

## **ORDINANCE 2020-05**

**AN ORDINANCE OF THE CITY OF HUNTSVILLE AMENDING CHAPTER 24 LAND DEVELOPMENT OF THE HUNTSVILLE, TEXAS CODE OF ORDINANCES BY ADOPTING REVISIONS TO THE DEVELOPMENT CODE OF THE CITY OF HUNTSVILLE, TEXAS; REQUIRING THE PUBLICATION OF THIS ORDINANCE; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR A PENALTY; MAKING OTHER PROVISIONS AND FINDINGS THERETO; AND DECLARING AN EFFECTIVE DATE.**

**WHEREAS**, the Planning Commission of the City of Huntsville held public hearings prior to consideration of amending the ordinance;

**WHEREAS**, the Planning Commission recommended adopting the updates to the City of Huntsville Development Code; and

**WHEREAS**, the City Council held a public hearing at their meeting on November 19, 2019 prior to consideration of amending the Ordinance; and

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HUNTSVILLE, COUNTY OF WALKER, STATE OF TEXAS:**

### **Section I. FINDINGS OF FACT**

All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Huntsville, Texas, and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

### **Section II. AMENDMENT**

The Development Code of the City of Huntsville, Texas, Section 4.100, Table 4-1: Use Table and Section 4.200 Supplementary Use Regulations in Article 4 Use Regulations; Section 6.200, Table 6-1: Minimum Motor Vehicle Parking Ratios in Article 6 Parking and Driveway Access; Article 11: Nonconformities; and Section 15.200 Definitions in Article 15 Terminology and Definitions shall be amended as shown in Exhibit A attached hereto and incorporated herein.

### **Section III. REPEALER**

All ordinances or parts of ordinances in force when the provisions of this Ordinance becomes effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of any such conflict.

### **Section IV. SEVERABILITY**

Should any paragraph, sentence, 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 declared to be invalid, illegal or unconstitutional.

**Section V. EFFECTIVE DATE**

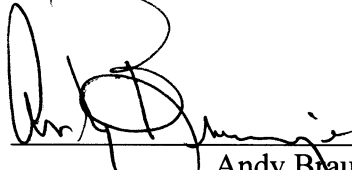
This Ordinance shall take effect on Dec. 17, 2019. The City Secretary shall publish the caption of this Ordinance in the official City newspaper at least twice within ten (10) days of its passage.

**Section VI. PROPER NOTICE AND MEETING**

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code. Notice was also provided as required by Chapter 1 of the Development Code of the City of Huntsville, Texas.

**PASSED AND APPROVED on this the 17<sup>th</sup> day of December 2019.**


THE CITY OF HUNTSVILLE, TEXAS

  
\_\_\_\_\_  
Andy Brauninger, Mayor

ATTEST:

  
\_\_\_\_\_  
Brenda Poe, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Leonard Schneider, City Attorney

Article 4: Use Regulations

4.200 Supplemental Use Regulations

USE CATEGORY	Definition/Description	Districts			Supplemental Regulations
Subcategory Specific use		NC	D	M	
P = Permitted by right   C = Conditional use approval required (Sec. 12.800)   X = Prohibited					
Research Service	Uses engaged in scientific research and testing services leading to the development of new products and processes. Such uses resemble office buildings or campuses and do not involve the mass production, distribution or sale of products.	X	P	P	
All Other Commercial Service Uses	Commercial service uses other than those more specifically identified above	X	P	P	
Day Care	Uses providing care, protection and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day.	X	P	P	
Eating Establishment	Uses that prepare and serve food and beverages for on- or off-premise consumption as their principal business. Typical uses include cafés, restaurants, cafeterias, ice cream/yogurt shops, coffee shops and similar establishments.	X	P	P	
Financial Service	Uses engaged in the exchange, lending, borrowing and safe-keeping of money. Typical examples are banks, credit unions, and consumer lending establishments.	X	P	P	
Funeral or Mortuary Service	Uses that provide services related to the death of a human, including funeral homes, mortuaries, crematoriums and similar uses. Also includes crematoriums for pets and domestic animals.	X	P	P	
Lodging	Uses that provide temporary overnight guest accommodations.	X	P	P	
Recreational Vehicle Park	An establishment that provides temporary, short-term overnight accommodations for camping in campers, trailers and similar recreational vehicles.	X	P	P	4.205
All other Lodging Uses	Lodging uses other than those more specifically identified above.				
Mobile Food Vendor	Any person that sells edible goods, including beverages, from a mobile unit at a stationary location approved for such activity within the city.	X	X	P	4.207
Mobile Food Vendor Court	A land use approved though a Conditional Use Permit and developed in conformity with an approved site plan , where two or more mobile food vendors congregate to offer edible goods, including beverages, for sale to the public and amenities are provided for all vendors' customers.	X	X	P/C [1]	[1] "C" within 200 feet of NC district; otherwise "P"
Office	Uses in an enclosed building, customarily performed in an office, that focus on providing executive, management, administrative, professional or medical services.	X	P	P	
Retail Sales	Uses (other than those more specifically defined herein) involving the sale, lease or rental of new or used goods to the ultimate consumer.	X	P	P	
Self-service Storage Facility	Uses that provide separate, small-scale, self-service storage facilities leased or rented to individuals or small businesses.	X	P	P/C [1]	[1] "C" within 200 feet of NC district; otherwise "P"
Trade School	Uses that focus on teaching the skills needed to perform a particular job. Examples include schools of cosmetology, modeling academies, computer training facilities, vocational schools, administrative business training facilities and similar uses.	X	P	P	
Vehicle Sales and Service	Uses that provide for the sale, rental, maintenance or repair of new or used vehicles and vehicular equipment. Typical uses included within the vehicle sales and service subcategory include vehicle sales and rental businesses, vehicle repair and maintenance shops, fueling stations and car washes.	X	P	P/C [1]	
INDUSTRIAL	Uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced.				[1]"C" within 200 feet of NC district; otherwise" P"

**4.206.B Setbacks**

1. Guy wire anchors must be set back at least 10 feet from abutting lots and at least 25 feet from public property or streets.
2. The base of all freestanding towers must be set back from abutting lots and public property and streets by a distance equal to at least 40% of the tower's overall height or the distance between the tower's base and any guy wire anchors, whichever results in the greater setback distance.

