

**CITY OF LAKE DALLAS, TEXAS  
ORDINANCE NO. 2018-20**

**AN ORDINANCE OF THE CITY OF LAKE DALLAS, TEXAS, AMENDING LAKE DALLAS MUNICIPAL CODE CHAPTER 54 "HEALTH AND SANITATION," BY AMENDING ARTICLE II "FOOD," DIVISION 1 "GENERALLY," BY AMENDING SECTION 54-30 "PURPOSE; ADOPTION OF STATE RULES" ADOPTING BY REFERENCE THE TEXAS FOOD SERVICE ESTABLISHMENT RULES"; SECTION 54-31 "DEFINITIONS," BY AMENDING AND ADDING VARIOUS DEFINITIONS; BY ADDING DIVISION 4 "MOBILE FOOD ESTABLISHMENTS" TO ARTICLE II "FOOD" RELATING TO THE REGULATION OF MOBILE FOOD ESTABLISHMENTS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2000.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City has seen an interest from mobile food establishments desiring to offer edible food products to local citizens and visitors to the City of Lake Dallas; and

**WHEREAS**, the City Council desires to allow mobile food establishment to operate in the City of Lake Dallas with special emphasis in the City's Downtown District; and

**WHEREAS**, in order to protect the health, safety and welfare of its citizens, the Lake Dallas City Council deems it appropriate to provide for regulation of mobile food establishments to be located in the City of Lake Dallas.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAKE DALLAS, TEXAS, THAT:**

**SECTION 1.** The Lake Dallas Municipal Code, Chapter 54 "Health and Sanitation," Article II "Food," Section 54-30 "Purpose; Applicable Rules" is re-titled and amended to read as follows:

**Sec. 54-30. Purpose;**

The purpose of this article is to safeguard public health and provide to consumers food that is safe, unadulterated and honestly presented. The Texas Food Establishment Rules ("TFER") set forth in Title 25, Chapter 228, Texas Administrative Code as amended, which establish regulations regarding, among other things, food, food establishments, mobile food units, food trucks and temporary food establishments, save and except the deletions and additions set forth below, are hereby adopted as the minimum standards for food service operations within the corporate limits of the City, and shall constitute regulations governing the preparation, service, and sale of food within the City. For purposes

of this Article II, the phrase "food establishment rules" means, collectively (i) the TFER as adopted by this Section and (ii) any amendments adopted pursuant to this Article. The City Manager, or authorized representative is hereby authorized and directed to enforce all provisions of the food establishment rules.

**SECTION 2** The Lake Dallas Municipal Code, Chapter 54 "Health and Sanitation" Article II "Food," Section 54-31 "Definitions" is amended as follows:

**Sec. 54-31. Definitions**

For purpose of this Article II, the definitions set forth in 25 Texas Administrative Code sec. 228.2, the following definitions are amended or amended as follows:

*Agricultural product.* An agricultural, apicultural, or horticultural product, either in its natural or processed state that has been produced, processed, or otherwise had value added for use as human food.

*Base of operation.* A fixed location to which a mobile food establishment vehicle returns as needed for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

*Commissary.* Means a food establishment, or any other place serving as base of operation for a mobile food establishment and where food, containers, or supplies are kept, handled, prepared, packaged or stored for use by a mobile food establishment or is a location where a mobile food establishment is stored, parked, serviced, cleaned, supplied and maintained.

*Equipment.* An article used in the operation of a food establishment such as a freezer, grinder, hood, ice maker, meat block, mixer, oven, reach-in refrigerator, scale, sink, slicer, stove, steam table, temperature measuring device for ambient air, vending machine, warewashing machine, and similar items other than utensils, used in the operation of a food establishment.

*Food establishment.* An operation that stores, prepares, packages, serves, or otherwise provides food for human consumption including, but not limited to: a restaurant; retail food store; food bank, pre-packaged non-PHF, produce stand, satellite or catered feeding location; catering operation; market; mobile food establishment, pushcart, remote catered operations, farmers' market; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders; restaurant take-out orders; or where consumption is on or off the premises; and regardless of whether there is a charge for the food. The term does not include: a kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function, such as a religious or charitable organization's bake sale; bed and

breakfast limited facility as defined in these rules; or a private home that receives catered or home-delivered food.

