

ORDINANCE NO. 32181

A ordinance amending Chapter 17, "Food Establishments," of the Dallas City Code, by amending Sections 17-1.5, 17-3.2, 17-6.2, 17-8.2, and 17-10.2; revising the term mobile food establishment to mobile food units; revising the classifications of mobile food units; providing a definition of a mobile food preparation trailer and variance; providing that mobile food establishments may visit their central preparation facility or commissary once a week if certain conditions are met; providing that Class III and Class IV mobile food units may prepare raw poultry and seafood on the mobile food unit; providing additional requirements for Class III and Class IV mobile food units; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Subsection (b) of Section 17-1.5, "Definitions," of Article I, "Food Establishments Generally," of Chapter 17, "Food Establishments," of the Dallas City Code, is amended to read as follows:

"(b) In addition to the definitions adopted in Subsection (a), the following terms have the following meanings in this chapter:

(1) ADULTERATED means the condition of food that:

(A) contains a poisonous or deleterious substance in a quantity that may render it injurious to health; or

(B) contains an added poisonous or deleterious substance:

(i) for which no safe tolerance has been established or accepted by a governmental agency; or

(ii) in excess of a safe tolerance, established or accepted by a governmental agency; or

(C) consists in whole or part of a filthy, putrid, or decomposed substance; or

(D) is unsafe for human consumption; or

(E) was processed, prepared, or otherwise handled under an unsanitary condition that may have contaminated the food or rendered it injurious to health; or

(F) is in whole or part the product of a diseased animal or an animal that did not die by slaughter; or

(G) the container of which is composed in whole or part of a poisonous or deleterious substance that may render the food injurious to health; or

(H) is not in a safe, sound condition, free from spoilage, filth, and other contamination.

(2) CATERING SERVICE means a food establishment, other than a mobile food preparation vehicle, that:

(A) prepares or serves food on premises in control of another; or

(B) prepares food on the premises of a fixed food establishment and delivers the food to a different location to be served.

(3) COMMERCIALY-MANUFACTURED means the vehicle or trailer was manufactured, converted, or retrofitted for use as a mobile food preparation vehicle or trailer by a person regularly in the business of manufacturing, converting, or retrofitting motorized vehicles or trailers as mobile food preparation vehicles or trailers for sale or compensation.

(4) COMMISSARY means a food establishment that serves as an operating base for a mobile food unit [~~establishment~~] and where:

(A) food, containers, or supplies are kept, handled, prepared, packaged, or stored for use by a mobile food unit [~~establishment~~]; and

(B) a mobile food unit [~~establishment~~] is stored, parked, serviced, cleaned, supplied, and maintained.

(5[4]) DEPARTMENT means the department designated by the city manager to enforce and administer this chapter.

(6[5]) DIRECTOR means the director of the department, the city health authority, or the environmental health officer and includes representatives, agents, or city employees designated by the director of the department, the city health authority, or the environmental health officer to enforce or administer this chapter; except that, in Section 17-10.2(p), the term refers only to the director of the department.

(7[6]) EXTENSIVELY REMODELED means the expenditure of at least \$25,000 or an amount equal to at least 10 percent of the assessed value of the facility, whichever is more, for the purpose of repairs or remodeling, but does not include:

(A) expenditures for the replacement of movable equipment; or

(B) remodeling that does not affect the construction or operation of food storage or food preparation areas or areas used to store or clean utensils and equipment used in food storage or food preparation.

(8[7]) FOOD ESTABLISHMENT:

(A) The term means an operation that:

(i) sells, stores, prepares, packages, serves, or otherwise provides food for human consumption such as: a food service establishment; retail food store; mobile food unit; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; remote catered operations; conveyance used to transport people; institution; or food bank; and

(ii) 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) The term includes 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; a restaurant; a grocery store; an operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off premises; and regardless of whether there is a charge for the food.

(C) The term does not include a produce stand that only offers whole, uncut fresh fruits and vegetables or an establishment that offers only prepackaged foods that are not time/temperature control for safety, except that the term does include an establishment that sells ice cream, frozen custard, soft serve dairy products, gelato, or other frozen desserts.

(D) The term does not include a stand that only offers the occasional sale of lemonade or other nonalcoholic beverages on private property or in a public park by an individual younger than 18 years of age.

(9) MOBILE FOOD PREPARATION TRAILER means a commercially-manufactured enclosed or partly enclosed mobile food unit that complies with the construction and operation standards of this article for a Class IV mobile food unit and is readily movable by means of pulling to locations for operations as a mobile food preparation trailer.

(10) MOBILE FOOD PREPARATION VEHICLE means a commercially-manufactured, motorized mobile food unit in which food is cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution.

(11[8]) MOBILE FOOD UNIT [ESTABLISHMENT] means a vehicle-mounted, self or otherwise propelled, self-contained food service operation [~~food establishment that is~~] designed to be readily moveable (including catering trucks, trailers, and pushcarts) and used to store, prepare, display, serve, or sell food [~~and from which food is distributed, sold, or served~~] to an ultimate consumer. The term includes, but is not limited to, Class I and Class II pushcarts and Class III and Class IV mobile food preparation trailers and vehicles [~~and pushcarts~~]. A mobile food unit does not include a stand or a booth.

(A) Mobile food unit classifications:

(i) Class I units may only sell pre-packaged foods and beverages from a pushcart. This class includes vegetable and fruit vendors.

