

ORDINANCE NO. 232

AN ORDINANCE OF THE CITY OF WALLIS, TEXAS, HEREBY ESTABLISHING AND AUTHORIZING REGULATIONS, FEES AND INSPECTIONS FOR MOBILE FOOD SERVICE COURT(S) AND MOBILE FOOD SERVICE ESTABLISHMENTS (also known as food trucks), WHICH IF NOT ADHERED TO MAY RESULT IN FINES OR REMOVAL OF LICENSE AND/OR PERMIT.

WHEREAS, these provisions will allow for mobile food service establishments to operate within the City of Wallis (City) with an annual permit, and to be located only within location(s) designated by the City. Mobile food service establishments will be allowed to operate during the designated location contracted hours, and food service establishments may be allowed to contract with the City to stay overnight at the designated location at an additional fee; and

WHEREAS, the City Council of the City of Wallis (City Council) desires to promote the growth of mobile food service establishments, increase sales tax revenues and enhance the quality of life for Wallis citizens; and

WHEREAS, the City Council deems it in the best interest, health and safety of the citizens of the City to adopt a mobile food service establishment ordinance; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WALLIS, TEXAS:

Article I. MOBILE FOOD COURTS AND MOBILE FOOD ESTABLISHMENT PERMIT REQUIREMENTS AND REGULATIONS

Section 1.01 Scope.

This article shall regulate all mobile food service establishments operating within the City's corporate limits.

Section 1.02 Permit requirements.

- (a) It will be unlawful for any person to operate a mobile food service establishment within the City without possessing a valid, current City of Wallis mobile food service establishment permit.
- (b) A person seeking a mobile food establishment permit shall make application on a form provided by the administrator and shall provide all of the information listed in subsections 1-9 as part of the application:
 - (1) The name and address of the owner and/or operator;
 - (2) If the applicant represents a corporation, association or partnership, the names and addresses of the officers or partners;
 - (3) The name under which the food vending operation will be operated;

- (4) Current Texas Resale Certificate in the name of the owner and/or operator and/or any other required sales tax certificate;
 - (5) A description of the type of food or the specific foods to be vended;
 - (6) A description of the vehicle to be used in the mobile food vending operation along with the license or registration and vehicle identification number of the vehicle;
 - (7) Except ice cream trucks, the location(s) within the City where the mobile food establishment will operate. Should such locations not yet be established, an updated list of locations shall be provided to the City at the inspection date; and
 - (8) All mobile food establishments are to be located only in areas allowed and designated by the City of Wallis.
 - (9) Any person or entity applying for a permit must submit written proof of access to and use of an approved water source, and approved waste disposal site by means of a commissary letter or letter of permission from an approved servicing area, and a list of foods and beverages to be served on the unit stating the source of the foods and beverages, plus when the foods and beverages will be prepared.
- (c) Upon receiving a completed application for a mobile food court permit or mobile food service establishment permit, the administrator may make appropriate inspections of the location, food, equipment, vehicle and other reasonable inspections concerned and shall issue a permit only if:
- (1) The application complies with subsection (b); and
 - (2) Any inspection reveals compliance with the applicable requirements of all federal and state statutes and regulations, and City ordinances governing the proposed mobile food service establishment operation.
- (d) An original written contract between the City of Wallis and the mobile food service establishment, executed by both the City of Wallis and the mobile food service establishment, verifying that the mobile food service establishment is authorized to operate at such location or locations, as allowed by the City of Wallis, shall be provided to the City at the scheduled inspection date. Should the mobile food establishment acquire additional locations, an updated list shall be provided to the City along with the executed City of Wallis location contract.
- (e) Mobile food service establishment fees shall be provided for in a schedule of fees established by City Council. Additional fees may be required for a food handling license.
- (f) All funds collected for permits under the provisions of this article shall be deposited in the general fund of the City.
- (g) Mobile food establishment permits shall be valid for only one (1) year from the date of issuance unless sooner suspended or revoked.
- (h) Mobile food establishment permits shall be issued on the earliest date of submission of the completed application.