**4.206.C Landscape Buffers**

A landscape buffer must be provided around the perimeter of all sites occupied by freestanding towers in accordance with the buffer regulations of Sec. 7.500.

**4.207 Purpose-Built Shared Housing**

The City's *Purpose-Built Shared Housing Design Criteria* is hereby incorporated by reference as if fully set forth in this Development Code. All Purpose-Built Shared Housing, Attached and Detached, constructed and modified, must comply with applicable *Purpose-Built Shared Housing Design Criteria*.

**4.208 Mobile Food Vendors**

**4.208.A Inspections, permits and fee**

1. A Mobile Food Vendor shall submit a completed application for an annual Mobile Food Vending Permit to the City of Huntsville Department of Development Services and shall complete all required inspections through the City of Huntsville Central Inspections, Health Division and the City of Huntsville Fire Department. An annual Mobile Food Vending Permit shall be required for each individual mobile unit utilized. The required annual Mobile Food Vending Permit fee shall be as established by ordinance from time to time and the required fee shall accompany the application for each annual Mobile Food Vending Permit.
2. A Mobile Food Vendor shall obtain:
  - a. An Annual Mobile Food Vending Permit issued by the Department of Development Services;
  - b. An Annual Health Permit from the City of Huntsville Health Division prior to conducting business in the city.
3. The annual Mobile Food Vending Permit and annual Health Permit are not transferable and shall be valid for one (1) year from the date of permit issuance;
4. Subsequent renewal shall be subject to all requirements listed above.

**4.208.B Mobile Food Vendor Requirements**

The following regulations shall apply to mobile food vendors:

1. A Mobile Food Vendor shall comply with all regulations established by the City of Huntsville Code of Ordinances, the Texas Food Establishment Rules, the City of Huntsville Development Code, and the City of Huntsville Fire Marshal's office and maintain compliance with all requirements of this article.
2. Residing and/or dwelling within a mobile food unit is strictly prohibited.
3. A mobile food vendor/unit is prohibited from operating on the same lot as a residential dwelling.
4. Failure to comply with these standards may result in revocation of vendor permit. If vendor permit is revoked, the vendor must wait 6 months before they can reapply.
5. No Mobile Food Vendor shall conduct business in the public right-of-way and shall not block any fire lane or drive aisle. The Mobile Food Vendor shall not locate a mobile unit in such a manner or location that obstructs the passage or visibility of any sidewalk, street, alley or street intersection by causing people to congregate at or near the mobile unit.
6. A Mobile Food Vendor shall not locate on any private property without the written permission of the property owner. The written permission shall include the authorization to place a mobile food unit on the property and authorize employees of the mobile food unit, as well as patrons, access to restroom facilities within 300 feet of the mobile food unit. If at any time the property owner instructs the Mobile Food Vendor to leave, they must comply and leave the property immediately. A copy of the owner's written and signed permission to operate in a stationary location shall be kept within the mobile unit for documented verification.
7. All mobile food vendors situated on the property shall be located on an all-weather surface as approved by the City Building Official.
8. Hours of operation. Mobile food vendors shall not operate between 12:00 a.m. and 6:00 a.m. During these prohibited hours of operation, the mobile unit shall be properly stored or screened. Vendors wishing to operate outside of these hours may apply for a Conditional Use Permit.
9. **Mobility requirement.** Mobile food vendors must remain capable of being moved and not permanently fixed or placed.
10. All structures (vehicles) shall be kept in good repair. Tires must be left on the mobile food unit and fully inflated at all times.
11. Each mobile unit may have permanently attached signage on the mobile unit and one (1) each sandwich board no larger than 36" tall x 24" wide. Signage shall not be placed in the right-of-way. Signage must be removed when mobile unit is not on location.

**12. Waste disposal.**

- a. **On-site.** Each mobile unit shall be equipped with a portable trash receptacle and the Mobile Food Vendor shall be responsible for proper disposal of solid waste and waste water in compliance with this code.
- b. **Off-site.** All waste must be disposed of at commissary location unless located within a Mobile Food Vendor court that provides central waste disposal.

**4.208.C Storage When Not In Use**

Any mobile unit stored on a lot within the city limits shall be entirely enclosed within a building, or hidden from view behind the primary structure, or approved opaque screening. All city residential parking requirements apply.

**4.208.D Special Events**

1. Any mobile unit/food vendor participating in an event sponsored by the City, the Huntsville-Walker County Chamber of Commerce, Sam Houston State University, Huntsville ISD, or state department of criminal justice shall be considered exempt from the Mobile Food Vendor permit and shall comply with all other regulations established by the City of Huntsville Code of Ordinances and Development Code. A Mobile Food Vendor must be in possession of an annual Health Permit or apply for a temporary food permit from the City of Huntsville. Additionally, food handlers license from the state must be submitted to the City of Huntsville Health Division. Event applications are to be submitted to the organizer of the City sponsored event.
2. The mobile food unit fee will be waived; however, all applicable event fees will remain in effect.
3. On-site inspections may be waived by the building inspector, fire marshal's office and/or health inspector at the discretion of each department or division.

**4.209 Mobile Food Vendor Courts**

Though similar to restaurants, Mobile Food Vendor Courts must meet additional requirements to address potential hazards specific to mobile establishments.

**4.209.A Location standards**

1. A Mobile Food Vendor court must meet all of the applicable requirements of the Development District in which it is located and as required by the development code and code of ordinance.
2. Each Mobile Food Vendor in a Court shall have a current Mobile Food Vending Permit and health permit issued by the City of Huntsville.

3. Mobile Food Vendor courts must comply with the minimum setback of the Development District in which the site is located, unless a more restrictive setback is required by the city to mitigate any negative impacts to adjacent businesses, residents, or safety, health or welfare of the general public.
4. Mobile Food Vendor establishment spaces within a Court shall be set back at least twenty-five feet from the front and fifteen feet from the rear lot lines and set back from the side lot lines as specified for the Development District where located.
5. Mobile Food Units shall be located a minimum of ten feet from other mobile food units and from any other structures.
6. A Conditional Use Permit is required for Mobile Food Vendor Courts when located within 200 feet of the Neighborhood Conservation District.