(ii) Class II units are any mobile food unit that is not a Class I, Class III, or Class IV mobile food unit. Class II units may only have a hot or cold holding display for unpackaged foods. Limited cooking and preparation are allowed onboard the pushcart such as boiling, heating, and steaming. Flat top grilling is prohibited.

(iii) Class III units are a mobile food preparation trailer that may cook in an external covered area such as a barbeque pit or wood fired pizza ovens, where all food preparation, assembly, and service is done in an enclosed area on board the unit. This class includes a non-motorized mobile food unit that is readily movable such as a trailer or shipping container.

(iv) Class IV units are units that are fully enclosed that meet all the safety equipment and standards as a brick and mortar unit. This class includes a restaurant on wheels or a mobile food preparation vehicle.

(12[9]) NON-FOOD CONTACT SURFACE means a surface (including, but not limited to, a shelf, counter, fan, or an exterior part of equipment) that does not normally come into contact with food in the operation of a food establishment.

(13[10]) PERMIT means the document issued by the department that authorizes a person to operate a food establishment.

(14[11]) PERSON IN CHARGE means the individual present in a food establishment who is the apparent supervisor of the food establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

(15[12]) PREMISES means:

(A) the physical facility, its contents, and the contiguous land or property under the control of the permit holder; or

(B) the physical facility, its contents, and the contiguous land or property and its facilities and contents that are under the control of the permit holder that may impact food establishment personnel, facilities, or operations, if a food establishment is only one component of a larger operation.

(16[13]) RECONSTITUTED means the recombining of dehydrated food products with water or other liquids.

(17[14]) REGULATORY AUTHORITY means the director.

(18[15]) RISK LEVEL ONE ESTABLISHMENT means an establishment with no cooking processes of any kind, no heat holding, no open exposed food handling (including handling mixed drinks), or only holds refrigerated and frozen foods packaged from the manufacture.

(19[16]) RISK LEVEL THREE ESTABLISHMENT means an establishment that cooks time and temperature control products from the raw state, heat hold, and reheat food items. These establishments may have an extensive menu and/or extensive handling of food ingredients. This includes food establishments that engage in special processes, have a hazard analysis critical control point (HACCP) plan, or serves a highly susceptible population.

(20[17]) RISK LEVEL TWO ESTABLISHMENT means an establishment that has a limited menu selection, serves only commercially processed time and temperature control foods, heats and serves food items with no cooking or reheating process, or has minimal heat holding.

(21[18]) SAFE TEMPERATURE means a temperature of not more than 41 degrees Fahrenheit if held cold (5 degrees Centigrade) or not less than 135 degrees Fahrenheit if held hot (60 degrees Centigrade). The symbols "°F." and "°C." are used in this chapter to refer, respectively, to degrees Fahrenheit and degrees Centigrade.

(22[19]) SEAL means to close the junction between surfaces in a way that prevents entry of moisture.

(23[20]) TEMPORARY FOOD SERVICE ESTABLISHMENT means:

(A) a food establishment that operates at a fixed location for a limited period of time in conjunction with:

under Chapter 35;

(ii) a special event for which a permit has been issued by the city under Chapter 42A;

(iii) a special event conducted with written permission of the city on property under the control of the park and recreation board, on property of the "convention center" or "reunion arena" as defined in Section 43-127 of this code, or on property of the "Neighborhood [~~Farmers~~] Market" as defined in Section 42A-2 [~~29A-2(6)~~] of this code;

(iv) a temporary carnival or circus conducted with written authorization of the building official under Section 51A-4.206(2) of the Dallas Development Code;

(v) an activity or event conducted entirely inside a facility that is primarily and routinely used to hold exhibitions, conventions, concerts, symphonies, plays, sporting events, or similar activities or events at which food is customarily served or offered for sale;

(vi) a single event or celebration conducted on any nonresidential premises as an accessory use under Section 51A-4.217 of the Dallas Development Code; or

(vii) a neighborhood [~~farmers~~] market for which a permit has been issued under Chapter 42A [~~29A~~] of this code; or

(B) a concessionaire operating under a seasonal contract with the city on property owned or operated by the city.

(~~24~~[~~24~~]) TEXAS FOOD ESTABLISHMENT RULES means the rules of the Texas Department of State Health Services found in Title 25 Texas Administrative Code, Chapter 228, as amended.

(~~25~~) VARIANCE means a written document issued by the department that authorizes a modification or waiver of one or more requirements of the code if, in the opinion of the department, a health hazard or nuisance will not result from the modification or waiver.

SECTION 2. That Paragraph (2) of Subsection (e), "Outdoor Bars," of Section 17-3.2, "Additional Requirements," of Article III, "Food," of Chapter 17, "Food Establishments," of the Dallas City Code, is amended to read as follows:

"(2) An outdoor bar is in compliance with Sections 17-3.1 and 17-3.2 if:

(A) the director finds that the outdoor bar will not result in a health or safety hazard or nuisance; and

(B) the outdoor bar is either:

(i) limited to a single, fixed structure; or

(ii) meets the requirements of this chapter pertaining to a Class II [~~general service~~] mobile food unit [~~establishment~~]; and

(C) the outdoor bar complies with all other requirements of this chapter.”

SECTION 3. That Paragraph (2), “Exterior Surfaces,” of Subsection (b), “Outdoor Areas, Surface Characteristics,” of Section 17-6.2, “Additional Requirements,” of Article VI, “Physical Facilities,” of Chapter 17, “Food Establishments,” of the Dallas City Code, is amended to read as follows:

“(2) Exterior surfaces. Exterior surfaces of buildings and mobile food units [~~establishments~~] must be of weather-resistant materials and must comply with applicable law.”