*Health Authority.* City employees and/or contractors charged with the responsibility of enforcement of the provisions of this Article, and any duly-authorized state or county health official.

*Mobile food establishment.* A self-propelled vehicle mounted food establishment designed to be readily moveable. This includes vehicles which prepare food on site within the vehicle. The vehicle is equipped with food preparation equipment and must meet regulations applicable to a fixed food establishment.

*Permit holder.* The person or entity who is legally responsible for the operation of a food establishment such as the owner, the owner's agent, or other person; and possesses a valid permit to operate a food establishment.

*Premises.* The physical facility, its contents, and the contiguous land or property under the control of the permit holder; or 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 (1) component of a larger operation such as a health care facility, hotel, motel, school, recreational camp, or prison.

*Produce.* Farm produced crops intended for human consumption, including but not limited to whole vegetables, plants, nuts in the shell, honey and fruit.

*Pushcart.* A non-self-propelled mobile food unit capable of being propelled by a person, and limited to serving only prepackaged, food that is not PHF/TCS or prepackaged ice cream. A pushcart is classified as a mobile food establishment.

*Ready-to-eat food.* Food in a form that is edible without additional preparation to achieve food safety; is raw or partially cooked animal food and the consumer is advised. The term includes raw, washed, cut fruits and vegetables; whole, raw fruits and vegetables; all potentially hazardous food that is cooked to the temperature and time required for the specified food. The term also includes plant food for which further washing, cooking, or other processing is not required for food safety, and from which rinds, peels, husks, or shell, if naturally present are removed; substances derived from plants such as spices, seasonings, and sugar; bakery item such as bread, cakes, pies, fillings or icing for which further cooking is not required for food safety; the following products that are produced with USDA guidelines and that have received a lethality treatment cured meat and poultry products, such as prosciutto ham, country cured ham, and Parma ham; and dried meat and poultry products, such as jerky or beef sticks.

**SECTION 3.** The Lake Dallas Municipal Code, Chapter 54 "Health and Sanitation" Article II "Food" is amended by adding Division 5 titled "Mobile Food Establishment" to read as follows:

**Division 5. MOBILE FOOD ESTABLISHMENT**

**Sec. 54-150. Purpose.**

The purpose of this Division is to establish regulations governing mobile food establishment, operation sites and the use of property or a tract of land for use as a food truck court. These regulations are intended to promote the health, safety, and welfare of the public, and to protect the property rights of the owners of land located adjacent to and within the vicinity of properties containing a mobile food establishment.

**Sec. 54-151. Permit and Application.**

(a) **Permit.** No person shall operate a mobile food establishment without holding a permit issued by the city pursuant to this Division.

(b) **Application.** Every mobile food establishment shall apply for a permit on a form promulgated by the City. Each vending unit requires a separate permit. Applications for permits complying with the requirements for mobile food establishments shall be processed within ten (10) business days.

(c) **Permit form.** A complete application shall require the following information from the applicant to be considered:

- (1) Name and address of the owner and/or operator.
- (2) Legal name of business or entity.
- (3) State of incorporation or filing of a partnership or articles of association.
- (4) If applicable, copy of charter, certificate of formation, or articles of incorporation and current listing of the directors, partners, or principles.
- (5) Sales tax number with a copy of sales tax permit.
- (6) Signed permission form or provide notarized affidavit from the private property owner granting permission for unit placement.

(7) Name, phone number and driver's license number of business owner and all employees operating within the mobile food establishment unit.

(8) Proposed itinerary with route, vending locations and times.

(9) Contact name and phone number for mobile food vending unit while in route.

(10) Description of product being sold.

(11) Site plan where the mobile food establishment unit will be located on the property.

(12) Vehicle identification number and description of mobile food vending unit.

(13) Signed affidavit with photo identification that each individual applicant:

(i) Has no unpaid civil judgments against him or her in any state of U.S. possession which arise from a business activity which would have been covered by this section if in effect at the time in the jurisdiction where such judgments are of record.

(ii) A statement of all convictions in any state, the United States, or U.S. possession within the last ten years.

(d) **Display of Permit.** Every permit, including those from the city, shall be displayed at all times in a conspicuous place where it can be read by the public on the mobile food establishment's truck or concession trailer.

