect the proposed food service establishment to determine compliance with the requirements of this article.

(Code 1999, § 18-53; Ord. No. O-06-04, § 1, 2-20-2006)

Sec. 18-54. - Issuance.

Upon payment of a prorated annual permit fee in the amount specified in a resolution adopted by the city council establishing a schedule of fees, the city shall issue a permit to operate a food service establishment to the applicant if its inspection reveals that the proposed food service establishment complies with the requirements of this article. After a food service establishment is operational, it shall be obligated to pay an annual permit fee at the beginning of each city fiscal year in the amount specified in a resolution adopted by the city council establishing a schedule of fees.

(Code 1999, § 18-54; Ord. No. O-06-04, § 1, 2-20-2006)

Sec. 18-55. - Suspension.

- (a) The city may, without warning, notice or hearing, suspend any permit to operate a food service establishment if the holder of the permit does not comply with the requirements of this article, or if the operation of the establishment does not comply with the requirements of this article, or if the operation of the establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by subsection (b) of this section. When a permit is suspended, food service operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within 20 calendar days of receipt of a request for a hearing.
- (b) Whenever a permit is suspended, the holder of the permit or the person in charge shall be notified in writing that the permit is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the city by the holder of the permit within ten calendar days. If no written request for hearing is filed within the ten-day period, the suspension is sustained. The city may end the suspension at any time if the reasons for suspension no longer exist.

(Code 1999, § 18-55; Ord. No. O-06-04, § 1, 2-20-2006)

Sec. 18-56. - Revocation.

The city may, after providing opportunity for a hearing, revoke a permit to operate a food service establishment for serious or repeated violations of any of the requirements of this article or for interference with the city in the performance of its duties. Prior to revocation, the city shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation, and that the permit shall be revoked at the end of ten calendar days following service of such notice unless a written request for a hearing is filed with the city by the holder of the permit within such ten-day period. If a

request is filed within the ten-day period, the holder of the permit will be afforded an opportunity for a hearing within 20 calendar days of receipt of a request for a hearing. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

(Code 1999, § 18-56; Ord. No. O-06-04, § 1, 2-20-2006)

#### Sec. 18-57. - Service of notices.

A notice provided for in this division is properly served when it is delivered to the holder of the permit or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit. A copy of the notice shall be filed in the records of the city.

(Code 1999, § 18-57; Ord. No. O-06-04, § 1, 2-20-2006)

#### Sec. 18-58. - Hearings.

The hearings provided for in this division shall be conducted by the city at a time and place designated by it. Based upon the recorded evidence of such hearing, the city shall make a final finding, and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit by the city.

(Code 1999, § 18-58; Ord. No. O-06-04, § 1, 2-20-2006)

#### Secs. 18-59—18-80. - Reserved.

### DIVISION 3. - INSPECTIONS

#### Sec. 18-81. - Frequency.

An inspection of a food service establishment should be performed at least once every six months. Additional inspections of the food service establishment shall be performed as often as necessary for the enforcement of this article.

(Code 1999, § 18-81; Ord. No. O-06-04, § 1, 2-20-2006)

#### Sec. 18-82. - Access to premises; examination of records.

Agents of the city, after proper identification, shall be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with this article. The agents shall be permitted to examine the records of the establishments to obtain information pertaining to food and supplies purchased, received or used, or to persons employed.

(Code 1999, § 18-82; Ord. No. O-06-04, § 1, 2-20-2006)

Sec. 18-83. - Reports; rating.

Whenever an inspection of a food service establishment or commissary is made, the findings shall be recorded on the inspection report form on file with the city. The inspection report form shall summarize the requirements of this article and shall set forth a weighted point value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated, and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100. A copy of the inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(Code 1999, § 18-83; Ord. No. O-06-04, § 1, 2-20-2006)

Sec. 18-84. - Posting of rating scores.

After each inspection, the city will issue an inspection rating placard which will display the food service establishment's inspection score. The most recently-issued inspection rating placard must be posted at all times in an area in the food service establishment that is clearly visible to the public upon entry of the food service establishment. However, the city reserves the right to designate an appropriate place for posting the inspection rating placard to ensure adequate visibility and notice to the public. Temporary food service establishments shall not be subject to the requirement of posting the inspection rating placard.