SECTION 4. That Article VIII, “Mobile Food Establishments,” of Chapter 17, “Food Establishments,” of the Dallas City Code, is amended to read as follows:

“ARTICLE VIII.

MOBILE FOOD UNITS [~~ESTABLISHMENTS~~].

SEC. 17-8.1. ADOPTION OF SECTION 228.221, TEXAS FOOD ESTABLISHMENT RULES.

Section 228.221 of the Texas Food Establishment Rules is hereby adopted and made a part of this chapter by reference, except that Subsections 228.221(a), (b), and (c)(2), are not adopted.

SEC. 17-8.2. ADDITIONAL REQUIREMENTS.

(a) In general. In addition to the requirements adopted in Section 17-8.1 of this chapter, the requirements contained in this section govern mobile food units [~~establishments~~].

(b) Categories of mobile food units [~~establishments~~]. Mobile food units [~~establishments~~] in the city are divided into the following categories:

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(1) Class I [~~Limited service~~]. A Class I [~~limited service~~] mobile food unit [~~establishment~~] is a mobile food unit [~~establishment~~] from which only the following foods and beverages are served, sold, or distributed:

(A) Food that is prewrapped, bottled, or otherwise labeled and packaged in individual servings.

(B) Beverages that are not time/temperature control for safety and are dispensed from covered urns or other protected equipment.

(C[2]) [~~Vegetable and fruit vendor. A vegetable and fruit vendor is a mobile food establishment from which only~~] R[~~r~~]aw, uncut vegetables and fruits [~~are served, sold, or distributed~~].

(2) Class II. Any mobile food unit that is not a Class I, Class III, or Class IV mobile food unit is a Class II mobile food unit.

(3) Class III. A Class III mobile food unit is a mobile food preparation trailer meant to be pulled to locations that complies with the construction and operation standards for operating a mobile unit used for cooking, keeping, storing, or warming food or beverages.

(4) Class IV [~~Mobile food preparation vehicle~~]. A Class IV mobile food unit is an operational, motorized [~~A~~] mobile food preparation vehicle [~~is a commercially-manufactured, motorized mobile food establishment~~] in which [~~ready-to-eat~~] food is cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution. [~~"Commercially-manufactured" means the vehicle was manufactured, converted, or retrofitted for use as a mobile food preparation vehicle by a person regularly in the business of manufacturing, converting, or retrofitting motorized vehicles as mobile food preparation vehicles for sale or compensation. An enclosed food trailer that complies with the construction and operation standards for operating a mobile food preparation vehicle may be permitted as a mobile food preparation vehicle for the purpose of participating in an approved temporary event only. The event must be approved by the appropriate person or entity, as determined by the director.~~]

(4) [~~General service. Any mobile food establishment that is not a limited service mobile food establishment, a vegetable and fruit vendor, or a mobile food preparation vehicle is a general service mobile food establishment.~~]

(c) Vehicles.

(1) A food establishment that uses a vehicle in the operation of a mobile food unit [~~establishment~~] shall:

(A) identify the vehicle with characters three inches high on both exterior sides of the vehicle stating the following:

(i) the name of the food establishment;

(ii) a brief description of the nature of the business if not included in the name; and

(iii) the permit number of the vehicle;

(B) secure an inspection of the vehicle by the director on the date designated by the director;

(C) maintain the vehicle in a clean, undamaged condition, both inside and outside, and in good working order;

(D) keep the permit or a copy of the permit on the vehicle at all times;

(E) keep proof of minimum vehicle insurance that is issued in at least six month increments;

(F) display on the vehicle current license plates and a current vehicle safety inspection sticker issued by the State of Texas, when required by state law; and

(G) not equip the vehicle with any sound amplification device that, when operated, violates Section 30-2 of this code.

(2) In addition to other vehicle requirements of Section 17-8.2(c), a mobile food preparation vehicle must:

(A) be equipped with four-way hazard lights; and

(B) in addition to the left and right outside rearview mirrors, be equipped with two outside wide-angle mirrors, one located on the front of the vehicle and one located on the rear of the vehicle.

(3) In addition to other vehicle requirements of Section 17-8.2(c), a Class II [~~general-service~~] mobile food unit [~~establishment~~] must:

(A) be constructed of 18 gauge stainless steel (equivalent to .05 inches durable stainless steel);

(B) not exceed six feet in length (including any handles measuring six inches or more in length and any permanently attached trailer hitches), three feet in width (exclusive of wheels), or four feet in height (exclusive of wheels);

(C) have the bottom of the food service or storage unit at least six inches above the ground;

(D) be equipped with an electrical oven or refrigeration system to maintain proper food temperature; and

(E) not contain a grill or fryer.

(4) In addition to other vehicle requirements of Section 17-8.2(c), a Class I [~~limited service~~] mobile food unit [~~establishment~~] must not exceed three feet in length, two feet in width (exclusive of wheels), or two feet in height (exclusive of wheels), except for frozen dessert stationary pushcarts, which must not exceed six feet in length, three feet in width (exclusive of wheels), or four feet in height (exclusive of wheels).

(d) Site of operation of Class II units [~~general service pushcarts~~].

(1) All food products, supplies, and equipment necessary for the operation of a pushcart must be contained on the vehicle or at a permitted facility.