(e) **Permits Non-Transferable.** No mobile food establishment permit issued pursuant to this Section may be assigned or transferred to another owner or another mobile food unit.

**Sec. 54-152. Fees.**

(a) Fees associated with the mobile food establishment will include the following:

(1) Permit Fee

(2) Health Inspection

- (3) Health Reinspection Fee
  - (4) Three (3) Day Use Fee, in lieu of gross receipts for public land use
- (b) Mobile food establishment permits shall be valid for one year from the date the permit is issued.

**Sec. 54-153. Permit Denial.**

A permit may be denied if:

- (1) An applicant is found to have one or more unpaid civil judgments against the applicant which relate to the duties and responsibilities of owning or operating a mobile food establishment; or
- (2) An applicant has been convicted of a crime which directly relates to the duties and responsibilities of operating a mobile food establishment; or
- (3) The information required for the permit application is incomplete or incorrect or shows that a person is not otherwise entitled to conduct business as a mobile food establishment.
- (4) The opportunity to issue a permit has been denied due to previous violations as described in this division.

**Sec. 54-154. Permit Revocation or Suspension.**

- (a) A permit may be revoked upon conviction of any offense committed by an individual operating as a mobile food establishment in the City while engaged in the permitted business, or if a final conviction occurs or is found to have existed at the time of application for the mobile food establishment permit, or if civil judgments, as set forth above, are placed or found of record against an applicant. A permit may be suspended in the event of pending charges of a crime, as described above, upon a magistrate's determination of probable cause in connection with such charges.
- (b) A permit may be revoked for non-conformity to the application location specifications or requirements as well as to non-conformity to an approved location plan or diagram

- (c) Any employee of a permitted mobile food establishment above may be denied the right to solicit under such permit, or such rights may be suspended or terminated, under the same circumstances and procedures which apply to the holder of the permit. Revocation or suspension of an employer's permit terminates all employee permits.
- (d) A permit may be suspended or revoked for not complying with the requirements of this division, or any other ordinances, or laws.

**Sec. 54-155. Appeal of Permit Revocation, Suspension, or Denial.**

- (a) The notice of revocation, suspension, or denial of a mobile food establishment permit shall include the procedure for appealing the suspension, revocation, or denial.
- (b) If a City official revokes, suspends, or denies a mobile food establishment permit, the holder or applicant of said permit shall have the right to appeal to the city manager, or designee by submitting an appeal in writing to the city manager not later than the tenth (10<sup>th</sup>) business day after receipt of notice of the revocation, suspension, or denial.
- (c) Pending action on the appeal, a permit which has been revoked or suspended shall be considered revoked or suspended.
- (d) If a written appeal is not submitted within the ten business days of revocation, suspension, or denial, or if the appeal is denied, the permit shall hence be considered revoked, suspended or denied.

**Sec. 54-156. Reapplication After Revocation, Suspension, or Denial of Permit**

If a mobile food establishment or applicant for a mobile food establishment permit is not in compliance with this division or any other ordinance, law or the approved mobile food establishment permit, the following action will be taken:

- (1) **1st violation:** A warning may be issued, or the permit may be revoked or suspended and the establishment may become ineligible for a new or reissued permit for 90 consecutive days.
- (2) **2nd violation:** Permit will be revoked and the establishment may become ineligible for a new or reissued permit for 90 consecutive days.
- (3) **3rd violation:** Permit will be revoked and the establishment will become ineligible for new or reissued permit for one year.

(4) If an applicant's permit has been denied and the appeal is denied the applicant may not reapply for a mobile food establishment permit for 90 consecutive days.

**Sec. 54-157. Zoning and Location Restrictions**

(a) **Distance regulations.**

(1) No mobile food establishment shall conduct business within any single-family residential zoning district or a planned development district with a base zoning of a single family residential zoning district.

(2) A mobile food establishment may not be located within fifty feet (50') of the primary entrance of an open and operating fixed-location food service or eating establishment except during city sponsored or other community events.

(b) **Operational Times.** A mobile food establishment shall not conduct sales at a stationary location:

(1) For a duration exceeding eight hours on public property during the same day; or

(2) Between the hours of 7:00 a.m. and 10:00 p.m.

