

ORDINANCE NO. 3575-5-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE ALLEN LAND DEVELOPMENT CODE, AS PREVIOUSLY AMENDED, BY AMENDING SECTION 4.20.2 “SCHEDULE OF PRINCIPAL USES” BY ADDING “FOOD TRUCK PARK” AND DELETING “CARNIVAL OR CIRCUS” AND “FAIRGROUNDS OR RODEO” AS A USE; AMENDING SECTION 4.20.4 “SCHEDULE OF PRINCIPAL USES – CENTRAL BUSINESS DISTRICT” BY ADDING “FOOD TRUCK PARK” AS A USE; AMENDING SECTION 6.04.1 “TEMPORARY USE APPLICATIONS” RELATING TO THE APPLICATION FOR AND ISSUANCE OF PERMITS FOR CERTAIN TEMPORARY USES; AMENDING SECTION 6.06 “SUPPLEMENTAL REGULATIONS” BY ADDING SECTION 6.06.15 “MOBILE FOOD ESTABLISHMENTS” RELATING TO THE DEVELOPMENT STANDARDS FOR MOBILE FOOD ESTABLISHMENTS; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000) DOLLARS FOR EACH OFFENSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Commission and the governing body of the City of Allen, Texas, in compliance with the laws of the State of Texas and the Ordinances of the City of Allen, Texas, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all persons interested and in the exercise of its legislative discretion, the City Council has concluded that the Allen Land Development Code Zoning Regulations of the City of Allen, Texas, as previously amended, should be further amended as follows:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:

SECTION 1. Allen Land Development Code, Article IV “Zoning Regulations” is amended as follows:

- A.** Section 4.20.2 “Schedule of Principal Uses” is amended by adding the use “Food Truck Park” establishing the zoning districts in which such use is permitted, permitted with a specific use permit, and prohibited, as follows:

RESIDENTIAL USES											TYPE OF USE	NON-RESIDENTIAL DISTRICTS													
R1	R1.5	R-2	R-3	R-4	R-5	R-6	R-7	2F	TH	MF12		MF18	MH	AO	GO	O	LR	SC	LC	GB	CC	IT	LI	HI	CF
													FOOD TRUCK PARK					S	S	S	S				

- B.** Section 4.20.2 “Schedule of Principal Uses” is amended by deleting “Carnival of Circus” and “Fairgrounds or Rodeo” as a use.
- C.** Section 4.20.4 “Schedule of Principal Uses – Central Business District” is amended by adding the use “Food Truck Park” as a use permitted following approval of a specific use permit.

SECTION 2. Allen Land Development Code, Article VI “Special Zoning Provisions” is amended as follows:

A. Section 6.04.1 “Temporary Use Permit Applications,” is amended in its entirety to read as follows:

Sec. 6.04.1. - Temporary use permit applications.

1. *Number of permits and duration.* Unless stated otherwise herein, a business or property owner may receive during any calendar year no more than two temporary use permits, or no more than one temporary use permit and one renewal of said permit for a specific property upon making application, after paying the required fee and receiving approval of the director. Except as otherwise set forth in this Code, a temporary use permit and each extension of a temporary use permit shall be effective for no more than 30 consecutive days.
2. *Application.*
 - a. Unless otherwise determined by the director, an application for a temporary use permit must be submitted with the following information:
 - i. A written letter of approval from the property owner indicating the applicant has the right to use such property for the temporary use described in the application.
 - ii. A site plan of the property showing:
 - (1) Property boundaries.
 - (2) Building footprint of permanent structures and paved parking lot, if applicable.
 - (3) Location of all fire lanes, driveways and/or alleys.
 - (4) Location of temporary use structures temporary tent, canopy or shelter and merchandise.
 - (5) Fire rating documentation for any temporary tent, canopy or shelter to be used during the event.
 - (6) The number of displaced parking spaces, if applicable, and the required parking spaces for existing uses on the property, where applicable.
 - (7) Location of temporary lighting or security lighting.
 - (8) Size and location of any temporary signage, pennants or banners.
 - (9) Location of restrooms that will be available for use by the public during the event for which the permit is to be issued.
 - (10) A description of the temporary use event activities and requested days and hours of operation.