(2) Slicing, dicing, and chopping of vegetables and other food items are prohibited.

(3) No cooking, including but not limited to grilling, baking, and frying, is allowed on a pushcart. Only the reheating of cooked food by boiling or steaming is allowed.

(4) An operator of a pushcart must have access to restroom facilities during the hours the pushcart is in operation.

(5) The fixed site from which a pushcart is operated must have a valid food establishment permit issued under Article X of this chapter, unless otherwise approved by the director.

(e) Food served or distributed from a mobile food unit [~~establishment~~]. A person may not serve or distribute from a mobile food unit [~~establishment~~] any food not specified in the food establishment permit issued under Article X of this chapter.

(f) Ice.

(1) Ice used in a beverage served by either a Class I, Class II, Class III, or Class IV [~~limited service~~] mobile food unit [~~establishment, a mobile food preparation vehicle, or a general service mobile food establishment~~] must be:

(A) from an approved source;

(B) stored in a stainless steel container that:

(i) is covered;

(ii) is not installed above food equipment or food contact surfaces; and

(iii) drains into the mobile food unit's [~~establishment's~~] liquid waste retention tank; and

(C) dispensed with an approved scoop by an employee of the mobile food unit [~~establishment~~] or from automatic self-service ice dispensing equipment.

(2) All ice used to keep food cold must be drained into the mobile food unit's [~~establishment's~~] liquid waste retention tank and properly disposed of at the mobile food unit's [~~establishment's~~] designated commissary or servicing area.

(g) Central preparation facility or commissary.

(1) Supplies, cleaning, and servicing operations.

(A) Except as provided in this paragraph, a [A] mobile food unit [~~establishment~~] must operate from a central preparation area, commissary, or other fixed food establishment and must report to the location for supplies and for cleaning and servicing operations at the end of each day. Pushcarts must be stored at the commissary location when not in operation.

(B) A mobile food unit may report to the central preparation area, commissary, or other fixed food establishment for supplies, cleaning, and servicing operations at least once a week if the following conditions are met:

(i) the mobile food unit operator shall apply for a variance on a form provided by the director and shall include with the application all of the information required by Section 17-10.2(s) to be able to return to the commissary once per week;

(ii) the mobile food unit is enclosed and complies with the health and safety standards of a fixed food establishment;

(iii) all cleaning supplies must be disposable and discarded at the end of each operating day;

(iv) the mobile food unit operator shall demonstrate that sanitary on-site servicing of the mobile food unit's potable water and wastewater systems are being conducted;

(v) the mobile food unit operator must provide proof of weekly on-site servicing by a licensed-permitted liquid waste transport vehicle, otherwise known as a vacuum truck, for the removal and disposal of liquid waste resulting from the mobile food unit and weekly commissary visits. The mobile food unit operator shall keep and maintain servicing records on the mobile food unit for a period of one year from the date of servicing. The servicing records

must be immediately available to the director or a peace officer upon request for inspection and copying at the mobile food unit during the mobile food unit's hours of operation;

(vi) the commissary from which a mobile food unit operates shall issue and maintain servicing records for each mobile food unit in a manner and form prescribed by the director. The permit holder, person in charge, employee, or representative of any commissary shall keep and maintain servicing records at the commissary for a period of two years from the date of servicing or until retrieved by the director, whichever comes first. Servicing records maintained at the commissary must be made immediately available to the director or a peace officer upon request for inspection and copying during normal business hours;

(vii) servicing operations may be performed by the commissary operator or by the mobile food unit operator. The commissary operator must provide resources at the commissary for proper servicing. The mobile food unit operator shall confirm that the requirements of this section are fulfilled prior to resuming operations.

(2) It shall be unlawful for an owner, permit holder, person in charge, employee, or representative of any commissary to issue a servicing record without first verifying that the mobile unit has complied with all servicing requirements. It shall be unlawful for any owner, permit holder, person in charge, employee, or representative of any commissary or mobile food unit to knowingly present or issue any false, fraudulent, or untruthful servicing record for the purpose of demonstrating compliance with this subsection.

(3) The director may promulgate rules and procedures regarding maintenance of the servicing records by the commissaries and mobile food units. The director may require the use of electronic or other technology to facilitate or monitor compliance with the requirements of this chapter.

(4[2]) Construction. The central preparation facility, commissary, or other fixed food service establishment, used as a base of operation for a mobile food establishment, must be constructed and operated in compliance with this chapter.

(h) Operating requirements for mobile food units [establishments].

(1) General operating requirements for mobile food units [establishments]. A food unit [establishment] that serves, sells, or distributes any food or beverage from a mobile food unit [establishment] shall comply with the following operating requirements:

(A) Any person operating a motor vehicle as a mobile food unit [establishment] must have a current driver's license. The permit holder must ensure that their vehicle drivers have a valid driver's license.

(B) Garbage storage containers must be maintained on each mobile food unit [establishment] in a number sufficient to contain all trash and garbage generated by the unit [establishment]. Every garbage container must have a tight-fitting lid. Before a mobile food unit [establishment] leaves a vending site, all trash and garbage must be removed from the site.

Excessive trash and garbage may not be allowed to accumulate inside or around the mobile food unit [~~establishment~~]. All trash and garbage must be disposed of in an approved garbage receptacle.

(2) Class III and Class IV mobile food units [~~Mobile food preparation vehicles~~].

In addition to other operating requirements of Section 17-8.2(h), a food establishment that serves, sells, or distributes any food or beverage from a Class III and Class IV mobile food unit [~~preparation vehicle~~] must comply with the following requirements.