(c) **Location regulations.** Food Truck Establishments will be located within Downtown District or property owned or controlled by the City. A mobile food establishment shall not operate at any location in which such operation would be prohibited under the City of Lake Dallas Zoning Ordinance or any other ordinance.

(1) No mobile food establishment shall be located on any private property without written permission to do so and must comply if asked to leave by the property owner or city official. A copy of the written permission to operate in a specific location signed by the private property owner, shall be kept within the mobile vending unit at all times.

(2) No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill.

(3) No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill upon any premises if requested by the

property owner or city not to do so, or if there is placed near or at the entrance thereof a sign bearing the words "no advertisement".

- (4) No person shall sell or offer for sale any item upon any premises if requested by the property owner or city official not to do so, or if there is placed at or near the entrance thereof a sign bearing the words "no peddlers or establishments," "no trespassing," or "no solicitors."

#### **Sec. 54-158. Mobile Food Establishment Requirements**

The following regulations shall apply to mobile food establishments within any zoning district:

- (1) Mobile food establishments shall operate from a central preparation facility or other permitted fixed food establishment and shall report to such location for supplies and for cleaning and servicing operations.
- (2) Each mobile food unit shall be equipped with a portable trash receptacle, and shall be responsible for proper disposal of solid waste and waste water in the sanitation facility legally accessed by the mobile food establishment. All disturbed areas must be cleaned following each stop to a minimum twenty feet (20') of the sales location.
- (3) A mobile food establishment may not have a drive through window.
- (4) A five-foot (5') clear space must be maintained around the mobile food vending unit.
- (5) The mobile food unit will be subject to inspection upon permit application through the code enforcement, health department and the fire marshal, and may be subject to random inspection and at the time of reissuance of the permit.
- (6) A "No Smoking" sign must be posted next to the order window or area of the mobile food unit.
- (7) An approved portable Type ABC fire extinguisher tagged by a licensed company shall be kept accessible as directed by the city fire marshal or designee. A portable Type K fire extinguisher shall be installed in the kitchen for cooking operations

- (8) A kitchen fire suppression system and kitchen ventilation system complying with NFPA 17A and NFPA 96 must be installed and functional when the cooking process of the mobile food establishment produces grease laden particles within the mobile food unit. Said systems shall require testing in the presence of a city fire marshal or designee.
- (9) All cooking appliances shall be UL approved.
- (10) If propane is used for cooking, a gas pressure test must be performed by a licensed plumber prior to issuance of a mobile food establishment permit.

**Sec. 54-159. Offenses and regulations**

- (a) It shall be unlawful for any person as the agent or employee of another regulated under this division to sell edible goods in the city unless the person's principal or employer has received a mobile food establishment permit under this division.
- (b) It shall be unlawful for a person to sell edible goods while displaying a valid mobile food establishment permit in the name of another individual, organization, or entity.
- (c) It shall be unlawful for a person to directly or through an agent or employee sell goods within the corporate limits of the city after the expiration of the mobile food establishment permit.
- (d) It shall be unlawful for a person to directly or through an agent or employee misrepresent on the mobile food establishment permit affidavit any acts that are regulated under this section.
- (e) It shall be unlawful for any person directly or through an agent or employee to represent that the issuance of a mobile food establishment permit by the city constitutes the city's endorsement or approval of the product for sale.
- (f) It shall be unlawful to operate a mobile food establishment operation that is not in compliance with the Texas Food Establishment Rules as amended from time to time.

**SECTION 4.** All provisions of the Ordinances of the City of Lake Dallas, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 5.** An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 6.** Should any sentence, paragraph, subdivision, clause, phrase or section of this Ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Ordinance as a whole.

**SECTION 7.** Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense as set forth in Section 1-16 of the Code of Ordinances.

**SECTION 8.** This ordinance shall take effect immediately following its passage and publication in accordance with the provisions of the state law and the Charter of the City of Lake Dallas.

**PASSED AND APPROVED** this 10<sup>th</sup> day of May, 2018.

  
Michael Barnhart, Mayor

ATTEST:

  
Codi Delcambre, TRMC, City Secretary

APPROVED AS TO FORM:

  
Kevin B. Laughlin, City Attorney  
(kbl:5/7/18:99039)