**4.209.B     *Development standards***

1. The Texas Food Establishment Rules (TFER) Section 229.167 (d)(10) states a private home used as a living or sleeping quarters may not be used for conducting food establishment operations.
2. Restroom requirement for a mobile food court may be met through one (1) of the following methods:
  - a. Permanent bathrooms as required by the International Plumbing Code and the Texas Architectural Barriers Act and having obtained a City Building Permit. Restrooms must be permanent facilities – manufactured units/trailers are prohibited.
  - b. Bathroom facilities within a building(s) located no more than 300 feet from the premises authorized by written consent of the property owner.
3. Each mobile food establishment shall obtain electricity from, and be within 30 feet of a permanent power source designed and constructed in accordance with the National Electrical Code and, as approved by the city.
4. Each mobile food establishment shall obtain water from, and be within 50 feet of, a back-flow protected hose bib connected directly to the city water supply.
5. A City building inspector shall make the appropriate inspections of the location, equipment, vehicles/units and other reasonable inspections concerned with the mobile food court operation to assure compliance with the applicable adopted codes, ordinances, requirement of all city, state and federal statutes.
6. Mobile Food Vendor Courts must provide current and complete contact information including but not limited to: address, phone number, and any other information reasonable required by the City Manager or his/her designee for designated on-call personnel to be a principal point of contact for city staff and the individual vendors.
7. Residing and/or dwelling within a Mobile Food Vendor Court overnight is strictly prohibited.

8. Failure to comply with these standards may result in termination or suspension Certificate of Occupancy/ Mobile Food Vendor license/CUP.
9. Hours of operation. Mobile food courts shall be allowed to engage in business only between the hours of 6:00 a.m. and 12:00 a.m. Vendors wishing to operate outside of these hours may apply for a Conditional Use Permit.
10. No mobile food vendor, structure associated with the Mobile Food Court use, nor any seating areas shall be located in a required setback, buffer yard, access easement, drainage easement, floodplain, driveway, utility easement and/or fire lane unless written authorizations is provided by the City Manager or his/her designee.
11. Mobile Food Vendors/vehicles shall demonstrate that the vehicle or unit is readily moveable if required by the City. Any alteration, removal, attachment, placement or change in, under or upon the mobile food vehicle or until that would prevent or otherwise reduce ready mobility is prohibited. Permitted Mobile Food Vendors/vehicles located within a Court shall be exempt from having to remove the vehicle from the site during non-operating hours so long as such operation is in compliance with its use permit.
12. All structures (vehicles) shall be kept in good repair  
Tires must be fully inflated at all times.
13. Waste Disposal
  - a. On-site. All vendors/vehicles selling food or beverages must provide at least one (1) appropriately sized trash receptacle adjacent to or as a part of their stand/operation.
  - b. Off-site. Mobile food courts shall have access to a common dumpster and to a common grease disposal container or grease trap, approved by the city. Common trash and grease disposal containers shall be enclosed within an area screened from view in accordance with city ordinances. Trash enclosure shall not be located in street setback. Mobile food establishments shall not be connected directly to, or indirectly discharge their waste water into, the city wastewater system unless a grease trap is installed.
14. Lighting
  - a. A photometric lighting plan shall be submitted to the City Building Official during the development review process. This plan shall show illumination levels and points of intersection between fixtures, as well as use of energy- efficient exterior lighting.
  - b. Any lights used in conjunction with a permitted use shall be shielded or directed away from adjacent uses and roads.
  - c. Use of the lowest wattage and highest energy efficiency available is required.



**4.209.C      *Parking Requirements***

1. Mobile food courts must provide paved parking and access per the requirements of ARTICLE 6 PARKING AND DRIVEWAY ACCESS. See Section 4.208.F.4 for additional requirements for shared parking.
2. No Mobile Food Vendors or vehicle parking shall be located in any required setback.

**4.209.D      *Application Requirements***

The following items must be submitted concurrently to the City of Huntsville Development Services Department:

1. Development Permit Application
2. Site Plan, drawn to a conventional scale and showing:
  - a. location and surface type of the proposed Mobile Food Vendor locations.
  - b. location of customer table-seating and any associated shelter structures.
  - c. location of water hose bibs and electrical service connections.
  - d. location and surface type of parking spaces and driveways e. location and surface type of pedestrian access.
  - f. location and description of outdoor lighting. g. location of restroom(s)
  - h. location of individual trash receptacles and common trash/grease disposal facilities, and type/height of common trash/grease disposal screening (see 7.600 GARBAGE AND RECYCLING DUMPSTERS).
3. Civil site plans
  - a. Engineered civil site plans must be provided in accordance with the City of Huntsville Engineering Design Criteria Manual
4. Construction plans
  - a. Construction plans must be submitted showing, in detail, all improvements proposed to be constructed.
5. Off-site Restroom Agreement (if applicable) including:
  - a. signature and contact information of property owner for subject restroom
  - b. site plan showing location of restroom
6. Shared Parking Agreement (if applicable) including:
  - a. signature and contact information of property owner for shared parking location
  - b. site plan showing:
    - i. location of shared parking
    - ii. total number of parking spaces available at shared parking location
    - iii. land uses occurring on site at proposed shared parking location, including square footages.