(A) A Class III and Class IV mobile food unit [~~preparation vehicle~~] must have written authorization from the owner or person in control of each premises from which the Class III and Class IV mobile food unit [~~preparation vehicle~~] will sell or serve food. The authorization must include the specific dates and times during which the Class III and Class IV mobile food unit [~~preparation vehicle~~] is authorized to be present on the premises. A separate written agreement granting permission to use the toilet facilities and garbage receptacles must be obtained from the owner or person in control of the premises on which the Class III and Class IV mobile food unit [~~preparation vehicle~~] will sell or serve food or from the owner or person in control of a nearby premises. Toilet facilities may not be located more than 600 feet from the Class III and Class IV mobile food unit [~~preparation vehicle~~] and must be accessible during all times that the Class III and Class IV mobile food unit [~~preparation vehicle~~] is present on the premises. A current copy of each authorization must be maintained on file with the director and also in the vehicle for inspection by the director or a peace officer upon request.

(B) Before a permit is issued or renewed to a Class III and Class IV mobile food unit [~~preparation vehicle~~] under this chapter, an itinerary for the Class III and Class IV mobile food unit [~~preparation vehicle~~] must be filed with the director. The director must be given written notice at least two business days before implementation of any changes to the filed itinerary. The itinerary must include:

(i) the address of each premises to be serviced and the name and telephone number of the owner or person in control of those premises;

(ii) the scheduled times of arrival at and departure from each premises to be serviced, which times must be accurate to within 30 minutes; and

(iii) a description of the food to be sold or served at each premises.

(C) [~~Only fast cooked food items may be prepared on a mobile food preparation vehicle. No raw poultry or seafood may be prepared on the vehicle, except for frozen, breaded poultry or seafood products that are directly placed from the freezer into a fryer.~~

(~~D~~) No cooking may be conducted while the unit [~~vehicle~~] is in motion.

(~~D~~)[E] All cooking equipment and hot holding units must be located at the rear of a mobile food preparation unit [~~vehicle~~]. All cooking equipment must be properly vented. An approved automatic fire extinguishing system must be provided over cooking surfaces

that require exhaust ventilation. Covers with secure latches for deep fryers, steam tables, and similar equipment must be provided and installed while the unit [~~vehicle~~] is in motion.

(E[F]) A Class III and Class IV mobile food unit [~~preparation vehicle~~] must:

(i) be operated only in a location where such operation is allowed by the Dallas Development Code;

(ii) not sell or serve food on any public street, sidewalk, or other public right-of-way;

(iii) park only on an improved surface to sell or serve food;

(iv) not stop or remain at any location to sell or serve food during any time other than the dates and times specified in:

(aa) the current itinerary on file with the director for the Class III and Class IV mobile food unit [~~preparation vehicle~~]; and

(bb) the current authorization agreement on file with the director for the use of the premises to sell or serve food; [~~or~~]

(v) be parked overnight (for at least five consecutive hours) only at its commissary or at another location approved by the director that does not violate any applicable city ordinance or state or federal law;

(vi) not utilize or park in any off-street parking spaces required of the premise that authorizes the mobile food unit to sell or serve food;

(vii) comply with all applicable zoning, noise, and smoke regulations in the Dallas Development Code;

(viii) not have any external operational support equipment on the property including but not limited to tables, chairs, tents, over head coverings, refrigeration, freezers, generators, or dry storage units. All operations must be contained within the mobile food unit; or

(ix) have signs displayed only on the mobile food unit and the signs may not extend beyond the length, width, or height of the mobile food unit.

(E[G]) It is a defense to prosecution under Section 17-8.2(h)(2)(F) that a Class III and Class IV mobile food unit [~~preparation vehicle~~] was being operated in compliance with all terms and conditions of a valid special event permit issued by the city.

(i) Structural requirements for a Class II, Class III, or Class IV mobile food unit [preparation vehicles and general service mobile food establishments].

(1) A Class II, Class III, or Class IV mobile food unit [preparation vehicle and a general service mobile food establishment] must have a potable water system under pressure that:

(A) is equipped with a permanently installed water supply tank of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing; the potable water supply tank must have a minimum capacity of:

(i) five gallons for a Class II mobile food unit [general service pushcart]; and

(ii) 30 gallons for a Class III and Class IV mobile food unit [preparation vehicle];

(B) is equipped with a water inlet that is:

(i) located where it will not be contaminated by waste discharge, road dust, oil, or grease; and

(ii) provided with a connection of a size or type that will prevent its use for any other service;

(C) is constructed and installed in accordance with the Rules on Food Service Sanitation, as adopted and amended by the Texas Department of State Health Services, which include National Sanitation Foundation standards, Underwriter Laboratory standards, and equivalent standards;

(D) is equipped with a propane tank installed in accordance with applicable fire department regulations pursuant to a valid liquid propane gas (LPG) permit issued by the fire department;

(E) is equipped with a water heater, if the vehicle or trailer is a Class III and Class IV mobile food unit [preparation vehicle] the water heater must be capable of heating water to at least 110 degrees Fahrenheit, and any tank of the water heater must have a minimum capacity of three gallons; and

(F) provides a minimum water pressure of one gallon per minute.

(2) In lieu of the potable water system under pressure required in Section 17-8.2(i)(1), a Class II mobile food unit [general service mobile food establishment] may have a potable water system that is gravity fed with a mixing faucet if the water tanks:

(A) are vented for escape or intake of air of sufficient volume to allow for water flow, and the vent openings are protected;

(B) have a smooth interior with no recesses and crevices; and

(C) have a combined water capacity of not less than five gallons.