- (1) A letter grade and/or numerical score will be displayed on the inspection rating placard for all inspection scores of 70 points or more as follows:

Inspection Score	Letter Grade
90—100 points	A
80—89 points	B
70—79 points	C

- (2) The actual numerical score will be displayed on the inspection rating placard for all inspection

scores of less than 70 points.

(Code 1999, § 18-84; Ord. No. O-06-04, § 1, 2-20-2006)

Sec. 18-85. - Owner-initiated inspection.

Within three business days of the completion of an inspection, the owner of a food service establishment may apply for an owner-initiated inspection to be performed by the city. Such application shall be accompanied by payment of a fee in the amount specified in a resolution adopted by the city council establishing a schedule of fees. Such fee shall be in addition to any reinspection fees associated with reinspections necessitated by violations identified during the regular inspection process. Such owner-initiated inspection shall be conducted within 30 calendar days of the request. After such owner-initiated inspection, the city will issue a new inspection rating placard to the food service establishment and such placard shall be posted in accordance with this article. At least 12 months must elapse between any owner-initiated inspections for each food service establishment.

(Code 1999, § 18-85; Ord. No. O-06-04, § 1, 2-20-2006)

Sec. 18-86. - Correction of violations.

The food service establishment inspection report form, which is on file with the city, shall specify a reasonable period of time for the correction of the violations found. Correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

- (1) If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the city.
- (2) All violations of four- or five-point weighted items shall be corrected as soon as possible, but in any event within ten business days following inspection. Within 15 business days after the inspection, the holder of the permit shall submit a written report to the city stating that the four- or five-point violations have been corrected. A follow-up inspection shall be conducted to confirm correction.
- (3) All one- or two-point weighted items shall be corrected as soon as possible, but in any event by the time of the next routine inspection.
- (4) When the rating score of the establishment is less than 60, the establishment shall initiate corrective action on all identified violations within 48 hours. One or more reinspections will be conducted at reasonable time intervals to ensure correction.
- (5) In the case of temporary food service establishments, all violations shall be corrected within 24 hours. If violations are not corrected within 24 hours, the establishment shall immediately cease food service operations until authorized to resume by the city.

(6) All reinspections shall necessitate payment of reinspection fees in the amounts specified in a resolution adopted by the city council establishing a schedule of fees.

(Code 1999, § 18-86; Ord. No. O-06-04, § 1, 2-20-2006)

Sec. 18-87. - Appeals.

The food service establishment inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food service operations. An opportunity for appeal from the inspection findings and time limitations will be provided if a written request for a hearing is filed with the city within ten calendar days following cessation of operations. If a request for a hearing is received, a hearing shall be held within 20 calendar days of receipt of that request.

(Code 1999, § 18-87; Ord. No. O-06-04, § 1, 2-20-2006)

Sec. 18-88. - Cessation of operations.

Whenever a food service establishment is required under the provisions of this article to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exists. Opportunity for inspection shall be offered within a reasonable time.

(Code 1999, § 18-88; Ord. No. O-06-04, § 1, 2-20-2006)

Secs. 18-89—18-100. - Reserved.

DIVISION 4. - REGULATIONS

Sec. 18-101. - State rules on food service sanitation adopted.

The 2015 Edition of the Texas Food Establishment Rules as published by the Texas Department of State Health Services, Division for Regulatory Services, Environmental and Consumer Safety Section, Policy, Standards, and Quality Assurance Unit, and Public Sanitation and Retail Food Safety Group, an authentic copy of which has been filed with the city secretary, is hereby adopted and made a part of this chapter, save and except those sections amended in section 18-102. The words "regulatory authority" shall be understood to refer to the city.

(Code 1981, § 10.5-1; Code 1999, § 18-101; Ord. No. O-01-08, § 1, 2-19-2001; Ord. No. O-07-14, § 1, 4-2-2007; Ord. No. O-16-44, § 1, 12-19-2016)

Sec. 18-102. - Amendments to state rules on food service sanitation.

The 2015 Edition of the Texas Food Establishment Rules adopted in section 18-101 is hereby amended in the following respects:

- (1) *Subsection 228.2(9)* is hereby deleted.
- (2) *Subsection 228.2(10)* is hereby deleted.
- (3) *Subsection 228.2(11)* is hereby deleted.
- (4) *Subsection 228.2(57)* is hereby amended by deleting Subsection 228.2(57), and substituting therefor, a new Subsection 228.2(57) to provide as follows:

§228.2. Definitions. The following definitions apply in the interpretation and application of this Code.

(57) Food establishment:

(A) A food establishment means an operation:

- (i) that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption; and
- (ii) that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(B) A food establishment includes:

- (i) an element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and
- (ii) an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; whether consumption is on or off the premises; and regardless of whether there is a charge for the food.

(C) A food establishment does not include:

- (i) A produce stand that only offers whole, uncut fresh fruits and vegetables;
- (ii) A kitchen in a private home if only food that is not time/temperature controlled for safety food is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law;
- (iii) An area where food that is prepared as specified in subparagraph (C)(ii) of this paragraph is sold or offered for human consumption;
- (iv) A catered feeding location if the location provides food at a private event;
- (v) A private home that receives catered or home-delivered food; or

(vi) A cottage food production operation as that term is defined in V.T.C.A., Health and Safety Code §437.001, as amended.

(5) *Subsection 228.2(57)(D)* is hereby deleted.

(6) *Section 228.223* is hereby deleted.

(7) *Subsection 228.2(85)* is hereby amended by deleting Subsection 228.2(85), and substituting therefor, a new Subsection 228.2(85) to provide as follows:

§228.2. Definitions. The following definitions apply in the interpretation and application of this Code.

(85) Mobile food unit or MFU means a vehicle mounted, self or otherwise propelled, self-contained food service operation designed to be readily moveable, and used to store, prepare, display, serve or sell food. The term does not include a stand or a booth.

(Code 1999, § 18-102; Ord. No. O-03-10, § 1, 3-17-2003; Ord. No. O-07-14, § 1, 4-2-2007; Ord. No. O-11-32, § 1, 9-19-2011; Ord. No. O-14-03, § 2, 1-21-2014; Ord. No. O-16-44, § 1, 12-19-2016; Ord. No. O-17-42, § 2, 10-16-2017)

Sec. 18-103. - Examination and condemnation of food.

Food may be examined or sampled by the city as often as necessary for enforcement of this article. The city may, upon written notice to the owner or person in charge, specifying with particularity the reasons therefor, place a hold order on any food which it believes is in violation of any provision of this article. The city shall tag, label or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served or moved from the establishment. The city shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within ten days and that if no hearing is requested the food shall be destroyed. A hearing shall be held if so requested, and on the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this article.

(Code 1981, § 10.5-4; Code 1999, § 18-103)

Sec. 18-104. - Review of plans.

(a) *Submission of plans.* Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the city for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the proposed layout,



arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The city shall approve the plans and specifications if they meet the requirements of this article. No food service establishment shall be constructed, extensively remodeled or converted except in accordance with plans and specifications approved by the city.

- (b) *Pre-opening inspection; fees.* Whenever plans and specifications are required by subsection (a) of this section to be submitted to the city, the city shall inspect the food service establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of this article. The fee for each inspection shall be as specified in a resolution adopted by the city council establishing a schedule of fees.

(Code 1981, § 10.5-5; Code 1999, § 18-104; Ord. No. O-03-01, § 1, 1-6-2003)

Sec. 18-105. - Procedure when infection is suspected.

When the city has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, it may secure morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The city may require any or all of the following measures:

- (1) The immediate exclusion of the employee from all food service establishments.
- (2) The immediate closing of the food service establishment concerned until, in the opinion of the city, no further danger of disease outbreak exists.
- (3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease.
- (4) Adequate medical and laboratory examination of the employee, of other employees and of his and their body discharges.

(Code 1981, § 10.5-6; Code 1999, § 18-105)

Secs. 18-106—18-130. - Reserved.

DIVISION 5. - MOBILE FOOD UNITS.

Sec. 18-131. - Definitions.

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

*Director* means the director of the city's development services department or his designee.

*Mobile* means the state of being in active, but not necessarily continuous, movement.

*Mobile food unit permit, MFU permit or permit* means a permit issued by the city to operate a mobile food unit in the city in accordance with the provisions of this division.

*Operator* means an individual who is designated by an applicant for a permit or a permit holder to supervise the operation of a mobile food unit.

*Permit holder* means a person who has been issued a mobile food unit permit.