USE CATEGORY	Minimum Motor Vehicle Parking Requirement
<b>Subcategory</b>	
Specific use	
<b>Animal Service</b>	1 space per 250 square feet
<b>Assembly and Entertainment</b>	1 space per 4 seats
<b>Commercial Service</b>	
Personal Service	1 space per 250 square feet
All other commercial service uses	1 space per 300 square feet
<b>Day Care</b>	1 space per employee + 1 drop-off/pick-up space per 1,000 square feet, with no more than 10 spaces required
<b>Eating Establishment</b>	1 space per 150 square feet
<b>Financial Service</b>	1 space per 250 square feet
<b>Funeral or Mortuary Service</b>	1 space per 4 seats
<b>Lodging</b>	
Recreational Vehicle Park	1 space per camping or RV space
All other Lodging Uses	1 space per room
<b>Mobile Food Vendor</b>	3 spaces per vendor plus required parking for all uses occurring on site plus one space per each employee on site
<b>Mobile Food Vendor Court</b>	2.5 spaces per vendor plus required parking for all uses/activities occurring on site (including entertainment) plus one space per each employee on site
<b>Office</b>	
Medical	1 space per 250 square feet
All other office uses	1 space per 300 square feet
<b>Retail Sales</b>	1 space per 250 square feet
<b>Self-service Storage Facility</b>	1 space per 10 storage spaces
<b>Trade School</b>	1 space per 300 square feet
<b>Vehicle Sales and Service</b>	2 spaces per fuel pump + 4 spaces per service bay
<b>INDUSTRIAL</b>	
<b>Mining/Extraction</b>	1 space per employee
<b>Recycling Facility</b>	
Recyclable Material Drop-off Facility	3 spaces
Recyclable Material Processing Facility	1 space per 1,000 square feet
<b>Wholesale, Distribution &amp; Storage</b>	
Wholesale, Distribution and Storage (Indoor)	1 space per 1,000 square feet
All Other Wholesale, Distribution and Storage	1 space per 1,000 square feet
<b>All Other Industrial Uses</b>	1 space per 1,000 square feet
<b>AGRICULTURE</b>	
<b>Farming/General Agriculture</b>	None
<b>Community Garden</b>	None

### 6.300 Calculation of Required Parking

The following rules apply when calculating the required number of off-street parking spaces:

#### 6.301 Multiple Uses

Unless otherwise expressly allowed in accordance with the shared parking regulations of Sec. 6.402, lots containing more than one principal use must provide parking in an amount equal to the total of the requirements for all principal uses on the lot.

**11.500 Nonconforming Signs**

See the nonconforming sign provisions of Sec. 8.800.

**11.600 Nonconforming Development Features**

**11.601 Description**

A nonconforming development feature is any aspect of a development—other than a nonconforming lot, nonconforming use or nonconforming structure—that was lawfully established in accordance with development district regulations in effect at the time of its establishment but that no longer complies with one or more standards of this Development Code. Common examples are off-street parking or loading areas that contain fewer spaces than required by current standards or otherwise do not comply with applicable regulations and sites that do not comply with current landscaping and screening requirements.

**11.602 General**

Nonconforming development features may remain except as otherwise expressly stated in this Development Code, but the nature and extent of nonconforming site features may not be increased except as otherwise expressly stated in this Development Code.

**11.700 Nonconforming Mobile Food Units and Mobile Food Vendor Parks**

Nonconforming **Mobile Food Units and Mobile Food Vendor Parks** are subject to the provisions of Article 11 as well as the following:

**11.701 Abandonment**

1. Once a nonconforming **Mobile Food Unit or Mobile Food Vendor Park** is abandoned, its nonconforming status is lost and any new, replacement use must comply with the regulations of the development district in which it is located.
2. A nonconforming **Mobile Food Unit or Mobile Food Vendor** is presumed abandoned when the use is discontinued or ceases for a continuous period of three months or more.
3. The presumption of abandonment may be rebutted upon showing, to the satisfaction of the City Planner, that during such period the owner of the land or structure has made application for a Mobile Food Vendor Permit and/or Conditional Use Permit as required by this Development Code.
4. Periods of discontinued use caused by government action, accidental fire or natural disaster are not counted in calculating the length of discontinuance.

### **Mobile Food Vendor**

Any person that sells edible goods from a mobile unit at a stationary location approved for such activity within the city. "Mobile" shall mean the state of being in active, but not necessarily continuous, movement. Edible goods shall include but are not limited to: a) Prepackaged food including, but not limited to, candy, beverages, and ice cream. b) Prepared food including, but not limited to, hot dogs, desserts, and pizza. c) On-site prepared food including, but not limited to shaved ice, sandwiches, and tacos.

### **Mobile Food Vendor Court**

A land use approved through a Conditional Use Permit and developed in conformity with an approved site plan, where two or more mobile food vendors congregate to offer edible goods for sale to the public and amenities are provided for all vendors' customers.

### **Mobile Home**

A structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or 40 body feet or more in length, or, when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

### **Mobile Home Park**

A mobile home park is a parcel of land under single ownership on which two (2) or more mobile homes are occupied as residences. Any mobile home facility where two or more units are intended for long-term residential use (beyond ninety (90) days) is considered a mobile home park for purposes of applying development standards.

### **Noncommercial Message**

Any sign, wording, logo, or other representation that does not directly or indirectly, name, advertise, or call attention to a business, product, service for sale or lease, or to any other commercial interest or activity.

### **Nonconforming Building (Nonconforming Structure)**

See ~~§11.401~~.

### **Nonconforming Use**

See ~~§11.301~~.

### **Nonprecision Instrument Runway**

A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.

### **Open-Air Use**

Storage yards, construction debris sites, used vehicle sales lots, vehicle impound yards, auto wrecking, junkyards, and similar uses conducted outside of enclosed buildings and when the only buildings on the lot are incidental and accessory to principal use of the lot.

# EXHIBIT A

## Article 4: Use Regulations

### 4.200 Supplemental Use Regulations

USE CATEGORY	Definition/Description	Districts			Supplemental Regulations
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Day Care	Uses providing care, protection and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day.	X	P	P	
Eating Establishment	Uses that prepare and serve food and beverages for on- or off-premise consumption as their principal business. Typical uses include cafés, restaurants, cafeterias, ice cream/yogurt shops, coffee shops and similar establishments.	X	P	P	
Financial Service	Uses engaged in the exchange, lending, borrowing and safe-keeping of money. Typical examples are banks, credit unions, and consumer lending establishments.	X	P	P	
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Lodging	Uses that provide temporary overnight guest accommodations.	X	P	P	
Recreational Vehicle Park	An establishment that provides temporary, short-term overnight accommodations for camping in campers, trailers and similar recreational vehicles.	X	P	P	4.205
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Retail Sales	Uses (other than those more specifically defined herein) involving the sale, lease or rental of new or used goods to the ultimate consumer.	X	P	P	
Self-service Storage Facility	Uses that provide separate, small-scale, self-service storage facilities leased or rented to individuals or small businesses.	X	P	P/C [1]	[1] "C" within 200 feet of NC district; otherwise "P"
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INDUSTRIAL	Uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced.				[1]"C" within 200 feet of NC district; otherwise" P"

4.206.B Setbacks

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4.206.C Landscape Buffers

A landscape buffer must be provided around the perimeter of all sites occupied by freestanding towers in accordance with the buffer regulations of Sec. [7.500](#).