(3) If liquid waste results from the operation of a Class II, Class III, or Class IV mobile food unit [~~preparation vehicle or a general service mobile food establishment~~], the unit [~~vehicle or establishment~~] must have a liquid waste retention system that is:

(A) equipped with a permanently installed retention tank of at least 50 percent larger capacity than the potable water supply tank;

(B) equipped with servicing connections that are:

(i) located lower than the water inlet to prevent contamination of the potable water system; and

(ii) of a different size or type than the connection used for supplying potable water to the unit; and

(C) properly sloped to drain and collect all potential liquid waste.

(4) In addition to other structural requirements of Section 17-8.2(i), a Class III or Class IV mobile food unit [~~preparation vehicle~~] must meet the following requirements:

(A) Floors must be constructed of durable, easily cleanable material, including, but not limited to, anodized aluminum, stainless steel, or tile. All junctures must be properly sealed. All service lines and pipes must be installed off the floor to allow for easy cleaning.

(B) Walls must be durable, easily cleanable, nonabsorbent, and light in color. Minimum wall covering materials include, but are not limited to, aluminum or fiberglass-reinforced paneling. Walls at vent hood and grill areas must be covered with stainless steel panels. Wall covering must be installed to cover the entire height of each wall. Studs and utility lines may not be unnecessarily exposed on the wall or prevent cleaning.

(C) Ceilings must be light in color, nonabsorbent, and easily cleanable. The height over the aisle-way portion of the vehicle must be at least 74 inches and unobstructed. Joists and rafters may not be exposed.

(D) The cab of the vehicle must be physically separated from the food preparation area, and the seats designated for the cook and any passengers must be located outside of the food preparation area. Aisle space must be unobstructed and at least 30 inches wide.

(E) Construction joints must be tightly fitted and sealed with no gaps or voids, and all sealant, solder, and weld joints located in the food contact areas must be smooth and approved for food contact surfaces.

(F) The vehicle or trailer must be equipped with a built-in hose that may be used to wash the interior of the vehicle.

(G) All equipment and utensils must meet or exceed the standards published by the National Sanitation Foundation (NSF).

(H) All equipment must be placed, installed, stored, and secured on the vehicle or trailer in a manner that allows for thorough cleaning and sanitizing around the equipment and prevents movement of the equipment when the vehicle or trailer is in motion. Counter-mounted equipment must be sealed directly to the countertop or securely installed to provide a four-inch clearance under the equipment. Floor-mounted equipment must be sealed directly to the floor or securely installed to provide a six-inch clearance under the equipment.

(I) The vehicle or trailer 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 be used for warewashing. The sink must be equipped with:

(i) a mixing faucet with a swivel spigot capable of servicing all sink compartments; and

(ii) an integral stainless steel drainboard at least 12 inches long, which must be installed with a minimum one-half inch lip or rim to prevent the draining liquid from spilling onto the floor.

(J) The vehicle or trailer must be equipped with a stainless steel sink measuring at least nine inches long, nine inches wide, and four inches deep to be used for handwashing. The sink must be:

(i) located in an area that is fully accessible and at counter level;

(ii) separated from the warewashing sink by a metal splashguard at least six inches high; and

(iii) equipped with a soap dispenser and paper towel dispenser.

(K) The vehicle or trailer must contain at least 20 inches of linear counter space for each piece of food equipment. Additional counter space must be provided that is sufficient to allow for safe food preparation.

(L) The vehicle or trailer must contain at least 15 cubic feet of storage space for dry food and utensil storage. No food or utensil storage is allowed in any plumbing compartment.

(M) The vehicle or trailer must be equipped with mechanical refrigeration equipment if time/temperature control for safety food is stored, prepared, or served on the vehicle. The mechanical refrigeration equipment must have at least 15 cubic feet of usable storage space and be capable of ensuring proper food temperature control during transportation and operation.

(N) Outer openings of the vehicle or trailer, including but not limited to service windows, doors, pop-up vents, and sunroofs, must be insect and rodent proof and meet the following requirements:

(i) Screens must be tightly fitted and in good repair, with a maximum of 16 mesh per square inch.

(ii) Service windows must not be larger than 216 square inches. The distance between two service windows must not be less than 18 inches. Each service window must have an overhead protection cover extending at least 12 inches from the vehicle.

(iii) Entrance doors and service windows to the food preparation area must be self-closing and must be kept closed when not in use.

(O) The vehicle or trailer must be equipped with a power source, approved by the director, that is capable of handling the power demands of the vehicle or trailer and equipment while the vehicle or trailer is stopped or in motion. The power source must be permanently installed in an area that is completely separated from food preparation and food storage areas and must be accessible for proper cleaning and maintenance.

(P) Light bulbs and tubes must be covered and completely enclosed in plastic safety shields or the equivalent.

(5) A food establishment may not serve, sell, or distribute any food or beverage from a Class II, Class III, or Class IV mobile food unit [~~preparation vehicle or a general service mobile food establishment~~] that does not comply with the requirements of Section 17-8.2(i).

(j) Servicing requirements for a Class II, Class III, or Class IV mobile food unit [~~preparation vehicles and general service mobile food establishments~~].