*Servicing record* means a record that is issued to a permit holder by a central preparation facility, other fixed food services establishment or servicing area that serves as the MFU's base of operation and that documents all of the MFU's visits to such central preparation facility, other fixed food services establishment or servicing area.

*Stationary location* means the position of the mobile food unit when not in motion and addressing the public for the purpose of selling or offering food for sale.

(Ord. No. O-17-42, § 3, 10-16-2017)

Sec. 18-132. - Prohibited conduct.

A person is prohibited from engaging in the following conduct within the city:

- (1) Operating a mobile food unit without a valid and current mobile food unit permit;
- (2) Operating a mobile food unit that does not comply with all applicable laws, including the requirements of this chapter;
- (3) Selling or offering for sale food not described in the mobile food unit permit from a mobile food unit;
- (4) Selling or offering for sale a non-food item from a mobile food unit;
- (5) Storing, preparing, displaying or serving food outside of the mobile food unit itself;
- (6) Selling food from outside of the mobile food unit itself;
- (7) Operating a mobile food unit that is not readily moveable at all times;
- (8) Altering, removing, attaching, adding or changing anything in, under, or upon the mobile food unit that would prevent or otherwise reduce ready mobility;
- (9) Operating a mobile food unit without a valid servicing record;
- (10) Issuing a servicing record for a mobile food unit without first verifying that such mobile food unit has complied with all servicing requirements;
- (11) Presenting or issuing a false, fraudulent, or untruthful servicing record for the purpose of demonstrating compliance with the requirements of this chapter;
- (12) Transferring, assigning or attempting to transfer or assign a permit;
- (13)

Parking a mobile food unit on any highway, street, roadway, sidewalk or any area between a street and a sidewalk or other public right-of-way without the express written permission of the person that controls such highway, street, roadway, sidewalk or other public right-of-way; or

- (14) Locating a mobile food unit on a common or shared driveway or parking area if it prevents the use of such driveway or parking area by a person entitled to use the driveway or parking area, provided that it shall be an affirmative defense to prosecution that the individual who is prevented from using such driveway or parking area located or caused to be located such mobile food unit on the premises.

(Ord. No. O-17-42, § 3, 10-16-2017)

Sec. 18-133. - General requirements.

- (a) A permit holder or operator shall be present at the mobile food unit during all hours of the MFU's operation in the city.
- (b) A permit holder or operator shall store, prepare, display, serve or sell food on or in the MFU itself.
- (c) Except as provided in subsection (d) of this section, a permit holder shall notify the director in writing, during the term of the permit, of any change to the information submitted in the permit holder's application for a permit, including, but not limited to, a change in the name, address or telephone number of the permit holder or operator within ten calendar days of such change.
- (d) A permit holder shall provide written notice to the director at least two business days before beginning operations at or relocating operations to any location not currently included in its application for a permit.
- (e) A mobile food unit permit is not transferable. A change of ownership of a mobile food unit, including a change of the legal form of the entity, shall require submission of a new application for a mobile food unit permit and inspection of the mobile food unit. A mobile food unit permit shall become void upon the closing of the sale of the mobile food unit for which a permit was issued.
- (f) A permit holder shall maintain a mobile food unit for which a permit has been issued in working order for the duration of the permit.

(Ord. No. O-17-42, § 3, 10-16-2017)

Sec. 18-134. - Applications for mobile food unit permits.

A person seeking to operate a mobile food unit in the city shall submit an application for a mobile food unit permit to the director in an application form provided by the director accompanied by the payment of a fee in the amount specified in a resolution adopted by the city council establishing a schedule of fees. The application shall include the following information:

- (1) The name, address, telephone number, and email address of the applicant, provided that if the applicant is an entity, the following information shall also be provided:
  - a. The legal name of the entity;
  - b. If the entity is a corporation, the full name and address of each director, officer, and each shareholder, or if the corporation has more than five shareholders, the full name and address of at least five shareholders with the most shares;
  - c. If the entity is a partnership, the full name and address of each partner and the type of partnership;
  - d. If the entity is an unincorporated association, the full name and address of each associate and officer of such association;
  - e. Proof of the entity's form and current status, including, but not limited to:
    1. A current and valid certificate of existence or certificate of authority from the state office of the secretary of state;
    2. A current and valid certificate of good standing from the state comptroller of accounts;
    3. All assumed names used and copies of all filings related to such names from the county clerk's office;
    4. A certificate of incorporation; and
    5. If applicable, a determination letter issued by the Internal Revenue Service;
  - f. The entity's federal tax identification number; and
  - g. Documentation that the entity is not delinquent in state, local, and federal taxes;
- (2) A copy of the applicant's valid and current driver's license;
- (3) If the applicant will designate an operator to supervise the operation of the MFU, the name, address, telephone number, and email address of the operator, and a copy of the operator's valid and current driver's license;
- (4) The applicant's sales tax number and a copy of the applicant's sales tax permit;
- (5) A certificate of title showing the current true ownership of the mobile food unit, provided that if the applicant is not the owner of the mobile food unit, a copy of a written and notarized statement from the owner authorizing the applicant to operate the mobile food unit;
- (6) The vehicle identification number, license plate number, and proof of vehicle registration;
- (7) A copy of the applicant's liability insurance policy, insurance endorsement or evidence of self-insurance on the MFU;
- (8) A copy of a current and valid food protection manager certification;
- (9)

A written standard operation procedure of how the applicant plans to operate the mobile food unit, that includes, but is not limited to, whether food will be prepackaged, hours of operation, methods of serving food to customers, the MFU's waste water disposal site and process, and other servicing operations details;

- (10) Plans drawn to reasonable scale that clearly specify and address the proposed layout of the MFU, the identity, number, and capacity of food equipment, the location and sizes of plumbing fixtures and connections, food preparation, storage and service window areas, construction material of the inside of the MFU, and location of the LP-gas appliances, LP-gas container storage, and fire extinguishers;
- (11) A description or menu of the types of food that the applicant proposes to sell or offer for sale from the mobile food unit;
- (12) The location(s) where the mobile food unit will be in operation and a site plan drawn to reasonable scale showing the location of the mobile food unit on the parcel on which it will be placed and the distance from any building, vehicle, or structure from each edge of the MFU when parked;
- (13) Proof of ownership of a central preparation facility, other fixed food establishment or service area, as applicable, or if the applicant is not the owner of the central preparation facility, other fixed food establishment or service area, a signed and notarized statement on the letterhead of the central preparation facility, other fixed food establishment or service area, as applicable, authorizing the applicant to use the central preparation facility, other fixed food establishment or service area as its base of operation;
- (14) If the central preparation facility, other fixed food establishment or service area that the applicant proposes to use as its base of operation is located outside the jurisdiction of the city, a copy of the most current health inspection report obtained from the regulatory authority having jurisdiction over such central preparation facility, other fixed food establishment or service area;
- (15) For a mobile food unit that will be operated on private property, proof of ownership of the property or, if the applicant is not the owner of the property, a signed and notarized written statement from the property owner or the property owner's authorized agent granting the applicant permission to operate a mobile food unit on the property;
- (16) For a mobile food unit that will operate at one location for more than two hours, a signed and notarized statement from the owner or the authorized agent of the owner of a business establishment with a restroom with a flushable toilet, a hand wash sink with hot and cold running water, and soap and hand-drying provisions, located within a reasonable distance from the location where the mobile food unit will be in operation, granting employees of the

mobile food unit permission to use such restroom during the business establishment's hours of operation or documentation providing an alternative proposal to satisfy the requirements of this subdivision;

- (17) A description of the signage that will be affixed on the mobile food unit; and
- (18) Any other information that may be requested by the director to fully evaluate and review the application.

(Ord. No. O-17-42, § 3, 10-16-2017; Ord. No. O-18-25, § 2, 9-17-2018)

Sec. 18-135. - Review and approval of applications.

- (a) Upon receipt of a complete application for a permit, the director will review the application and grant a mobile food unit permit unless one or more of the following conditions is met:
  - (1) The application contains false or misleading information, or required information is omitted;
  - (2) The application or the mobile food unit does not comply with all applicable laws, including the requirements of this chapter; or
  - (3) Operation of the mobile food unit constitutes a substantial hazard to public health or public safety.
- (b) Notwithstanding any provision contained in this division, the director may grant a permit for a MFU that generally complies with the requirements of this division, provided that:
  - (1) The director notifies the applicant, in writing, of the deficiencies in the applicant's application for a permit before the permit is issued;
  - (2) The application does not contain false or misleading information, or omit required information; and
  - (3) Operation of the mobile food unit will not constitute a substantial hazard to public health or public safety.
- (c) Subsections (b) and (c) of this section 18-135 shall remain in effect until September 30, 2019.