4.207 Purpose-Built Shared Housing

The City's *Purpose-Built Shared Housing Design Criteria* is hereby incorporated by reference as if fully set forth in this Development Code. All Purpose-Built Shared Housing, Attached and Detached, constructed and modified, must comply with applicable *Purpose-Built Shared Housing Design Criteria*.

4.208 Mobile Food Vendors

4.208.A Inspections, permits and fee

1. A Mobile Food Vendor shall submit a completed application for an annual Mobile Food Vending Permit to the City of Huntsville Department of Development Services and shall complete all required inspections through the City of Huntsville Central Inspections, Health Division and the City of Huntsville Fire Department. An annual Mobile Food Vending Permit shall be required for each individual mobile unit utilized. The required annual Mobile Food Vending Permit fee shall be as established by ordinance from time to time and the required fee shall accompany the application for each annual Mobile Food Vending Permit.
2. A Mobile Food Vendor shall obtain:
  - a. An Annual Mobile Food Vending Permit issued by the Department of Development Services;
  - b. An Annual Health Permit from the City of Huntsville Health Division prior to conducting business in the city.
3. The annual Mobile Food Vending Permit and annual Health Permit are not transferable and shall be valid for one (1) year from the date of permit issuance;
4. Subsequent renewal shall be subject to all requirements listed above.

#### 4.208.B Mobile Food Vendor Requirements

The following regulations shall apply to mobile food vendors:

1. A Mobile Food Vendor shall comply with all regulations established by the City of Huntsville Code of Ordinances, the Texas Food Establishment Rules, the City of Huntsville Development Code, and the City of Huntsville Fire Marshal's office and maintain compliance with all requirements of this article.
2. ~~No loud or disruptive music or amplified sound shall project from a mobile unit.~~
3. Residing and/or dwelling within a mobile food unit is strictly prohibited.
4. A mobile food vendor/unit is prohibited from operating on the same lot as a residential dwelling.
5. Failure to comply with these standards may result in revocation of vendor permit. If vendor permit is revoked, the vendor must wait 6 months before they can reapply.
6. No Mobile Food Vendor shall conduct business in the public right-of-way and shall not block any fire lane or drive aisle. The Mobile Food Vendor shall not locate a mobile unit in such a manner or location that obstructs the passage or visibility of any sidewalk, street, alley or street intersection by causing people to congregate at or near the mobile unit.
7. A Mobile Food Vendor shall not locate on any private property without the written permission of the property owner. The written permission shall include the authorization to place a mobile food unit on the property and authorize employees of the mobile food unit, as well as patrons, access to restroom facilities within 300 feet of the mobile food unit. If at any time the property owner instructs the Mobile Food Vendor to leave, they must comply and leave the property immediately. A copy of the owner's written and signed permission to operate in a stationary location shall be kept within the mobile unit for documented verification.
8. All mobile food vendors situated on the property shall be located on an all-weather surface as approved by the City Building Official.
9. Hours of operation. Mobile food vendors shall not operate between 12:00 a.m. and 6:00 a.m. During these prohibited hours of operation, the mobile unit shall be properly stored or screened. Vendors wishing to operate outside of these hours may apply for a Conditional Use Permit.
10. A Mobile Food Vendor shall not conduct business within two

hundred (200) feet of the primary entrance of an open and operating food service establishment. This distance may be reduced upon receiving written, notarized permission from the owner of said establishment. Mobile food vendors located in a mobile food court will follow requirements listed in the mobile food court article.

**11. Mobility requirement.** Mobile food vendors must remain capable of being moved and not permanently fixed or placed.

**12.** All structures (vehicles) shall be kept in good repair, free from defects including but not limited to peeling paint, rust, exposed metal or wood. Tires must be left on the mobile food unit and fully inflated at all times.

**13.** Each mobile unit may have permanently attached signage on the mobile unit and one (1) each sandwich board no larger than 36" tall x 24" wide. Signage shall not be placed in the right-of-way. Signage must be removed when mobile unit is not on location.

**14. Waste disposal.**

a. **On-site.** Each mobile unit shall be equipped with a portable trash receptacle and the Mobile Food Vendor shall be responsible for proper disposal of solid waste and waste water in compliance with this code.

b. **Off-site.** All waste must be disposed of at commissary location unless located within a Mobile Food Vendor court that provides central waste disposal.

#### **4.208.C Commissary location Storage When Not In Use**

- ~~1. Any mobile unit stored on a commercial lot within the city limits shall be entirely enclosed within a building, or hidden from view behind the primary structure, or approved opaque screening.~~
- ~~2. Any mobile unit stored in a residential area within the city limits shall be stored entirely enclosed within a building or hidden from public view. All city residential parking requirements apply.~~
- ~~3. Mobile food units shall be located a minimum of ten feet from other mobile food units and from any other structures.~~

Any mobile unit stored on a lot within the city limits shall be entirely enclosed within a building, or hidden from view behind the primary structure, or approved opaque screening. All city residential parking requirements apply.

#### **4.208.D City-sponsored Special Events**

1. Any mobile unit/food vendor participating in an city-sponsored event sponsored by the City, the Huntsville-Walker County Chamber of Commerce, Sam Houston State University, Huntsville ISD, or state department of criminal justice shall be



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considered exempt from the Mobile Food Vendor permit and shall comply with all other regulations established by the City of Huntsville Code of Ordinances and Development

Code. A Mobile Food Vendor must be in possession of an annual Health Permit or apply for a temporary food permit from the City of Huntsville. Additionally, food handlers license from the state must be submitted to the City of Huntsville Health Division. Event applications are to be submitted to the organizer of the City sponsored event.