(1) A food establishment that serves, sells, or distributes any food or beverage from a Class II, Class III, or Class IV mobile food unit [~~preparation vehicle or a general service mobile food establishment~~] shall comply with the following regulations:

(A) Servicing area. The food establishment shall provide a servicing area where every Class II, Class III, or Class IV mobile food unit [~~preparation vehicle and general service mobile food establishment~~] must report at least once daily for servicing operations. The servicing area must include:

operation;

(ii) a location for the flushing and draining of liquid waste separate from the location provided for water service and the loading and unloading of food and related supplies; and

(iii) a surface constructed of a smooth nonabsorbent material, including, but not limited to, concrete or machine-laid asphalt, that is maintained in good repair, kept clean, and graded to drain.

(B) Servicing methods and equipment.

(i) Potable water servicing equipment must be installed according to all applicable city ordinances and state and federal law and stored and handled in a way that protects the water and equipment from contamination.

(ii) The liquid waste retention tank for a Class II, Class III, or Class IV mobile food unit [~~preparation vehicle or a general service mobile food establishment~~] must be thoroughly flushed and drained during the servicing operation.

(iii) All liquid waste must be discharged to a sanitary sewerage disposal system constructed and operated according to all applicable city ordinances and state and federal law.

(iv) Liquid waste may not be discharged from a Class II, Class III, or Class IV mobile food unit [~~preparation vehicle or a general service mobile food establishment~~] while it is in motion.

(C) Site cleanup. A service site must be left in a clean, waste-free condition.

(D) Food preparation and service. Food may not be prepared or served while the vehicle is in motion or in an area that exposes any person present to a health or safety hazard.

(2) A food establishment may not serve, sell, or distribute any food or beverage from a Class II, Class III, or Class IV mobile food unit [~~preparation vehicle or a general service mobile food establishment~~] if the food establishment does not supply, clean, or service the Class II, Class III, or Class IV mobile food unit [~~preparation vehicle or general service mobile food establishment~~] in accordance with Section 17-8.2(j).

(k) Annual food permit eligibility. A mobile food unit is eligible for an annual food permit if the mobile food unit complies with all the construction standards for its classification.”

SECTION 5. That Paragraph (1), "Requisite," of Subsection (c), "Permits," of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of Chapter 17, "Food Establishments," of the Dallas City Code, is amended to read as follows:

"(1) Requisite. A person shall not operate a food establishment inside the city without a permit issued by the director. A separate permit is required for:

- (A) each establishment that is under a separate ownership;
- (B) each separate and distinct fixed facility from which an establishment operates;
- (C) each vehicle used to operate a catering service; and
- (D) each mobile food unit [~~establishment~~]."

SECTION 6. That Paragraph (9), "Issuance," of Subsection (c), "Permits," of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of Chapter 17, "Food Establishments," of the Dallas City Code, is amended to read as follows:

"(9) Issuance. If the director finds that a food establishment applying for a permit complies with applicable requirements of this chapter and other law and is current on the payment of all fees owed to the city under this chapter, the director shall issue the permit. The director may not issue a permit for any mobile food unit [~~establishment~~] that is equipped with any sound amplification device that, when operated, violates Section 30-2(k) of this code."

SECTION 7. That Paragraph (2) of Subsection (d), "Permit Application Fee," of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of Chapter 17, "Food Establishments," of the Dallas City Code, is amended to read as follows:

"(2) The applicant shall pay a nonrefundable fee according to the following schedule:

	Fixed Facility	Mobile Food <u>Unit</u> [Preparation Vehicle]
Application Fee	\$197	\$481
Reinstatement fee after lapse of permit for failure to pay annual inspection fee by due date: existing facility or vehicle under same ownership"	\$199	

SECTION 8. That Paragraph (1) of Subsection (e), “Plans and Specifications,” of Section 17-10.2, “Additional Requirements,” of Article X, “Compliance and Enforcement,” of Chapter 17, “Food Establishments,” of the Dallas City Code, is amended to read as follows:

“(1) A person shall not begin constructing a fixed facility or constructing a mobile food preparation vehicle (whether by manufacturing, retrofitting, or converting), or extensively remodeling a fixed facility, intended for use in the operation of a food establishment (other than a temporary food service establishment) before a copy of plans and specifications of the construction or remodeling are approved, in writing, by the director.

(A) Except as provided in this paragraph, a request for approval of plans and specifications must be accompanied by a nonrefundable plans review fee of \$562 for a mobile food unit [~~preparation vehicle~~].

“(B) A request for approval of plans and specifications for a Class II [~~general service~~] mobile food unit [~~establishment~~] limited to a mobile kiosk/coffee cart must be accompanied by a nonrefundable plan review fee of \$205. This subparagraph is effective until September 30, 2022.”

SECTION 9. That Subsection (g), “Annual Inspection Fees: Catering Services and Mobile Food Establishments,” of Section 17-10.2, “Additional Requirements,” of Article X, “Compliance and Enforcement,” of Chapter 17, “Food Establishments,” of the Dallas City Code, is amended to read as follows:

“(g) Annual inspection fees: catering services and mobile food units [~~establishments~~].

(1) Catering service.

(A) Effective until September 30, 2022, a catering service shall pay the city a nonrefundable annual inspection fee of \$125 for each vehicle used to operate the service inside the city.

(B) Effective October 1, 2022, a catering service shall pay the city a nonrefundable annual inspection fee of \$311 for each vehicle used to operate the service inside the city.

(2) Mobile food unit.