- (i) Mobile food service establishment permits shall not be transferred or assigned and shall be considered revoked should the character of the food vending operation be changed from that specified in the permit.
- (j) Every mobile food establishment permit shall be renewed each year in like manner as the original permit application.
- (k) All current and valid mobile food establishment permits shall be valid for special events that take place within the City, or on property owned by the City, so long as such special events are being put on by the City.
- (l) The City may deny, suspend, revoke a permit to operate a mobile food service establishment if the applicant or holder does not comply with the requirements of this Ordinance, or if the operation of the mobile food service establishment does not comply with all requirements within this Ordinance, or if the operation of the mobile food service establishment constitutes a potential hazard to the public health under the sole discretion of the City's designated Permit Officer.
- (m) A permit shall be denied, suspended, or revoked by delivery of a notice to the applicant or holder of the permit. The notice shall give the applicant or holder of the permit the reasons for the denial, suspension, or revocation. A delivery of the notice may be accomplished by personally delivering the notice to the applicant or permit holder, by mailing a copy of the notice to the applicant or permit holder at the address indicated on the permit application, or by leaving a copy of the notice with an adult working at the mobile food service establishment.
- (n) The applicant or holder may request a hearing on the permit denial, suspension, or revocation by filing a request for hearing with the City Clerk, in writing, within ten (10) days following the notice date. If no request for hearing is received by the City Clerk within the allotted time, the denial, suspension or revocation is sustained.
- (o) If a timely request for hearing is received by the City Clerk, a hearing will be conducted by the City, during which the applicant or permit holder may present evidence to show why the permit should not be denied, suspended or revoked. Based upon the evidence of such hearing, the City shall make a final decision and shall uphold, suspend, modify or rescind any notice or order considered in the hearing. A written report on the hearing decision shall be furnished to the applicant or the permit holder by the hearing officer.
- (p) In a case where a permit is suspended, the suspension will be lifted only when the permit holder has abated all the defects which originally gave rise to the suspension, and in compliance with all other requirements. Failure to correct the defects within the time period given by the City, or to request a hearing in writing to the City Clerk within the ten (10) days of date of the suspension notice, shall be sufficient cause of the suspension to become a final revocation of the permit.
- (q) Whenever a permit application denial has become final after a hearing, the applicant may make a new written application for a new permit, after 30 days of the final denial. The applicant of the denied permit must meet all rules and requirements as stated in this Ordinance.

Section 1.03 Special Provisions for Natural Disaster Operation

- (a) Mobile food or services establishments operating during recovery from a declared natural disaster shall be regulated as follows:
- (1) Applicant may apply immediately following a declared natural disaster and upon approval, may set up for one (1) to three (3) months, depending on severity of the disaster, as determined by the City Mayor or designee, and which may be extended at the sole discretion of the City Mayor or designee.
 - (2) Applicant must submit all the information required in subsection (b) and must follow all the subject regulations of this section as to location and rules excluding allowable times and storage on site.
 - (3) Applicant will be permitted to set up overnight for operation the following day. All items shall be enclosed or secured at property at the applicant's sole cost and liability.
 - (4) The following items will be allowed during recovery from a declared natural disaster:
 - a. Goods and services: Laundry, food, charitable activities, generators, mattresses, landscaping, retail goods, internet and wireless services.
 - b. Any other items not listed that may be related will be determined by the City Mayor or designee.
 - c. All applicable fees will be required, unless such mobile food or services establishments.

Section 1.04 Operation requirements and restrictions for mobile food establishments.