2. The mobile food unit fee will be waived; however, all applicable event fees will remain in effect.

3. On-site inspections may be waived by the building inspector, fire marshal's office and/or health inspector at the discretion of each department or division.

4.209 Mobile Food Vendor Courts

Though similar to restaurants, Mobile Food Vendor Courts must meet additional requirements to address potential hazards specific to mobile establishments.

4.209.A Location standards

1. A Mobile Food Vendor court must meet all of the applicable requirements of the Development District in which it is located and as required by the development code and code of ordinance.

2. Each Mobile Food Vendor in a Court shall have a current Mobile Food Vending Permit and health permit issued by the City of Huntsville.

3. Mobile Food Vendor courts must comply with the minimum setback of the Development District in which the site is located, unless a more restrictive setback is required by the city to mitigate any negative impacts to adjacent businesses, residents, or safety, health or welfare of the general public.

4. Mobile Food Vendor establishment spaces within a Court shall be set back at least twenty-five feet from the front and fifteen feet from the rear lot lines and set back from the side lot lines as specified for the Development District where located.

5. Mobile Food Units shall be located a minimum of ten feet from other mobile food units and from any other structures.

6. A Conditional Use Permit is required for Mobile Food Vendor Courts when located within 200 feet of the Neighborhood Conservation District.

**4.209.B Development standards**

1. The Texas Food Establishment Rules (TFER) Section 229.167 (d)(10) states a private home used as a living or sleeping quarters may not be used for conducting food establishment operations.
2. Restroom requirement for a mobile food court may be met through one (1) of the following methods:
  - a. Permanent bathrooms as required by the International Plumbing Code and the Texas Architectural Barriers Act and having obtained a City Building Permit. Restrooms must be permanent facilities – manufactured units/trailers are prohibited.
  - b. Bathroom facilities within a building(s) located no more than 300 feet from the premises authorized by written consent of the property owner.
3. Each mobile food establishment shall obtain electricity from, and be within 30 feet of a permanent power source designed and constructed in accordance with the National Electrical Code and, as approved by the city.
4. Each mobile food establishment shall obtain water from, and be within 50 feet of, a back-flow protected hose bib connected directly to the city water supply.
- ~~5. Vehicular drive through service of food and/or beverage shall not be permitted.~~
6. A City building inspector shall make the appropriate inspections of the location, equipment, vehicles/units and other reasonable inspections concerned with the mobile food court operation to assure compliance with the applicable adopted codes, ordinances, requirement of all city, state and federal statutes.
7. Mobile Food Vendor Courts must provide current and complete contact information including but not limited to: address, phone number, and any other information reasonable required by the City Manager or his/her designee for designated on-call personnel to be a principal point of contact for city staff and the individual vendors.
8. Residing and/or dwelling within a Mobile Food Vendor Court overnight is strictly prohibited.
9. Failure to comply with these standards may result in termination or suspension Certificate of Occupancy/ Mobile Food Vendor license/CUP.
- ~~10. Seating. Mobile food courts must provide outside seating consisting of a table and seating capacity of four (4), per mobile food vendor.~~
11. Hours of operation. Mobile food courts shall be allowed to

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engage in business only between the hours of 6:00 a.m. and 12:00am. Vendors wishing to operate outside of these hours may apply for a Conditional Use Permit.

~~12. Mobile food courts shall not be located within fifty (50) feet of a building with a restaurant possessing a certificate of occupancy.~~

~~13. Mobile food courts shall not be located within two hundred (200) feet of sensitive uses which include but are not limited to the following, unless written permission has been obtained from the property owner of the location of the sensitive use:~~

~~a. single family residential neighborhoods~~

~~b. schools~~

~~c. day care facilities~~

~~d. hospitals~~

~~e. hospices~~

14. No mobile food vendor, structure associated with the Mobile Food Court use, nor any seating areas shall be located in a required setback, buffer yard, access easement, drainage easement, floodplain, driveway, utility easement and/or fire lane unless written authorizations is provided by the City Manager or his/her designee.

15. Mobile Food Vendors/vehicles shall demonstrate that the vehicle or unit is readily moveable if required by the City. Any alteration, removal, attachment, placement or change in, under or upon the mobile food vehicle or until that would prevent or otherwise reduce ready mobility is prohibited. Permitted Mobile Food Vendors/vehicles located within a Court shall be exempt from having to remove the vehicle from the site during non-operating hours so long as such operation is in compliance with its use permit.

16. All structures (vehicles) shall be kept in good repair, free from defects including but not limited to peeling paint, rust, exposed metal or wood. Tires must be fully inflated at all times.

17. Waste Disposal.

a. On-site. All vendors/vehicles selling food or beverages must provide at least one (1) appropriately sized trash receptacle adjacent to or as a part of their stand/operation.

b. **Off-site.** Mobile food courts shall have access to a common dumpster and to a common grease disposal container or grease trap, approved by the city. Common trash and grease disposal containers shall be enclosed within an area screened from view in accordance with city ordinances. Trash enclosure shall not be located in street setback. Mobile food establishments shall not be connected directly to, or indirectly discharge their waste water into, the city wastewater system unless a grease trap is installed.

#### 18. Lighting

- a. A photometric lighting plan shall be submitted to the City Building Official during the development review process. This plan shall show illumination levels and points of intersection between fixtures, as well as use of energy-efficient exterior lighting.
- b. Any lights used in conjunction with a permitted use shall be shielded or directed away from adjacent uses and roads.
- c. Use of the lowest wattage and highest energy efficiency available is required.

#### 4.209.C Parking Requirements

1. Mobile food courts must provide paved parking and access per the requirements of ARTICLE 6 PARKING AND DRIVEWAY ACCESS. See Section 4.208.F.4 for additional requirements for shared parking.
2. No Mobile Food Vendors or vehicle parking shall be located in any required setback.