(A) Effective until September 30, 2022, a food establishment that operates a mobile food unit inside the city shall pay the city a nonrefundable annual inspection fee in accordance with the following schedule:

Type of Operation	Each Vehicle
<u>Class I mobile food unit (produce trucks, ice cream carts, grocery trucks)</u>	\$300
<u>Class II mobile food unit [General service]</u>	\$408
<u>Class II mobile food unit limited to a [General service (mobile kiosk/coffee cart(s))]</u>	\$240
<u>[Limited service (produce trucks, ice cream carts, grocery trucks)]</u>	\$382
<u>Class III and IV mobile food unit [Mobile food preparation vehicle]</u>	\$330

(B) Effective October 1, 2022, a food establishment that operates a mobile food unit inside the city shall pay the city a nonrefundable annual inspection fee in accordance with the following schedule:

Type of Operation	Each Vehicle
<u>Class I mobile food unit (produce trucks, ice cream carts, grocery trucks)</u>	\$300
<u>Class II mobile food unit [General service]</u>	\$408
<u>[Limited service (produce trucks, ice cream carts, grocery trucks)]</u>	\$382
<u>Class III and IV mobile food unit [Mobile food preparation vehicle]</u>	\$330

SECTION 10. That Paragraph (6) of Subsection (r), "Criminal Offenses; Presumption," of Section 17-10.2, "Additional Requirements," of Article X, "Compliance and Enforcement," of Chapter 17, "Food Establishments," of the Dallas City Code, is amended to read as follows:

"(6) Whenever a violation of this chapter occurs that involves a mobile food unit ~~establishment~~, it is presumed that the registered owner of the vehicle for which the citation was issued is the person who committed the violation, either personally or through an agent or employee. Proof of ownership may be made by a computer-generated record of the registration of the vehicle with the Texas Department of Transportation showing the name of the person to whom state license plates were issued. This proof is prima facie evidence of the ownership of the vehicle by the person to whom the certificate of registration was issued."

SECTION 11. That Paragraph (1) of Subsection (s), “Variances,” of Section 17-10.2, “Additional Requirements,” of Article X, “Compliance and Enforcement,” of Chapter 17, “Food Establishments,” of the Dallas City Code, is amended to read as follows:

“(1) A food establishment may apply to the director for a variance modifying or waiving the requirements of the Texas Food Establishment Rules or the requirements of this chapter. The food establishment shall apply for the variance on a form provided by the director and shall include in the application all of the information required by Subsection 228.2431(2) of the Texas Food Establishment Rules. The application must be accompanied by a nonrefundable application fee of \$591. The fee does not apply to mobile food units applying for a commissary variance pursuant to Section 17-8.2(g)(B)(i).”

SECTION 12. That Paragraph (8) of Subsection (s), “Variances,” of Section 17-10.2, “Additional Requirements,” of Article X, “Compliance and Enforcement,” of Chapter 17, “Food Establishments,” of the Dallas City Code, is amended to read as follows:

“(8) Reserved. [~~If, pursuant to this section, the director grants a variance to Section 17-8.2(h)(2)(C) of this chapter (which allows only fast-cooked food items to be prepared on a mobile food preparation vehicle and prohibits raw poultry or raw seafood from being prepared or cooked on the vehicle) to allow raw poultry, raw seafood, and non-fast-cooked food items to be prepared, cooked, and served from a mobile food preparation vehicle, then the food establishment shall comply with the following conditions and standards in addition to any other conditions and standards established by the director for the variance:~~

(A) ~~The applicant must submit to the director detailed plans regarding the preparation, cooking, and service of the raw poultry, raw seafood, and non-fast-cooked food items on the mobile food preparation vehicle. The plans must include all of the following information:~~

(i) ~~A description of the raw poultry, raw seafood, and non-fast-cooked food items and how they will be prepared, cooked, and served.~~

(ii) ~~Details of how the raw poultry, raw seafood, and non-fast-cooked food items will be stored on the vehicle.~~

(iii) ~~Any other information or documentation the director deems necessary to determine whether or not a health hazard or nuisance will result from granting the variance.~~

(B) ~~The food establishment must not have committed more than a total of three violations of this chapter or the Texas Food Establishment Rules within the preceding 12-month period that involved any mobile food preparation vehicle or fixed food facility operated by the~~

~~food establishment, regardless of whether such violations were committed by an owner, officer, operator, manager, other person in charge, or employee of the food establishment.~~

~~(C) The food establishment must not have had any confirmed foodborne illnesses at any of its locations within the preceding 24 months.~~

~~(D) The food establishment must not have scored less than 80 on two separate graded food inspections within the preceding 24 months.~~

~~(E) Cutting of raw poultry or raw seafood is prohibited on a mobile food preparation vehicle, except for seafood intended to be consumed raw.]”~~

SECTION 13. That, unless specifically provided otherwise by this ordinance or by state law, a person violating a provision of this ordinance is, upon conviction, punishable by a fine not to exceed \$500.

SECTION 14. That Chapter 17 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 15. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 16. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

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SECTION 17. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By  _____
Assistant City Attorney

Passed APR 27 2022



PROOF OF PUBLICATION – LEGAL ADVERTISING

The legal advertisement required for the noted ordinance was published in the Dallas Morning News, the official newspaper of the city, as required by law, and the Dallas City Charter, Chapter XVIII, Section 7.

DATE ADOPTED BY CITY COUNCIL APR 27 2022

ORDINANCE NUMBER 32181

DATE PUBLISHED APR 30 2022

ATTESTED BY: