International Municipal Lawyers Association
2012 Code Enforcement Conference
Austin, Texas

Saturday, October 21, 2012

MOBILE FOOD TRUCK VENDING: ISSUES, ENFORCEMENT AND ORDINANCES

by

Joseph K. Deeb, Associate Attorney at Bojorquez Law Firm, PLLC



As an associate with the Bojorquez Law Firm, PLLC, Joseph Deeb serves as Assistant City Attorney to numerous Texas cities, most within the Central Texas area. Some of his duties include drafting ordinances and prosecuting code violations in Texas municipal courts.

Contact information:
Joseph K. Deeb
Bojorquez Law Firm, PLLC
12325 Hymeadow Drive, Ste 2-100
Austin, TX 78750
Joseph@TexasMunicipalLawers.com
512-250-0411

TABLE OF CONTENTS

1. Introduction to Mobile Food Vendors 1

2. Concerns 1

3. Benefits 1

4. State Regulation in Texas 3

5. Ordinance Construction Issues 3
Restrooms, Setbacks, Water and Electricity, Enforcement, etc.

6. Other Types of Mobile Vendors 5

7. Conclusion 6

8. Samples included as attachments ..... Appendix
A. Ordinance ..... Attachment A
B. Permit ..... Attachment B
C. Permit Application ..... Attachment C

MOBILE FOOD VENDORS

Unless you've been living under a trailer, you've probably noticed yesterday's roach coach has become today's hip food truck. Austin, Texas, celebrates its top food truck chefs with gourmet show-and-tell fundraisers,[1] it now has a mobile *dog* food vendor (i.e., sells dog food),[2] and the Food Network recognizes America's recent appetite for mobile food vendors with its TV special *The Great Food Truck Race*.[3] But food trucks in some areas have had difficulty receiving the same kind of warm reception. One such city, El Paso, Texas, has recently relaxed its once stringent food truck regulations requiring street vendors to conduct business outside of a thousand-yard zone where brick-and-mortar restaurants operated.[4]

I. Concerns: Health and Unfair Competition

Food trucks have been reinvented into a pop culture phenomenon where even "food truck courts," a congregation of trucks, will offer a variety of foods. Brick-and-mortar establishments (i.e., permanent non-movable structures) have complained of losing walk-in business to food trucks, and city health departments, such as in Los Angeles, have required food trucks to abide by stricter health standards (e.g., provide restrooms for customers). However, most agree that eating local, food truck or not, is a win-win for everyone.[5]

II. Benefits of Food Trucks

A. Health Benefits of Food Trucks

Experts say that "food deserts" - areas of the city where healthy, affordable food is difficult to obtain - negatively impact cities, and that urban planners and other policy makers can utilize food trucks to make sure that everyone has physical and financial access to good food.[6] Additionally, experts say that food trucks enable "food equality" by connecting the sustainable agriculture communities to "food justice communities."[7]

B. Local Benefits

Beautiful Salado, Texas, listed in its new ordinance that some of the benefits to allowing mobile food vendors in all of its nonresidential zoning districts are the: (1) enhancements to the City's retail opportunities by creating a place where residents and visitors can eat locally; (2) contributions to the City's overall economic well-being; and (3) opportunities for City residents to live, work, and recreate all within the City itself.[8] Additional benefits exist for food trucks, *and* brick-and-mortar restaurants, through collaborations

---

[1] *See* http://roccomedia.com/dinnerbythebite/; thanks to Jo Ann Touchstone City Secretary of the City of Dipping Springs, TX.
[2] *See* http://article.wn.com/view/2012/07/20/Food_truck_for_dogs_debuts_in_Austin/.
[3] *See* http://www.foodnetwork.com/shows/great-food-race-trucks/pictures/index.html.
[4] *See* http://mobilefoodfranchises.com/mobilefoodnewscom/food-truck-wars-victory-for-mobile-vendors-in-el-paso-video.
[5] Gabriela Worrel, *Food Groups: LA expands its menu of food policies and choices*, American Planning Association Magazine, Jan. 2012, at 23.
[6] *Id.*
[7] *Id.*
[8] Salado, Tex., Ordinance 2012.05 (July 19, 2012).

with local farmers, farmers markets, and gardeners, allowing all, and especially the end user – the food consumer – to ultimately benefit.

III. State Regulation in Texas

A. Authority to Regulate Mobile Food Vendors in Texas[9]

Cities are authorized to regulate mobile stores by virtue of the Texas Constitution, Chapter 437 of the Texas Health and Safety Code, the Texas Administrative Code (Texas Food Establishment Rules ("TFERs")), the City's police power and by the Texas Local Government Code, Chapters 51, 54, 211, 212, 214, 216, and 217. Within the TFREs are the regulations for Mobile Food Establishments and the standards for refrigeration, water systems, sewage and waste, and requirements that vehicles be readily movable and have a central preparation facility.[10] Cities may adopt the TFERs by reference in their ordinance, and may add their own regulations as well.

B. Less Stringent Laws for some Vendors

Most states allow vendors selling items less likely to have harmful health consequences (i.e., popcorn) to have laws that are less stringent. For instance, the TFERs allow water and wastewater rule exemptions for a roadside vendor that sells only prepackaged food or a vendor that prepares food requiring no water for operations and who has no hand contact with food as long as the required cleaning and sanitization equipment exist at the vendor's central preparation facility (i.e., commissary).[11]

C. Commissary

A Commissary is an approved facility that provides support services for specific required functions of a mobile food vendor.[12] Any food establishment permitted or licensed by a regulatory agency in which food, containers, or supplies are kept, handled, prepared, packaged or stored (e.g., a catering operation, restaurant, grocery store or similar establishment or any otherwise approved facility, *except a private residence*) may be considered for approval as a mobile food vendor's commissary. Services required of the commissary will be based on the food sold and the vendor type and capabilities. Most cities require mobile food vendors to have an agreement with a commissary.

IV. Ordinance Construction Issues

A. Words/Terms/Expressions for describing Mobile Food Vendors

Some commonly used terms cities list in ordinances include: peddlers, hawkers, transient merchants, food trucks, mobile food establishments, street vendors, and itinerant businesses.

---

[9] The author acknowledges the contributions to this section by Deborah F. McAbee of the Houston City Attorney's Office.

[10] 25 TAC § 229.169.

[11] *Id.*

[12] *See* http://www.freshfromflorida.com/fs/mobile_guide.pdf.

B. Restrooms

In Florida, some mobile food vendors, such as semi-permanent vendors, are required to have access to restroom facilities.[13] The facilities must contain a hand washing sink with hot and cold potable water for both employee and public use either on the property or accessible through a commissary agreement. The restrooms must be: (1) accessible during all hours the food truck is in operation, (2) not separated by a public thoroughfare, and (3) within 500 feet of the food vendor (unless in a covered mall then they must be within 300 feet).[14]

California requires all mobile food facilities that are stopped and conducting business for more than one hour to operate within 200 feet of an approved, readily available, and fully functioning restroom facility available for the food truck's for employees. If the restroom is within a business, the food truck operator must have written permission from the business owner to use the restroom.[15] Boston, Massachusetts's requirements are very similar.[16]

C. Setbacks From Structures

The proximity of a food vendor to a brick-and-mortar restaurant has been an ongoing contentious issue based on competition. Some cities, such as Dripping Spring, Texas, prohibit all mobile food vendors from being located within 100 feet of a restaurant of general use or a restaurant of limited use unless granted permission from all restaurants in the immediate area.[17] Other cities, such as Toppenish, Washington, require vendors to be 20 feet from all interior property lines and buildings,[18] while in Seattle, vendors must be at least 50 feet from another food-service operation and at least 1,000 feet away from schools.[19]

D. Water and Electricity

Regulations for a food truck's source of water and electricity varies among cities. For instance, according to Dripping Springs' ordinance, "[w]ater provided or used by the vendor shall not come from a temporary connection to potable water. Electricity shall be only from a generator or an electrical outlet via a portable cord that conforms to the City's Electric Code and permitted by any provider."[20] But in Glenview, Illinois, any power required for the mobile food unit shall be self-contained.[21]

---

[13] *Id.* citing Florida Administrative Code, Chapter 5K-.020(1) (aa): *semi-permanent vendors* are persons selling foods other than fresh fruits and vegetables from a pushcart, flea market stand, roadside stand, kiosk or similar structure and which may offer ancillary food service.
[14] *Id.*
[15] *See* http://www01.smgov.net/cityclerk/council/agendas/2011/20110621/s2011062104-A.htm.
[16] BOSTON, MA., Code § 17-10.5 (2012); *see* http://www.cityofboston.gov/business/mobile/ordinance.asp.
[17] Dripping Springs, Tex., Ordinance 1220.66 (March 6, 2012).
[18] Toppenish, Wa. Ordinance 2011-2 (March 14, 2011); *see* http://www.mrsc.org/ords/t65o2011-2.pdf.
[19] *See* http://www.thirteen.org/metrofocus/news/2011/08/truck-you-the-travails-of-mobile-food-vendors/.
[20] *Supra* note 17.
[21] GLENVIEW, IL. , CODE ART. III.; *see* http://www.glenview.il.us/SitePages/index.aspx.

E. Hours

Some cities regulate the hours of operation of mobile food vendors. For example, Drippings Springs does not allow mobile food vendors to operate between the hours of 11:00 p.m. and 6:00 a.m.[22] However, some cities allow trucks to operate late hours to satisfy the demand of the late night bar crowds. These trucks' hours often must be preauthorized, along with their routes and location.[23]

F. Noise

In Dripping Springs, the noise level of mechanical equipment or outside sound equipment used in association with any mobile food vendor may not exceed 70 decibels when measured at the property line that is across the street from or abutting a residential use.[24]

G. Limiting the number of Permits

In Boston, no more than ten percent (10%) of the total issued permits or five (5) permits, whichever is greater, may be issued to a single person or business entity or both.[25]

H. Lighting

Many cities require any mobile vending lighting, including additional lighting for any of the food vendor's signs, to comply with the city's lighting ordinance (i.e., limit glare, light trespass). [26]

I. Signs

One city requires all mobile food vendors' signs to be: (1) attached to the exterior of the mobile vendor; (2) secured and mounted flat against the mobile unit; (3) not projecting more than six inches from the exterior of the mobile unit; and (4) not in excess of 50% of the side of the surface area of the vehicle, trailer, etc., to which it is affixed.[27] Usually, mobile food vendor ordinances require compliance with the city's sign ordinance.

J. GPS

A new requirement among some cities is that mobile food trucks must be equipped with a permanently mounted global positioning system (GPS) device that meets the city's rules and regulations.[28] Among other uses, this allows cities to ensure vendors are not in unpermitted areas.

K. Limited use of vehicle

In Toppenish, mobile food vendors may not use any portion of the vending unit as living or sleeping quarters.[29]

---

[22] *Supra* note 17.
[23] *Supra* note 16,§ 17-10.11.
[24] *Supra* note 17.
[25] *Supra* note 16,§ 17-10.6.
[26] *Supra* note 17.
[27] *Id.*
[28] *Supra* note 16,§ 17-10.8.
[29] *Supra* note 18.

L. Parking

Some cities regulate the number of parking spaces required for mobile food vendors. For example, Toppenish's ordinance states, "[i]f a mobile vendor is operating on private property, then they must provide parking for at least 3 customer vehicles and one employee vehicle."[30] Some cities only allow vendors to park in areas where the permit holder has been authorized to operate. In Baltimore, Maryland, the City has a controversial policy allowing parking zones for food trucks, and it lifted parking restrictions in its downtown district for food trucks.[31] Some cities allow food trucks to be parked for a period not to exceed 4 hours in the same location over a 24 hour period.[32]

M. Seating for Customers

In Boston, "[n]o mobile food truck shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, unless a proposal for such seating arrangements is submitted with the permit application and approved by Committee."[33] But in Portland, OR, mobile food vendors rent out spaces in private parking spots where they offer seating and can operate in the same location for hours at a time.[34]

N. ADA

Some cities require that "[a]ll Mobile Food Vendors shall comply with the federal Americans with Disabilities Act."[35] Boston requires on its site evaluation form to indicate whether the site is ADA compliant.[36]

O. Zoning

Most cities permit mobile food vendors to operate only within special zoning districts such as GUI (Government, Utility, Institutional), commercial, and retail zoning districts.[37] However, Boston goes even further allowing trucks in residential districts.[38]

P. Permit Required

One way to account for and regulate all the mobile food vendors in a city is to require a permit to operate a food truck. For example, Dripping Springs' ordinance states, "[i]t is an offense for a person to: (1) erect, install or park a Mobile Food Store, (2) operate a Mobile Food Store, or (3) conduct sales at a Mobile Food Store in the city limits without a Mobile Food Vendor permit."[39] Virtually all cities require permits for most mobile food vendors.

---

[30] *Id*.
[31] *Supra* note 16.
[32] *Supra* note 18.
[33] *Supra* note 16, § 17-10.5.
[34] *See* http://www.thirteen.org/metrofocus/news/2011/08/truck-you-the-travails-of-mobile-food-vendors/.
[35] *Supra* note 18.
[36] *Supra* note 16.
[37] *Supra* note 17.
[38] *See* http://www.cityofboston.gov/business/mobile/.
[39] *Supra* note 17.

Q. Enforcement

According to Drippings Springs' Mobile Food Vendor Ordinance, any person violating the Ordinance is subject to a civil suit by the city as well as prosecution for criminal violation. Any violation of the Ordinance is declared to be a nuisance, is a strict liability offense requiring no showing of a culpable mental state, and is a misdemeanor punishable by a fine up to ($2,000.00). Civil remedies for the city include, but are not limited to: (1) injunctive relief to prevent specific conduct or to require specific conduct for compliance with the Ordinance; and (2) a civil penalty up to $500.00 a day when the defendant actually knew of the law and did nothing to correct the violation once notified.[40]

V. Other Types of Mobile Vendors

How does a city regulate mobile businesses such as mobile vets? No Texas city appears to have mobile vet regulations. The State regulations through the Texas State Board of Veterinary Medical Examiners (TSBVME) regulate the Vet only, not the business.[41] The vets must only: (1) be licensed; and (2) give the board 48 hours' notice prior to going to a mobile location to perform vet work. The mobile vet also must fill out a form which stays on file for 1 year with the board in case a consumer makes a complaint.

Thus, currently, there are no State regulations on: (1) how close a mobile vet can be to an established brick-and-mortar vet, (2) disposals, (3) length of time, etc.[42] Consider: do existing water / sewer regulations or ordinances cover any waste? Also, if you regulate a mobile vet practice, consider what to do about mobile windshield repair, lawn fertilizing companies, disaster clean up companies, pet groomers, etc.[43]

VI. Conclusion

Mobile Food Vendors are rapidly becoming a fixture in municipalities. Through well drafted ordinances, cities can enable the public's demands for food trucks are met while still balancing the concerns of brick-and-mortar restaurants and helping to ensure a healthy product for the customers.

Sample ordinances and the slide presentation accompanying this paper are available for viewing and download at the Bojorquez Law firm website: TexasMunicipalLawyers.com

[40] *Id.*
[41] *See* http://www.tbvme.state.tx.us/.
[42] Municipal law attorney, Dorothy "Dottie" Palumbo, Of Counsel, Bojorquez Law Firm, PLLC.
[43] Thanks to Abigail Elias, Chief Assistant City Attorney of the City of Ann Arbor, MI.

ATTACHMENT "A"

This document is provided as a *sample*, only, and is given for educational purposes. Conveyance of this document does not constitute legal advice. Readers are encouraged to discuss this document with their attorneys.

CITY OF _____

ORDINANCE No. _____

ENACTING REGULATIONS FOR MOBILE FOOD VENDORS

AN ORDINANCE OF THE CITY OF _____ ("CITY"), TEXAS, ADDING ARTICLE 30.04 TO CHAPTER 30 OF THE CITY'S CODE OF ORDINANCES ENACTING THE REGULATION OF ACCEPTANCE, REVIEW, AND APPROVAL OF PERMITS FOR MOBILE FOOD VENDORS AND THE ERECTION, INSTALLATION, OPERATION OR PARKING OF CERTAIN MOTOR VEHICLES AND TRAILERS UNDER CERTAIN CONDITIONS, SPECIFICALLY MOBILE FOOD VENDORS AND RECREATIONAL VEHICLES (I.E., TRAVEL TRAILERS OR CAMPER TRAILERS) USED AS MOBILE FOOD RETAIL ESTABLISHMENTS OR STORES (E.G., PEDDLERS, MERCHANTS OR ITINERANT BUSINESSES SELLING FOOD, PRODUCE, ETC., FROM TRUCKS, TRAILERS, RECREATIONAL VEHICLES, ETC.); AND PROVIDING FOR THE FOLLOWING: POPULAR NAME; FINDINGS OF FACT; A PURPOSE; COMPLIANCE REQUIRED; SCOPE OF JURISDICTION; APPLICABILITY; EFFECTIVE DATE; REMOVAL OF THE TEMPORARY SUSPENSION OF CERTAIN APPROVALS; ENFORCEMENT, INCLUDING CRIMINAL FINES NOT TO EXCEED $2,000.00 AND CIVIL PENALTIES NOT TO EXCEED $500.00 PER VIOLATION; AND THAT EACH DAY IN VIOLATION CONSTITUTES A SEPARATE OFFENSE; A REPEALER; SEVERABILITY; PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of _____ ("City Council") seeks to provide for the orderly development of land and use of property within its corporate limits; and

WHEREAS, the City recently adopted a Comprehensive Plan prepared for the City by the Lower Colorado River Authority (LCRA), and City staff has evaluated it in order to consider how best to implement the new plan; and

WHEREAS, the City Council is concerned about land use planning challenges posed by the potential proliferation of Mobile Stores; and

WHEREAS, the City Council has investigated and deliberated on how Mobile Vendors/ Mobile Stores are to be governed under the terms of the new Comprehensive Plan; and

WHEREAS, the City Council now seeks to establish regulations for Mobile Food Stores in the City; and

WHEREAS, the City Council seeks to protect the public health, safety and welfare through a comprehensive regulatory program that includes food safety standards and zoning regulations; and

WHEREAS, through these regulations, the City Council finds compatibility of Mobile Stores on the broader scheme of the various zoning districts in the City; and

WHEREAS, with these regulations, the City Council addresses potential health risks posed by Mobile Stores that are Mobile Food Establishments and the applicability of certain state and local health codes; and

WHEREAS, with these regulations, the City Council addresses the City's ability to collect sales and use taxes from Mobile Stores, competition for customers with retailers operating out of more permanent, site-built structures that shall comply with building codes, health & sanitation codes, and accommodate people with disabilities; and

WHEREAS, the City Council has assessed potential traffic safety threats, the utility needs of Mobile Stores in terms of water, wastewater, electricity, gas, and telecommunications, and how those demands correspond to the community's utility plans and infrastructure; and

WHEREAS, the City Council has assessed the impact of Mobile Stores on the scenic vistas and aesthetic appeal of the community; and

WHEREAS, the City Council is authorized to regulate Mobile Stores by virtue of the Texas Constitution, the Texas Health and Safety Code, the Texas Administrative Code, the City's police power and by the Texas Local Government Code, Chapters 51, 54, 211, 212, 214, 216, and 217; and

WHEREAS, the City Council now adopts the appropriate administrative and regulatory amendments, rules and procedures.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF _____, TEXAS:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Title II, Chapter 30, Article 30.04 has been added, and shall read in accordance with *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes. The entire attachment shall be inserted into the City's Code.

3. REPEALER

To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication.

7. PROPER NOTICE & 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, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this the ___ day of _____, 2012, by a vote of ___ (*ayes*) to ___ (*nays*) to ___ (*abstentions*) of the City Council of the City of _____, Texas.

CITY OF _____:

*by:*_____

Mayor

ATTEST:

*by:*_____

City Secretary

1. GENERAL PROVISIONS

A. Popular Name

This Article may commonly be referred to as the "Mobile Food Vendor Ordinance."

B. Purpose

This Article is adopted so that the City Council may remove the temporary moratorium on Mobile Vendors, and enact the appropriate administrative and regulatory rules and procedures pertaining to Mobile Food Vendors.

C. Scope of Jurisdiction

All of the provisions of this Article shall apply within the City Limits (i.e., incorporated municipal boundary) of the City.

D. Effective Date and Duration

This Article shall take effect immediately upon publication following the passage of this Ordinance.

E. Definitions

City: The City of _____, a municipality located in _____County, Texas.

City Limits: The incorporated municipal boundary of the City.

Food Court: Two or more Mobile Food Vendors in the same location.

Food Establishment: An operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:

(1) such as a restaurant; retail food store; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer; market; vending location; conveyance used to transport people; institution; or food bank; and

(2) that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

Location: A Mobile Food Vendor must relocate at least 2,000 feet from its current work location in order to not be considered located in the "same location".

Mobile Food Establishment: A vehicle-mounted Food Establishment that is readily moveable.

Mobile Store / Mobile Vendor: A vehicle-mounted retail store that is readily moveable, and provides goods and/or services directly to a consumer. A Mobile Store includes (but is not limited to) a self-propelled motor vehicle or trailer, including a recreational vehicle, motor home, travel trailer or camper trailer. A Mobile Food Establishment is an example of a Mobile Store. *The term Mobile Store includes a Mobile Vendor.*

Permit: A license, certificate, approval, registration, consent, contract or other form of authorization required by law, rule, regulation, order or ordinance that a person shall obtain to perform an action or initiate, continue, or complete a project for which the permit is sought.

Person: A human individual, agency, association, corporation, partnership or sole proprietorship.

Site: A platted or unplatted lot in the City Limits treated as a single tract for purposes of the assessment of property taxes. A Site may be identified by its address, or legal property description.

F. Water and Electricity

(1) Water provided or used by the Mobile Food Vendor shall not come from a temporary connection to potable water.
(2) Electricity shall be only from a generator or an electrical outlet via a portable cord that conforms to the City's Electric Code and permitted by any provider.

G. Fire Safety

Mobile Food Vendors shall comply with all City fire and explosion safety standards. This requirement also applies to Mobile Food Establishments that (1) maintain food at a hot holding temperature by mechanical means, and (2) use a pressurized fuel system or container.

H. Trash

All Mobile Food Vendors shall:
(1) be equipped with an attached trash receptacle approved by the City's health authority;
(2) hold, store, and dispose of solid and liquid waste in a receptacle approved by the health authority and comply with any other applicable City Code requirements; and
(3) provide a trash receptacle for use by customers; and
(4) maintain the area around the mobile unit clear of litter and debris at all times.

I. Provisions

(1) All Mobile Food Vendors shall comply with all City adopted health regulations regarding:
    a. time, temperature, plumbing, operation and maintenance requirements for Mobile Food Establishments;
    b. a mandatory central preparation facility, serving area, and operations;

c. all requirements prohibiting alteration, removal, attachments, placement or change in, under, or upon the Mobile Food Establishment that would prevent or otherwise reduce ready mobility of the Mobile Food Establishment unit.

(2) All Mobile Food Vendors shall acquire a food handling permit from the City; but rules are more substantial, as deemed appropriate by the City, if vendor is at a same location for at least 10 days out of a month.

(3) If any Mobile Food Vendor remains at a same location for longer than 10 days, a Conditional Use Permit is required.

(4) All Mobile Food Vendor courts with multiple vendors set up shall provide City-approved portable restrooms for employees and made available to the customers.

(5) The City shall require a Mobile Food Vendor to come, on an annual basis, to a location designated by the health authority for an inspection.

(6) The City may require that Mobile Food Vendors found to violate this section (section I) shall come for a re-inspection at a location designated by the City.

(7) All Mobile Food Vendors are required to store all food and supplies within the mobile unit.

(8) All Mobile Food Vendors are required to have displayed on the mobile unit the proper City-issued permits and licenses in order to operate within the City.

(9) All Mobile Food Vendors are permitted to operate only in GUI (Government, Utility, Institutional), commercial, and retail zoning districts.

(10) All Mobile Food Vendors are prohibited from operating between the hours of 11:00 p.m. and 6:00 a.m.

(11) All Mobile Food Vendors are prohibited from being located within 100 feet of a restaurant of general use or a restaurant of limited use unless granted permission from all said restaurants. The noise level of mechanical equipment or outside sound equipment used in association with any Mobile Food Vendor may not exceed 70 decibels when measured at the property line that is across the street from or abutting a residential use.

(12) A drive-in service is not permitted for any Mobile Food Vendor.

(13) All Mobile Food Vendor lighting shall comply with the City's lighting ordinance. Any additional lighting for any of the Mobile Food Vendor's signs shall comply with the City's lighting ordinance.

(14) All Mobile Food Vendors are limited to signs attached to the exterior of the mobile vendor. The signs:

a. shall be secured and mounted flat against the mobile unit;
b. shall not project more than six inches from the exterior of the mobile unit; and
c. shall not exceed 50% of the side of the surface area of the vehicle, trailer, etc., to which it is affixed.

(15) All Mobile Food Vendors shall comply with the federal Americans with Disabilities Act.

2. PERMITS, PROHIBITIONS, AND EXCEPTIONS

A. City Authority: The City's acceptance, review, and approval of all Permits for Mobile

Vendors is hereby reenacted.

B. Permit Required:

(1) It is an offense for a person to operate a Mobile Food Store in the City Limits without a Mobile Food Vendor permit.
(2) It is an offense for a person to conduct sales at a Mobile Food Store in the City Limits without a Mobile Food Vendor permit.
(3) It is an offense for a person to erect, install or park a Mobile Food Store in the City Limits without a Mobile Food Vendor permit.

C. Permit Application

A person who seeks to operate a Mobile Food Establishment:
(1) shall submit a written application to the City;
(2) shall include with the application;
    a. proof of sales tax certificate; and
    b. proof of sales tax report.

D. Tax Certificate

Mobile Food Vendors shall possess during hours of operation a City tax certificate showed as paid.

E. Permit Revocation

A vendor's Mobile Food Vendor permit shall be revoked if any of the provisions of this Ordinance are not strictly adhered to.

F. Special Exceptions

Exceptions for relief of hardship caused by this Ordinance may be made in writing to the Board of Adjustment (BOA). Special Exceptions may be granted by BOA when it determines in writing that one or more of the conditions listed below are satisfied:

(1) **Undue Hardship**
    a. The applicant shall otherwise suffer undue hardship, that being something beyond or in addition to financial hardship; and
    b. The current regulations are adequate to address the particular type of development and construction proposed by the applicant; and
    c. It is in the public's interest to allow a limited exception to the Ordinance in the particular instance; and
    d. Authorizing the special exception will not adversely impact neighboring properties.

(2) **PDD Agreement**

The Site is subject to a valid, written Planned Development District agreement between the property owner and the City.

(3) **Grandfathered**
The Site has grandfathered development status that has been recognized by the City in accordance with the Code of Ordinances.

3. ENFORCEMENT

A. Civil & Criminal Penalties
The City shall have the power to administer and enforce the provisions of this Ordinance as may be required by governing law. Any person violating any provision of this Ordinance is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Ordinance is hereby declared to be a nuisance.

B. Criminal Offense
(1) It is a criminal offense to erect, install, park or operate a Mobile Food Store in violation of this Ordinance.
(2) Per Section 6.02(b) of the Texas Penal Code, an offense under this Ordinance is a *strict liability offense* requiring no showing of a culpable mental state.
(3) An offense under this Ordinance is a misdemeanor punishable by a fine not to exceed two thousand dollars ($2,000.00).

C. Civil Remedies
Nothing in this Ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Ordinance and to seek remedies as allowed by law, including, but not limited to the following:
(1) injunctive relief to prevent specific conduct that violates the Ordinance or to require specific conduct that is necessary for compliance with the Ordinance; and
(2) a civil penalty up to five hundred dollars ($500.00) a day when it is shown that the defendant was actually notified of the provisions of the Ordinance and after receiving notice committed acts in violation of the Ordinance or failed to take action necessary for compliance with the Ordinance; and
(3) other available relief.

This document is provided as a *sample*, only, and is given for educational purposes. Conveyance of this document does not constitute legal advice. Readers are encouraged to discuss this document with their attorneys.

ATTACHMENT "B"

FOOD ESTABLISHMENT PERMIT

Environmental Health Department

City of Dripping Springs
PO Box 384
Dripping Springs, TX 78620
(512) 858-4725

Permit Must Be Displayed In
Location Viewable By Consumer

PERMIT No. *DS - 0000*

THIS IS TO CERTIFY THAT:

Owner of: *(Food Establishment)*

Meets the minimum requirements to operate a Food Establishment at:

Street: XXX Hwy. 290 E.

Dripping Springs, TX 78620

Issue Date:

By: _____

Kyle B. DeHart, R.S. (City Sanitarian)

Permit remains in effect until _____ or until removed for non-compliance with minimum State or Local Regulatory Standards. Notify the Health Authority in the event of an imminent health Hazard.

ATTACHMENT "C"

Food Truck Permit Application 2012

City of Boston | Public Works Department

Submit completed form and required documents to Public Works. For more information on the application process, visit www.cityofboston.gov/foodtrucks.

BUSINESS INFORMATION	
Name of Truck:	**Truck Size:**
DBA Name: (if different)	**Federal ID #:**
Address:	
Phone:	
Fax:	
Email:	
Website:	

OWNER(S) INFORMATION		
Name	**Phone**	**Cell Phone**

	REQUIRED DOCUMENTS (Attach to this application.)
Required of all Applicants:	☐ Copy of Health Permit, issued by Inspectional Services Department (ISD).
	☐ Copy of Business Certificate (issued from town or city where business is based)
	☐ Copy of Hawkers / Peddlers License, issued by the State of Massachusetts.
	☐ Copy of GPS Contract with Trimble.
Required of Applicants Needing a Fire Permit:	☐ Copy of Open Burning/Cooking Permit issued by Boston Fire Department (BFD).
Required of Applicants Planning to Vend on Private Property:	☐ Copy of Lease(s) or Letter(s) from Landlord(s). Required for each private site.
	☐ Copy of Use of Premise Permit(s). Required for each private site.
	☐ Site Plan including: photos of site and a detailed layout noting truck orientation and service plan. Required for each private site.

SIGNATURES			
Inspectional Services:			
	ISD Health Inspector Signature	**Inspector Name** (Print)	**Date**
Boston Fire:	Signature of Fire Inspector is required for all applications to verify inspection, even if no permit was issued.		
	Fire Inspector Signature	**Inspector Name** (Print)	**Date**
Applicant:	I hereby consent to the collection, disclosure, and use of all data collected by the GPS unit installed under the requirements of the City of Boston Food Truck Permit Application for the purpose of monitoring the locations of food trucks throughout the City and for the purpose of providing GPS information to third parties (e.g., software developers) to develop mobile applications to provide accurate location data to customers.		
	Applicant Signature	**Applicant Name** (Print)	**Date**

PROPOSED VENDING LOCATION & TIMES			
Location	**Property Type**	**Days**	**Shift/Hours**
	◯ Public ◯ Private	Sunday	Breakfast
	◯ Public ◯ Private	Monday	Breakfast
	◯ Public ◯ Private	Sunday	Breakfast
	◯ Public ◯ Private	Monday	Breakfast
	◯ Public ◯ Private	Monday	Breakfast
	◯ Public ◯ Private	Monday	Breakfast
	◯ Public ◯ Private	Monday	Breakfast

SUBMISSION	
Fee:	$500 * Check or Money Order, payable to "City of Boston" *Permit fee only. Additional fees apply for vending on public way, as well as those required by ISD, BFD, The Commonwealth of Massachusetts, and Trimble Navigation Limited.
Submit this form and all required attachments in person to:	City of Boston Public Works Boston City Hall, Room 714 | Boston, MA 02201-2024 617-635-4911 (phone) | 617-635-2403 (fax)