(Ord. No. O-17-42, § 3, 10-16-2017; Ord. No. O-18-25, § 2, 9-17-2018)

Sec. 18-136. - Suspension of permits.

- (a) The director may, without warning, notice or hearing, suspend a mobile food unit permit if one or more of the following conditions are met:
  - (1) The permit holder or the mobile food unit does not comply with all applicable laws, including the requirements of this chapter;
  - (2) Operation of the mobile food unit constitutes a substantial hazard to public health or public safety;
  - (3)

The permit holder violates the terms and conditions of any written statement submitted to the director under subsections 18-134(5) (authorization to operate MFU), (13) (base of operation authorization); (15) (private property authorization); or (16) (restroom authorization); or

- (4) A food service establishment permit issued, by the city or the applicable regulatory authority, to a central preparation facility, other fixed food establishment or a servicing area that serves as the base of the MFU's operation is suspended or revoked.
- (b) Upon suspension of a mobile food unit permit, the director shall notify the permit holder or the operator, in writing, of the suspension and the reason(s) for such suspension. A permit holder whose permit is suspended shall immediately cease operating the mobile food unit for which a permit has been suspended.
- (c) The director may terminate the suspension at any time if the reasons for suspension no longer exist.

(Ord. No. O-17-42, § 3, 10-16-2017)

#### Sec. 18-137. - Revocation of permits.

The director may revoke a mobile food unit permit if one or more of the following conditions are met:

- (1) One or more of the conditions set forth in section 18-136 is met;
- (2) Repeated violations of any applicable laws, including the requirements of this chapter; or
- (3) Interference with the city in the performance of its duties.

(Ord. No. O-17-42, § 3, 10-16-2017)

#### Sec. 18-138. - Notice of denial or revocation of applications or permits.

The director shall provide notice, in writing, of the denial or revocation of an application filed or a permit issued pursuant to this division, and shall include the reason(s) for such denial or revocation.

(Ord. No. O-17-42, § 3, 10-16-2017)

#### Sec. 18-139. - Appeal of denial, suspension or revocation of permits.

An applicant or a permit holder, as applicable, may appeal to the city council, the director's decision to deny, suspend or revoke an application filed or a permit issued, as applicable, by providing a written notice of appeal to the city secretary within ten days of the date of notice of such decision. A decision by the city council shall be final.

(Ord. No. O-17-42, § 3, 10-16-2017)

#### Sec. 18-140. - Display of permits.

A mobile food unit permit issued under this division shall be displayed, at all times, on each mobile food unit for which a permit is issued in a conspicuous place where the permit can be read by the general public.

(Ord. No. O-17-42, § 3, 10-16-2017)

Sec. 18-141. - Duration and renewal of permits.

- (a) A mobile food unit permit shall be valid for 12 months from the date the permit is issued.
- (b) A permit holder that desires to renew a valid permit may submit to the director, at least 30 days before the date the permit expires or within 30 days after the date the permit expires, an application for the renewal of a permit containing the information set forth in section 18-134 and a renewal fee in the amount specified in a resolution adopted by the city council establishing a schedule of fees.

(Ord. No. O-17-42, § 3, 10-16-2017)

Sec. 18-142. - Zoning regulations.

A person who operates a mobile food unit within the city shall comply with the zoning regulations for mobile food units set forth in section 9.19 of the City of Missouri City Zoning Ordinance.

(Ord. No. O-17-42, § 3, 10-16-2017)

Sec. 18-143. - Inspection of mobile food units.

- (a) An applicant for a mobile food unit permit or renewal of a permit, as applicable, shall deliver or cause to be delivered the mobile food unit for which a permit is sought to a location designated by the director for an inspection and shall pay an inspection fee in the amount specified in a resolution adopted by the city council establishing a schedule of fees.
- (b) Prior to the approval of an application for a permit or an application for the renewal of a permit, the director will inspect the mobile food unit to determine compliance with the requirements of this chapter and applicable city ordinances.
- (c) At the time of the inspection, the mobile food unit shall be completely operable and in full working order.

(Ord. No. O-17-42, § 3, 10-16-2017)

Sec. 18-144. - Food safety requirements.



Except as otherwise provided in this chapter, a person operating a mobile food unit within the city shall comply with the regulations applicable to mobile food units contained in Chapter 228 of the Texas Food Establishment Rules, 25 TAC §228, as adopted and amended in section 18-101.

(Ord. No. O-17-42, § 3, 10-16-2017)

Sec. 18-145. - Fire safety requirements.

- (a) A person operating a mobile food unit within the city shall comply with the requirements of this section.
- (b) The provisions applicable to mobile food units contained in the Fire Code of the City of Missouri City, Texas, as adopted and amended in article II of Chapter 38 of the Code shall apply to a mobile food unit operating within the city.
- (c) For a mobile food unit that utilizes liquefied petroleum (LP) gas, the following requirements shall apply:
  - (1) The mobile food unit shall not be located or operated within 15 feet of another mobile food unit, a vehicle, or a structure;
  - (2) The mobile food unit shall be limited to a maximum of one individual LP-gas container with a maximum capacity of 100 pounds aggregate water capacity;
  - (3) The mobile food unit's LP-gas supply system, including the LP-gas container, shall be installed either on the outside of the MFU or in a storage compartment inside the MFU, provided that such system shall be accessible from and vented to the outside, with the vents located near the top and bottom of the storage compartment and shall be located three feet horizontally, when measured from any opening into the MFU below the vents;
  - (4) The LP-gas container shall be mounted securely on the MFU or within a storage compartment, in an upright position, in a manner as not to fall over, and in a manner that reduces the exposure of the LP-gas container to vehicle impact;
  - (5) LP-gas containers shall not be located on the roof of the MFU, ahead of the front axle, beyond the rear bumper, below the lowest part of the mobile food unit frame, or inside truck beds or passenger compartments of the MFU; and
  - (6) All LP-gas container valves, appurtenances, and connections shall be protected to prevent damage.
- (d) An approved 2A-10BC fire extinguisher, with current inspection and service tags, shall be properly mounted in a readily accessible location within the mobile food unit.
- (e) If cooking with grease within the mobile food unit, an approved Class K fire extinguisher, with current inspection and service tags, shall be properly mounted in a readily accessible location

within a mobile food unit.

- (f) A "No Smoking" sign shall be posted next to the order window or area or near any LP-gas container.
- (g) A Type 1 hood and approved fire suppression system shall be installed on a mobile food unit that produces grease laden particles within the mobile food unit.
- (h) Except as provided herein, use of permanent extension cords is prohibited. Use of a permanent extension cord is allowed for a small and relocatable portable appliance such as a fan, power tool or similar appliance, provided that such extension cord shall not be affixed to structures, extended through walls, ceilings or floors or under doors or floor coverings or in areas where such extension cord would be subject to environmental or physical impact that could create an electrical hazard. Appliances such as refrigerators are not considered to be small and relocatable appliances regardless of the size of the appliance.
- (i) Any cooking appliance in the MFU shall be listed and labeled for its intended use and shall be used only in accordance with such intended use.

(Ord. No. O-17-42, § 3, 10-16-2017)

Sec. 18-146. - Servicing records.

- (a) The owner or operator of a central preparation facility, other fixed food establishment or servicing area from which a mobile food unit operates shall issue and maintain servicing records for each mobile food unit for which a permit is issued in a manner and form prescribed by the director for a period of one year from the date of servicing or until retrieved by the director, whichever comes first.
- (b) A permit holder shall keep and maintain, in the MFU, servicing records for each MFU for which a permit is issued for a period of one year from the date of servicing.
- (c) The director may promulgate rules and procedures regarding maintenance of servicing records by a central preparation facility, other fixed food establishment, servicing area, and permit holder.
- (d) Servicing records maintained under subsections (a) and (b) of this section shall be made available to any peace officer or the director for inspection and copying during the normal business hours of the central preparation facility, other fixed food establishment, servicing area or mobile food unit.

(Ord. No. O-17-42, § 3, 10-16-2017)

Sec. 18-147. - Utility connections.

Utility connections, if any, shall be limited to quick-connect electrical and telephone services and shall be in full compliance with the Electrical Code of the City of Missouri City, Texas, as adopted and amended in section 14-232 of the Code. Except as otherwise provided in this division, utility connections for water, sewer, and gas are prohibited.

(Ord. No. O-17-42, § 3, 10-16-2017)

Secs. 18-148—18-190. - Reserved.