Mobile food establishments shall comply with the following requirements:

- (1) Mobile food service establishments shall comply with all sanitation and construction regulations as outlined in TAC § 229.169 of the Texas Food Establishment Rules, as amended.
- (2) The issuing, suspension and revocation of licenses for the handling of food by mobile food service establishment owners, operators or their employees shall be regulated by the food handling administrator.
- (3) In order to ensure equal treatment of all mobile food establishment permit holders, variances from this article will not be granted.
- (4) Except for ice cream trucks, mobile food establishments are prohibited from operating on public rights-of-way or any place other than the City of Wallis designated mobile food establishment locations.
- (5) Mobile food service establishments shall have a supply of paper towels, soap, and detergent, which shall be conveniently accessible.
- (6) Separate space shall be set aside from areas where food is served or prepared, for nonfood related items.
- (7) Each mobile food service establishment shall have stainless steel sink with a minimum of two compartments with adequate amounts of hot and cold water under pressure.

- (8) Each mobile food service establishments shall have hot water at a temperature of at least 100 degrees Fahrenheit (44 Celsius) while unit is in operation.
- (9) Fresh water must be provided in self-contained system within the unit.
- (10) All water inlets shall be capped when not in use.
- (11) Wastewater must be disposed of at a permitted commissary containing an approved servicing area or a separate, approved servicing area. Wastewater shall be stored in a permanently installed retention tank that is at least 15% larger in capacity than the water supply (and is sloped to a drain). The drain pipe shall be at least one inch or grater in inner diameter and equipped with a shut-off valve.
- (12) Only Potable water stored according to law shall be served. Ice shall be made from Potable water. Fresh water shall be from a permitted commissary or approved servicing unit.
- (13) Containers of food shall be stored at least six inches above the floor in a manner that protects food from splash and contamination, plus permits easy cleaning of floor.
- (14) No food, including packaged foods, shall be stored in contact with water or undrained ice.
- (15) Conveniently located refrigeration facilities, or effectively insulated facilities shall be provided to maintain potentially hazardous food at 41 degrees Fahrenheit (five degrees Celsius) or below.
- (16) Each refrigerator shall have an accurate thermometer.
- (17) Stored frozen foods shall be kept at a temperature of zero degrees Fahrenheit (five degrees Celsius) or below.
- (18) Ice used for cooling stored foods, food containers, or food utensils shall not be used for human consumption.
- (19) Conveniently located hot storage facilities shall be provided to assure that potentially hazardous foods that are kept hot are maintained at 140 degrees Fahrenheit (60 degrees Celsius) or higher.
- (20) Each hot storage unit must have an accurate thermometer available.
- (21) A product, or stem type thermometer shall be used to check internal temperatures of potentially hazardous foods.
- (22) Live animals, with exception of service animals, shall be excluded from surrounding areas of all mobile food service establishments.
- (23) At all times, in any mobile food service establishment subject to this ordinance, other than a nonprofit organization, the owner of the mobile food service establishment shall be state certified manager, or shall employ an employee who is a state certified manager that has successfully completed a course offered by, or approved by, the State, or State Board of Health covering the regulations adopted by this Ordinance.
- (24) Mobile food service establishments shall provide only single service articles for use by the consumers.