#### ~~4.209.D Entertainment~~

~~**Entertainment** as used in this section is defined to mean any act, play, review, pantomime, scene, song, dance act, song and dance act, or poetry recitation, conducted or participated in by amateur/professional entertainers in or upon any premises to which the public is admitted. Entertainment also includes a fashion or style show, except when conducted by a bona fide nonprofit club or organization, and when conducted solely as a fundraising activity for charitable purposes. The term **professional entertainer** as used herein means a person or persons who engage for livelihood or gain in the presentation of entertainment. **Entertainment** as used herein does not include mechanical music alone.~~

- ~~1. Live entertainment and amplified sound are prohibited~~

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~~between the hours of 12am and 7am.~~

- ~~2. Live entertainment and amplified sound are prohibited within 200 feet of the Neighborhood Conservation District.~~

~~4.209.E Signs~~

- ~~1. A sign permit is required for all permanent and temporary signs.~~
- ~~2. Dynamic signs and pole signs are prohibited.~~
- ~~3. Mobile Food Vendor Courts are permitted one monument sign per 100 feet of street frontage. Maximum monument sign area and height for any one (1) sign shall be limited to a maximum fifty (50) square feet in area and ten (10) feet in height. Such signs may not be used for off-site commercial advertising.~~
- ~~4. Individual vendors/vehicles shall be limited to one (1) sign attached to trailer or truck. Signs on mobile food establishments shall be mounted flat on the exterior. No detached or temporary signs are authorized except for one multi-tenant sign per street frontage of a lawfully permitted Mobile Food Vendor Court.~~

4.209.F Application Requirements

The following items must be submitted concurrently to the City of Huntsville Development Services Department:

1. Development Permit Application
2. Site Plan, drawn to a conventional scale and showing:
  - a. location and surface type of the proposed Mobile Food Vendor locations.
  - b. location of customer table-seating and any associated shelter structures.
  - c. location of water hose bibs and electrical service connections.
  - d. location and surface type of parking spaces and driveways
  - e. location and surface type of pedestrian access.
  - f. location and description of outdoor lighting.
  - g. location of restroom(s)
  - h. location of individual trash receptacles and common trash/grease disposal facilities, and type/height of common trash/grease disposal screening (see 7.600 GARBAGE AND RECYCLING DUMPSTERS).
3. Civil site plans
  - a. Engineered civil site plans must be provided in accordance with the City of Huntsville Engineering Design Criteria Manual

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4. Construction plans

- a. Construction plans must be submitted showing, in detail, all improvements proposed to be constructed.

5. Off-site Restroom Agreement (if applicable) including:

- a. signature and contact information of property owner for subject restroom
- b. site plan showing location of restroom

6. Shared Parking Agreement (if applicable) including:

- a. signature and contact information of property owner for shared parking location
- b. site plan showing:
  - i. location of shared parking
  - ii. total number of parking spaces available at shared parking location
  - iii. land uses occurring on site at proposed shared parking location, including square footages.



# PLANNING COMMISSION AGENDA ITEM DISCUSSION FORM

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Prepared by: Leigha Larkins, Planner

Janet Ridley, City Planner

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**MEETING DATE:** December 5, 2019

**SUBJECT:** Mobile Food Vendors and Mobile Food Vendor Courts

**TYPE OF REVIEW:** Revise Proposed Code Language per Public Hearing Comments

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## ***FACTS, CODE REQUIREMENTS, AND CONDITIONS***

A public hearing was held before the City Council on November 19<sup>th</sup>, 2019, concerning proposed revisions to the Development Code. Specifically, the hearing allowed the City Council to review language concerning Mobile Food Vendors and Mobile Food Vendor Courts (Food Trucks and Food Truck Parks) that had been recommended for approval and adoption into the Development Code by the Planning Commission on September 5<sup>th</sup>, 2019.

The City Development Code is currently silent on food trucks and food truck parks. The adoption of development standards for this use is necessary due to the likelihood of these developments becoming nuisance uses. Although existing vendor parks are regulated through the Building Code and the Health Code, standards for traditional restaurants do not meet the needs of mobile food vendor parks and are not sufficient to ensure safe and adequate facilities for public use.

### **The following concerns were raised at the Public Hearing:**

- 1) Not permitting food trucks to operate in the Downtown Development District will hurt small businesses.
- 2) The requirement that food trucks remain mobile at all times is cumbersome.
- 3) Proposed signage requirements would be different from those for other businesses.
- 4) Not permitting drive-throughs for food trucks will impede small businesses.
- 5) Location requirement relative to brick-and-mortar restaurants is unfair.
- 6) Limiting hours of operation for mobile food vendors but not for other businesses is unfair.
- 7) Proposed parking requirements are prohibitive.
- 8) Proposed permanent restroom requirements are prohibitive.

### **Response:**

- 1) Not permitting food trucks to operate in the Downtown Development District will hurt small businesses.

The Downtown Development District consists of nine city blocks surrounding the County Courthouse (see attached Development District Map). There is insufficient parking to support this use in the Downtown Development District on a daily basis. Additionally, mobile food vendors are incompatible with the historic character of the District.

- 2) The requirement that food trucks remain mobile at all times is cumbersome.

The requirement is that food trucks that are not located in a food truck court must be screened from view of the ROW when not in use. They may remain on the same lot. From a structural and mechanical standpoint, mobile food vehicles do not meet the standards

of a permanent structure and are not designed to be made a permanent building. Additionally, they all contain sewage holding tanks and may be required to be transported on or off site to empty them.

3) Proposed signage requirements would be different from those for other businesses.

The following specific objectives are listed in ***Development Code Article 8 SIGNS***:

“8.101.F To promote the reasonable, orderly and effective display of signs by minimizing visual clutter; and

8.101.G To minimize the possible adverse effects of signs on nearby public and private property, in particular on residential uses and districts.”

The flexible and impermanent nature of mobile food vendor uses lends itself to the potential for visual clutter. Also, the possibility of food trucks and/or food truck parks being located adjacent to residential uses is high (see attached Development District Map). In the interest of promoting a safe, well-maintained, and attractive City, and because these sign standards would not be retroactive, staff feels it would be appropriate to regulate sign height and type for this use going forward.

4) Not permitting drive-throughs for food trucks will impede small businesses.

Provision was drafted to address life safety concerns due to the potential for food trucks to invite heavy pedestrian traffic. Staff is recommending this provision be struck (a site plan clearly demonstrating vehicular and pedestrian circulation routes would still be required).

5) Location requirement relative to brick-and-mortar restaurants is unfair.

The brick and mortar restaurants have a significant investment in their building alone. The investment required to set up a food truck is insignificant in comparison and if located immediately adjacent can affect the traffic into another food establishment, therefore a recommended minimum separation distance. It is also consistent with other cities standards.

6) Limiting hours of operation for mobile food vendors but not for other businesses is unfair.

Due to the extent of the Management District, food trucks could operate adjacent to many residential properties (see attached Development District Map). The provision was drafted to address the potential noise nuisance of an outdoor venue. Staff is recommending this provision be struck.

7) Proposed parking requirements are prohibitive.

The parking requirements are consistent with the requirements for similar uses in the Development Code.

8) Proposed permanent restroom requirements are prohibitive.



Temporary or portable restrooms rely on the portable restroom vendor to routinely clean them. This generally happens once or twice a week and becomes a sanitation issue when tied to food service. Additionally, the portable restrooms do not contain lavatories for hand washing. The health code requires restrooms to meet the standards of the plumbing code and the lavatories must have hot and cold running water with the hot water being at least 100 degree for proper handwashing/sanitizing.

Upon a review of the Development Code and taking the comments of the City Council and members of the public into consideration, staff has proposed revising the proposed language regulating Mobile Food Vendors and Mobile Food Vendor Parks. Additionally, invitations will be sent to mobile food vendors operating in Huntsville (with current Itinerant Merchant Permits) so that those individuals may have the opportunity to participate in the discussion at the Thursday, December 5<sup>th</sup> meeting.

### **STAFF RECOMMENDATION:**

Staff recommends that the attached proposed language regulating the land use known as “Mobile Food Vendors” and “Mobile Food Vendor Courts” be recommended for review and adoption in the *City Development Code* by the City Council.

### **ATTACHMENTS:**

DRAFT Code Language for Mobile Food Vendors  
DRAFT Code Language for Mobile Food Vendor Courts  
Development District Map

## Excerpt from Draft Minutes of the December 5, 2019 Planning Commission Meeting

6. **DISCUSS, REVIEW, AND CONSIDER** revised code language for amending *Article 4: Use Regulations; Article 6: Parking & Driveway Access; Article 11: Nonconformities; and Article 15: Terminology and Definitions* of the *Development Code* for the regulation of Mobile Food Vendors and Mobile Food Vendor Courts.

**Staff Planner, Leigha Larkins**, provided an update of the proposed regulations per the staff discussion form. It was noted that as a result of the November 19<sup>th</sup> Public Hearing before City Council the Commission has been asked to revisit the regulations. Staff has made several amendments to the regulations based upon comments received at the Council Public Hearing. The Commission reviewed, discussed and considered each proposed staff amendment to the regulations as follows below.

*Commissioner Hooten moved to approve striking Section 4.208.B(2) from the regulations. Second was by Commissioner Whitehead. The vote was unanimous.*

*Commissioner Whitehead moved to not strike but to amend Section 4.208.B(9) to require a Conditional Use Permit should a vendor want to have hours of operation other than 6:00 am to 12:00 am. Second was by Commissioner Thompson. The vote was unanimous.*

*Commissioner Hooten moved to not strike Section 4.208.B(10), from the regulations. Second was by Commissioner Thompson. The vote was 4 in favor (Commissioners Hooten, Woods, Thompson, and Whitehead) and 2 opposed, (Commissioners Nichols and Carpenter). Striking Section 4.208.B(10) was not approved.*

*Commissioner Hooten moved to approve striking the indicated wording in Section 4.208.B(12), from the regulations. Second was by Commissioner Thompson. The vote was unanimous.*

*Commissioner Hooten moved to approve the revised language for Section 4.208.C. Second was by Commissioner Thompson. The vote was unanimous.*

*Commissioner Hooten moved to approve the revised language for Section 4.208.D with the addition of Huntsville Independent School District to the event sponsors. Second was by Commissioner Whitehead. The vote was unanimous.*

*Commissioner Hooten moved to approve striking Section 4.209.B(5) from the regulations. Second was by Commissioner Thompson. The vote was unanimous.*

*Commissioner Nichols moved to approve striking Section 4.209.B(10) from the regulations. Second was by Commissioner Whitehead. The vote was unanimous.*

*Commissioner Nichols moved to not strike but to amend Section 4.209.B(11) to require a Conditional Use Permit should a vendor want to have hours of operation other than 6:00 am to 12:00 am. Second was by Commissioner Hooten. The vote was unanimous.*

*Commissioner Thompson moved to approve striking Section 4.209.B(12) from the regulations. Second was by Commissioner Nichols. The vote was unanimous.*

*Commissioner Nichols moved to approve striking Section 4.209.B(13) from the regulations. Second was by Commissioner Whitehead. The vote was unanimous.*

*Commissioner Thompson moved to approve striking the indicated wording in Section 4.209.B(16), from the regulations. Second was by Commissioner Nichols. The vote was unanimous.*

*Commissioner Whitehead moved to approve striking Sections 4.209.D and 4.209.E from the regulations. Second was by Commissioner Nichols. The vote was unanimous.*

**Chairman Woods** recognized **John Kerr Smither** to allow him to express his opinions regarding the proposed regulations for Mobile Food Vendors and Mobile Food Vendor Courts. He stated that he did not think that enough time has been spent in the consideration of the regulations and that the Commission should be provided with more information prior to recommending these regulations. Mr. Smither provided the Commission and Staff copies of his “Updated Proposed Revisions” document for the regulations.

**9. PUBLIC COMMENTS**

*Laurie Haralson owner of FatBoys Food Truck, residing at 10 Natures Way, thanked the Commission for their work on the proposed regulations for Mobile Food Vendors. She noted that the FatBoys food truck is her livelihood and that she supports the proposed regulations.*