- (11) At least two points of contact with up to date contact information for the applicant and/or organization operating the event.
 - (12) Information regarding any mobile food vendors, and/or any food or drink preparation, sales or sampling.
 - iii. Charitable, religious, educational or public service, civic organizations are exempt from all fees to be collected pursuant to this Section 6.04.1.
- b. Additional requirements.
- i. No parking space required by this Code or other ordinance setting forth minimum parking spaces for the property shall be used for a temporary use permit for seasonal sales and Christmas tree sales.
 - ii. All temporary lighting, if applicable, will require issuance of an electrical permit and an inspection by a city building inspector prior to the event. No lighting may flash, travel, blink, fade, move or scroll.
 - iii. Temporary restroom's and/or on-site restrooms shall be allowed with the approval of the property owner and business owner whose restrooms will be used.
 - iv. The preparation, sale and/or sampling of any food and/or drinks shall comply with all applicable provisions of Chapter 6, Article VIII, Division 2 of the Code of Ordinances, as amended, and including, but not limited to, the prior issuance of any required Health Permit.
 - v. The use of a temporary tent, canopy or shelter, made of cloth, plastic, canvas or similar material, shall comply with requirements of Section 3.04 (the International Fire Code), as amended. The application submittal shall include fire rating certificate documentation.
 - vi. No event receiving a temporary use permit shall locate in an approved landscape buffer or within twenty (20) feet of a roadway or alley.
3. *Decommission or removal.* The site shall be vacated completely and cleaned at the end of the event and prior to the issuance of new temporary use permits for the same property.
4. *Types of temporary use permits.*
- a. *Seasonal sales.* Temporary sales of seasonal products such as firewood, plants, fruits, vegetables, and similar items or products may be allowed during their normal and generally accepted season, and subject to the following provisions:
 - i. Issuance of permits for temporary outdoor sales of seasonal products shall be limited to areas zoned for retail or commercial uses.

- ii. Where an existing business is operating in accordance with a certificate of occupancy, the area for display shall be no more than 200 square feet, being generally square or rectangular in shape, with a maximum length of 25 feet and a minimum width of eight feet. Examples would be ten feet by 20 feet, or eight feet by 25 feet.
 - iii. This section does not apply to temporary outdoor services such as mobile blood banks, mammography screening, eye screening, or similar medical services for humans.
 - iv. An application for a temporary use shall also include a true copy of the sales tax permit which designates the city as point of sale.
 - v. Temporary sales of fruits and vegetables for off-premises consumption shall be allowed; however, the products must remain whole, and not be cut or opened in any manner.
- b. *Christmas tree sales.* Temporary sales of Christmas trees during the normal and generally accepted season subject to the following provisions:
- i. Issuance of permits for temporary outdoor sales of Christmas trees shall be limited to areas zoned for retail or commercial uses, or any church property.
 - ii. Sales may not begin prior to November 15.
 - iii. Sale site must be cleaned and vacated by January 1.
 - iv. The application for a temporary use permit shall also include a true copy of the sales tax permit which designates the city as point of sale.
 - v. A temporary use permit for Christmas tree sales shall be excluded from the maximum number of temporary use permits allowed under Section 6.04.1.1.
- c. *Carnival, circus, or fairgrounds* may be allowed provided the use conforms to all other provisions of this Code and the Code of Ordinances.
- i. The term of a temporary use permit for a carnival, circus, or fairgrounds shall not exceed a maximum of five (5) days.
 - ii. Issuance of permits for a carnival, circus or fairgrounds shall be limited to areas zoned for retail or commercial uses, or any church property.
- d. *Temporary Event.* Sporting events, philanthropic or religious events, community garage sales for charities, political rallies and similar activities may be allowed provided the use conforms to all other provisions of this Code and the Code of Ordinances. Parking lot sales may be allowed for the existing businesses holding a Certificate of Occupancy for the site.

- i. Issuance of a permit for a temporary event pursuant to this paragraph d. shall be limited to areas zoned for non-residential uses.
 - ii. The term of a temporary use permit issued pursuant to this paragraph d. for a temporary event shall not exceed fifteen (15) days.
- e. *Temporary Food Vendor.* A Mobile Food Establishment, as defined in Section 6.06.15, may operate as a temporary food vendor as follows:
- i. Mobile Food Establishments may be permitted to operate in association with Temporary Use Permits issued for seasonal sales, Christmas tree sales or temporary events. The temporary food vendor information shall be submitted with the Temporary Use Permit application for seasonal sales, Christmas tree sales or temporary event, and a separate temporary use permit for the mobile food establishment is not required. The temporary use permit must be obtained prior to the Mobile Food Establishment commencing the preparation or sale of any food on the property. This permit is required in addition to any permits that may be required by the Chapter 6, Article VIII, Division 2 of the Code of Ordinances, as amended.
 - ii. Mobile Food Establishments may be issued a Temporary Food Vendor Permit to operate at a Food Truck Site meeting complying with Section 6.06.14.
 - a) The Mobile Food Establishment operator shall submit an application and site plan as required in this Section.
 - b) The site plan shall demonstrate compliance with all requirements of this Section and Section 6.06.15.
 - c) Only one permit per site may be issued per calendar year. The permit shall be valid for a maximum of six (6) months.
 - f. *Other temporary uses.* A temporary use permit may be granted for those uses indicated by a "T" in the Schedule of Permitted Principal Uses, Section 4.20.1, and are not subject to the maximum permit term described in Section 6.04.1.1.

B. Section 6.06 “Supplemental Use Regulations” is amended by adding Section 6.06.15 “Mobile Food Establishments” to read as follows:

Section 6.06.15. Mobile Food Establishments

This section establishes regulations for operating various Mobile Food Establishments within the City. Mobile Food Establishments may only operate in accordance with the following:

a. *Definitions*

As used in this Section 6.06.15, the following words and phrases shall have the following meanings unless the context clearly indicates as different meaning:

- i. *Food Truck Park* means one or more lots or parcels of land where three or more Mobile Kitchens congregate to offer food or beverages for sale to the public as the principal use of the land.
 - ii. *Food Truck Site* means an existing, developed site where a Mobile Kitchen operates as an accessory use to the primary active business located on the same site.
 - iii. *Mobile Construction Site Food Vehicle* means a vehicle with no or limited kitchen facilities that carries prepackaged food or non-prepackaged foods prepared at an approved commissary that contains no potentially hazardous food, as defined by Code Chapter 6, Art. VIII, Division 2 of the Code of Ordinances, and services only active construction sites.
 - iv. *Mobile Food Establishment* means a vehicle-mounted food establishment designed to be readily moveable that is equipped with food preparation equipment and includes vehicles in which food is prepared on site. Mobile Food Establishments include Mobile Kitchens, Mobile Construction Site Food Vehicle, Mobile Ice-cream/Frozen Dessert Vehicle and Non-Motorized Food Vending Carts. Mobile Food Establishments do not include restaurant delivery and catering vehicles.
 - v. *Mobile Food Trailer* means a Mobile Kitchen that serves food or beverages from an enclosed, self-contained, non-motorized vehicle that is normally pulled behind a motorized vehicle.
 - vi. *Mobile Food Truck* means a Mobile Kitchen that serves food or beverages from an enclosed, self-contained, motorized vehicle.
 - vii. *Mobile Ice cream/Frozen Dessert Vehicle* means a motorized vehicle that normally contains a commercial freezer in which all products for sale are prepackaged and frozen.
 - viii. *Mobile Kitchen* means a motorized vehicle or tow-behind trailer equipped with kitchen facilities such as plumbing, hot water supply, mechanical refrigeration, cooking equipment, and dry goods storage used for the preparation and sale or service of food and beverages. Customer service is provided at a counter or window in the vehicle. Mobile Kitchens may include, but are not limited to, Mobile Food Trucks and Mobile Food Trailers. Mobile Kitchens shall not include individual Non-Motorized Vending Carts, Mobile Construction Site Food Vehicles or Mobile Ice cream/frozen Dessert Vehicles.
 - ix. *Non-Motorized Vending Cart* means a non-motorized vehicle that is normally propelled by the operator, contains products for sale that are prepackaged and/or frozen, and operates independent of any fixed food establishment.
- b. *Authorized Locations*
- i. No person may serve food to the public from a Mobile Kitchen except at the following locations:

- a) At a Food Truck Site approved in accordance with Section 6.06.15.c.
 - b) At a Food Truck Park approved in accordance with Section 6.06.15.d.
 - c) At the location of a Temporary Event that has received a Temporary Use Permit in accordance with Section 6.04.1.4.e.
 - d) At an event hosted or sponsored by the City pursuant to a written agreement with the City.
- ii. No person may serve food to the public from a Mobile Construction Site Food Vehicle except at the following locations:
- a) a construction site for which an active building permit has been issued by the City; or
 - b) property owned or leased by the United States, State of Texas, or Collin County on which active construction is occurring.
- iii. Any person providing food to the public from a Mobile Ice Cream/Frozen Dessert Vehicle must operate in compliance with Chapter 6, Art. VIII, Division 2 of the Code of Ordinances, as amended, and Code of Ordinances Section 8-65(i) through (l), as amended.
- iv. A Non-Motorized Vending Cart may be operated only at a Temporary Event in accordance with a Temporary Use Permit issued pursuant to Section 6.04.1.4.e).
- c. *Food Truck Sites*
- i. The operator of a Mobile Kitchen may operate a Food Truck Site upon receipt of a Temporary Food Vendor Permit in accordance with Section 6.04.1.4.e), and in accordance with the requirements of this code.
 - ii. Food Truck Sites may be established within:
 - a) the limits of any city park or city property pursuant to a written agreement with the City; and
 - b) in the following zoning districts or, unless otherwise expressly prohibited by the ordinance establishing the Planned Development, any Planned Development with the following base zoning:
 - 1) “CC” Corridor Commercial
 - 2) “SC” Shopping Center
 - 3) “LI” Light Industrial
 - 4) “O” Office

- iii. A Food Truck Site must be located on private property on which is located a permanent structure in which a business is operating in accordance with a certificate of occupancy. The operator of the Food Truck Site must obtain and maintain written consent from the property owner or property manager and provide written proof thereof upon demand of the city.
 - iv. Except for a Mobile Kitchen for which written consent has been granted by the owner or authorized representative of the restaurant or food establishment, no Mobile Food Establishment shall sell or serve food to the public within 300 feet of any door, window or outdoor dining area of any existing restaurant or food service establishment.
 - v. Mobile Kitchens and their customers shall not sell or consume food within any public street, public alley, driveway, or fire lane unless closed to through traffic pursuant to permit issued by the City authorizing such use.
 - vi. Mobile Kitchens may operate only during the business hours of the primary business on the property where the Food Truck Site is located.
 - vii. Access to restrooms available for use by operators, employees, and customers of a Food Truck Site shall be provided no farther than 1000 feet from the location of the mobile food establishment.
 - viii. A Mobile Kitchen shall not be left unattended. Mobile Kitchens shall not be stored at any location visible to the public when not in operation.
 - ix. A mobile food establishment must be operated in compliance with the site plan and other conditions set forth in the approved Temporary Food Vendor Permit issued to the owner or operator of the Mobile Kitchen.
- d. *Food Truck Parks.* Food Truck Parks may be located in the various zoning districts within the City in accordance with Section 4.20.2, Schedule of Principal Uses and Section 4.20.4, Schedule of Principal Uses- Central Business District, all applicable development requirements of this code for the respective zoning districts, and the following:
- i. A site plan shall be approved in accordance with Section 6.05 prior to locating any Mobile Kitchen on the property.
 - ii. Permanent restroom facilities available to owners, operators, and customers of the Mobile Kitchens operating in the Food Truck Park must be located within 1000 feet of each location where a Mobile Kitchen may be parked.
 - iii. All vehicles, including Mobile Kitchens, shall be parked on an improved surface as defined in Section 6-82 of the Code of Ordinances.
 - iv. Electricity shall be provided with permanent outlets by way of a portable cord that complies with Section 3.09 (National Electrical Code), as amended.

- v. Any waste, liquid or solid, shall be disposed of safely and properly as per all associated local and state regulations. Trash service and receptacles shall be provided in accordance with City requirements.
- vi. A Mobile Kitchen cannot be left unattended or left on site overnight.
- e. *Additional Requirements.* Any person operating a Mobile Food Establishment shall comply with the following:
 - i. No person shall operate a Mobile Food Establishment involving food products unless the vehicle used in the operation is constructed and operated in accordance with the Chapter 6, Article VIII, Division 2 of the Code of Ordinances, as amended.
 - ii. Any person operating any Mobile Food Establishment shall ensure that all food preparation, cooking, service, or other food service related activities take place within the confines of the vehicle used in such operation.
 - iii. Signs advertising a Mobile Food Establishment and/or the menu of food and beverages sold from the food truck shall be limited to:
 - a) signs permanently attached to the Mobile Food Establishment; and
 - b) one (1) menu board sign with a sign face area of not greater than eight (8) square feet, placed adjacent to the Mobile Food Establishment on private property.
 - iv. On request of the City, a Mobile Food Establishment operator must be able to demonstrate that the Mobile Food Establishment is moveable and operable;
 - v. A Mobile Food Establishment operator shall not alter or modify a Mobile Food Establishment or the premises adjacent to the Mobile Food Establishment in a manner that would prevent the operation or mobility of the Mobile Food Establishment.
 - vi. The water supply for a Mobile Food Establishment shall be from an internal water tank which must be filled from an external source when not in operation. Temporary connection of a Mobile Food Establishment to a potable water source while in operation is prohibited.
 - vii. Electricity for a Mobile Food Establishment shall be from an internal or portable generator or an electrical outlet by way of connected to a portable cord in compliance with Section 3.09 (National Electrical Code), as amended.
 - viii. Service from a Mobile Food Establishment through a drive through window is prohibited.
 - ix. Mobile Food Establishment must be parked, situated and operated in a manner that does not restrict orderly and/or safe vehicular and/or pedestrian movements.

- x. Loud speakers or loud noises of any kind for the purpose of attracting attention to a Mobile Food Establishment are prohibited.
- xi. No Mobile Food Establishment operator shall operate a generator and/or vehicle motor which generates visible smoke, excessive noise, or excessive gasoline/diesel fumes.
- xii. Unless provided by the operator of a Food Truck Park, a Mobile Food Establishment operator shall provide solid waste containers for customers to dispose of trash and food waste when the Mobile Food Establishment is parked and food is being sold and served. All such solid waste containers and the solid waste collected therein shall be removed from the site by the Mobile Food Establishment operator when leaving the site; provided, however:
 - a) If the operator of a Food Truck Park is responsible for the disposal of waste generated from operation of the site and place in solid waste receptacle provided by said operator, the Mobile Food Establishment operator shall be responsible for ensuring that all solid waste generated from the vendor's operations is placed in the provided receptacles before departing; or
 - b) If there is a solid waste dumpster located on the Food Truck Site or Food Truck Park that is available for disposal of solid waste generated by the operation of a Mobile Food Establishment, the Mobile Food Establishment operator may dispose of the solid waste in said dumpster before departing the site.
- xiii. Mobile Food Establishments will not be allowed to touch, lean against or be affixed temporarily or permanently to any building structure, wall, tree, shrubbery or planting bed.
- xiv. Mobile Food Establishment operators shall not hang or display merchandise on trees, umbrellas, or walls, or sell from any other temporary structures located upon any public street, sidewalk, right-of-way or other public property.
- xv. Where exigent circumstances exist and an Allen Police Officer, or other authorized officer of the City, gives notice to a Mobile Food Establishment operator to temporarily move from a location, such Mobile Food Establishment operator will not operate from or otherwise remain at such location. For the purpose of this paragraph, exigent circumstances shall include, but shall not be limited to, unusually heavy pedestrian or vehicular traffic; the existence of any obstructions at or near such location; a major event, festival, program or park activity; a fire; a parade or demonstration; construction activity, or other such event or circumstance that causes the site to become unsafe or unusable.
- xvi. Mobile Food Establishment operators shall only engage in the sale and service of food and beverages. The sale of other products or services from a Mobile Food Establishment is prohibited, including but not limited to, tobacco products, alcoholic beverages, sexually explicit and/or drug related paraphernalia, obscene material, sales real estate and vacation packages,

marketing and advertising activities, sales of tickets for events, any non-food vending, and other services or products not approved by the City prior to issuance of the permit.

SECTION 3. In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Allen and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling

SECTION 4. Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, or the Allen Land Development Code, as amended hereby, which 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 Allen Land Development Code, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

SECTION 6. Any person, firm or corporation violating any of the provisions or terms of this Ordinance shall be subject to the same penalty as provided for in the Allen Land Development Code, as amended, and upon conviction 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.

SECTION 7. This ordinance shall take effect immediately from and after its passage and publication in accordance with its provisions of the Charter of the City of Allen, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 22ND DAY OF MAY 2018.

APPROVED:

Stephen Terrell, MAYOR

APPROVED AS TO FORM:

ATTEST:

Peter G. Smith, CITY ATTORNEY
(kbl:5/8/18:99138)

Shelley B. George, TRMC, CITY SECRETARY