- (25) Food shall be obtained from an approved commissary, or a permanent food service establishment with a valid license.
- (26) Foods offered for sale shall comply with all labeling laws where applicable.
- (27) Food shall be in sound condition, free of spoilage, filth, or any other contamination, and shall be safe for human consumption.
- (28) Each mobile food service establishment shall have a fly-proof, lidded trash container for use in its preparation area. It shall also be responsible for trash pick-up and removal/disposal from area outside the establishment. If a City provided trash can is not provide for, then the mobile food service establishment shall have a fly-proof, lidded trash container placed outside of its unit for use by its patrons, and shall be responsible for the collection and disposal of all trash in and around the trash can and establishment.
- (29) Mobile food establishments, including ice cream trucks, may not operate on private property.
- (30) Any current and properly permitted mobile food service establishment may operate in a designated location in or immediately adjacent to city-sponsored civic events.
- (31) May not use structures that are not intended for mobile food establishments. Examples of acceptable vehicles include, but are not limited to, vehicles equipped with serving windows, merchandise display equipment, kitchen preparation areas, and advertisement display section. Approved structures must adhere to the following:
 - a. No cracked windows;
 - b. No visible rust or disrepair;
 - c. No emission of noxious gases, odors, and/or fumes.
- (32) Portable fire extinguishers shall be provided. A minimum 2-A; 10-BC multi-purpose fire extinguisher shall be currently inspected and tagged by a licensed technician.
- (33) Each mobile food service establishment employing butane or propane tanks shall comply with any and all applicable fire department regulations.
- (33) Mobile food establishments shall have a Type 1 hood installed at or above all commercial cooking appliances and domestic cooking appliances which include flat grills, fryers, char grills, and pits used for commercial purposes that produce grease vapors. Type 1 hood systems shall be installed with an approved and inspected fire suppression system. A Type K fire extinguisher is also a requirement in the installation of a fire suppression system. All ventilation systems shall be in good repair capable of moving steam, smoke and grease –laden vapors from the establishment.
- (34) Each mobile food service establishment shall be in good repair and kept free from material defects that may present a hazard to life or property.
- (35) Floors shall be constructed of smooth, easily cleanable materials, such as ceramic tiles, linoleum, or laminated wood. Sawdust, wood shavings, and peanut hulls are prohibited. Additionally, mats and duckboards shall be non-absorbent and cleaned daily.

- (36) Walls and ceilings shall be light colored, smooth, non-absorbent, and easily cleanable.
- (37) Construction studs and joist rafters shall not be exposed to food preparation or storage areas.
- (38) Food preparation areas shall have at least 50 foot- candles of light.
- (39) All lights on food preparation areas shall be shielded.
- (40) Should the mobile food establishment provide its own seating with the intent to function as anything other than a to-go service, a written instrument allowing the patrons of the mobile food establishment to utilize their restroom facilities will be required upon application.
- (41) Mobile food establishments are not allowed to provide food or beverage to the public within residential neighborhoods, with the exception of City sponsored and City approved special events.
- (42) Ice cream trucks may stop on public streets or rights-of-way provided such stops:
- a. Are not in or within fifty (50) feet of an intersection;
 - b. Not an area prohibited to the standing or parking of vehicles;
 - c. All items are vended from the curbside of the vehicle or the rear of the vehicle; and
 - d. The ice cream truck is vending in a safe manner.
 - e. The production, transportation, processing, handling, sampling, examination, grading, labeling and sale of all milk and milk products sold for the ultimate consumption within the city or its police jurisdiction; the inspection of dairy herds, dairy farms, and milk plants; issuing and revocation of permits to milk producers, haulers and distributors shall be regulated in accordance with the provision of State law and the Texas Specifications and requirements, authorized under State law and the applicable provisions of 1983 Public Health Service Grade A Pasteurized Milk Ordinance, and any modifications made thereof, certified copies of which shall be filed in the office of the appropriate official.; however, Section 9 of the specifications and requirements shall be replaced by the following:

Only Grade A milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains grocery stores, or similar establishments; however, in an emergency the sale of pasteurized milk and milk products which have not been graded, or .the of which is unknown, may be authorized by the health authority, in which case, such milk and milk products may be labeled "ungraded".
- (43) Each mobile food service establishment shall be clearly marked with the phone number of the owner of the establishment, and the phone number for the City Clerk. Additionally, each unit shall be readily identifiable by business name printer in bold visible letters not less than three (3) inches in height, not less than one and one-half (1-1/2) inches in width, permanently affixed, and prominently displayed upon at least two (2) sides of the mobile food service establishment exterior walls.

- (44) Each mobile food service establishment shall conspicuously display the permit issued under this Ordinance as well as any County and/or State permits, at all times. In addition, each establishment shall store on the premises at all times satisfactory proof, or documentation, detailing the origin or source of all foods being held, stored, offered for sale, sold, distributed or given away. Such records shall be available for review upon request by the public or inspector.
- (45) Each mobile food service establishment shall maintain and display a current Texas motor vehicle license plate registration sticker.
- (46) The mobile food service establishment facility shall be used, or permit anyone else to use it to sell, distribute, or give away any foods other than those specifically approved by the permit. The vendor is not authorized to and shall not sell any nonfood items without written consent of designated representative of the City.
- (47) Mobile food service establishment inspections are conducted a minimum of twice a year at the City of Wallis Permit Officer's designation. An appointment will be made for a specific day-date-time. Missed appointments will result in a re-inspection fee. *No inspections are conducted off site.*
- (48) The City shall have the power, with the approval of City Council, to prescribe, and promulgate such rules and regulations consistent with State law as may be deemed necessary to protect the health and safety of the public and to effectively perform its duties.
- (49) Except as otherwise provided by law, neither the City, nor any officer, employee, agent, attorney, or contractor of the City shall be liable to any person, in any capacity, for any act, omission, or condition in any for directly or indirectly related to any provision of this Ordinance.
- (50) Any suit brought against an officer or employee of the City because of any act, or omission, or condition in any way for directly or indirectly related to any provision of this Ordinance shall be defended by legal counsel for the City to the extent not prohibited by law.
- (51) The City shall designate a certified health inspector (Health Inspector) to act upon the behalf of the City to oversee and enforce the permit process and regulation compliance.
- (52) The Health Inspector shall:
- a. Enforce this Ordinance and to make appropriate recommendations to the City Council to enhance this Ordinance.
 - b. Make inspections of all mobile food service establishments from time to time as needed to determine compliance with this Ordinance. Such inspections are not limited to the inspections in connection with the issuance or permit renewal, and may occur to other times to determine continued compliance, or to follow-up on a citizens/customer's complaint.
 - c. Collect all fees set by the City Council or provided law.
 - d. Make annual, or requested reports to City Council.

- e. Perform all other duties reasonable and necessary to meet the requirements of this Ordinance.
- (53) A person commits a criminal offense if the person violates this Ordinance or regulations adopted under this Ordinance.
- (54) It shall be an offense to interfere with any officer, agent, or employee of the City in the enforcement or administration of this Ordinance.
- (55) An offense under this Ordinance is punishable, upon conviction, by a fine not to exceed \$2,000.
- (56) The person(s) deemed criminally responsible for a violation shall include the owner of the mobile food service establishment, the person in charge of the mobile food service establishment, and each employee or worker violating this Ordinance.

Section 1.05 SEVERABILITY

In the event that any one or more of the provisions, clauses, or words of this Ordinance or the application thereof to any situation or circumstance shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provisions, clauses, or words of this ordinance or the application thereof to any other situations or circumstance and it is intended that this Ordinance shall be severable and that it shall be construed and applied as if such invalid or unconstitutional clause, section, provision, or word had not been included herein.


Section 1.06 REPEALER

This Ordinance, upon its enactment and effective date, shall repeal all conflicting provisions that may be contained in other City ordinances or regulations, except to the extent they apply to obligations and violations arising prior to the enactment.

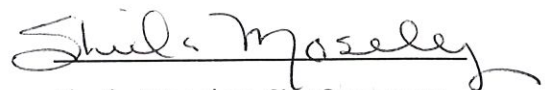
Section 1.07 EFFECTIVE DATE

The mobile food service establishment regulations, fees and inspections authorized herein shall become effective on June 1, 2020, and shall thereafter be enforced for all mobile food service establishments from and after the effective date, regardless of the date upon which the mobile food service establishment commenced doing business within the city limits of Wallis, Texas.

PASSED AND APPROVED this May 20, 2020, by 5 (ayes) to 0 (nays) vote of the City Council of Wallis, Texas.



Dennis L. Diggs, Mayor



Sheila Moseley, City Secretary

ATTEST:

