

Sec. 20-22. - Mobile food units and commissaries.

(a)

Definitions. When used in this subsection, the following words, terms and phrases shall have the meanings ascribed to them in this subsection, unless the context clearly indicates a different meaning:

Catering establishment shall have the meaning ascribed in [section 20-18](#) of this Code.

Commissary shall have the meaning ascribed in [section 20-18](#) of this Code.

Fixed location mobile food unit shall mean a mobile food unit that is restricted to operation on the premises of a permitted food establishment that serves as the commissary for the fixed location unit. A fixed location unit must be easily movable and maneuverable by one person when the unit is fully loaded.

Food service establishment shall have the meaning ascribed in [section 20-18](#) of this Code.

Licensed park vendor shall mean a mobile food unit used by a vendor licensed under article IX of [Chapter 32](#) of this Code.

Mobile food unit shall have the meaning ascribed in [section 20-18](#) of this Code.

Restricted operations mobile food unit shall mean a mobile food unit that serves no food other than: (1) food that was prepared and packaged in individual servings at an approved commissary and transported and stored under conditions meeting the requirements of this article; (2) beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment; (3) potentially hazardous beverages such as individual servings of milk, milk products and coffee creams that have been packaged at a pasteurizing plant; and (4) prepackaged individual serving frozen dessert items including, without limitation, frozen ice and ice cream novelty bars, cones and serving cups that have been packaged at a pasteurizing plant or other approved facility.

(b)

General. All mobile food units shall comply with all applicable laws, including the requirements of this article, except as otherwise provided in this section. The health officer may impose additional requirements to protect against health hazards related to the conduct of mobile food units and may prohibit the sale of potentially hazardous foods. The provisions of this section shall be enforceable by any peace officer or health officer.

(c)

Issuance of medallions for operation of mobile food units.

(1)

Medallions. All mobile food units shall obtain a medallion from the department prior to operating. Operation of a mobile food unit without a medallion is prohibited.

(2)

Submission of plans. Prior to the issuance of a medallion, the operator of a mobile food unit, other than a restricted operations mobile food unit, shall provide the following to the department:

a.

A written standard operating procedure for each mobile food unit that must include provisions for:

[1]

Food unit's waste water disposal site and process; and

[2]

Other servicing operations details; and

b.

Two sets of drawings that must clearly specify and address the proposed layout, surface finish schedule, arrangement and construction material of the mobile food unit, and that must include, without limitation, the proposed layout, arrangement and sizes of plumbing fixtures and connections.

The provisions of this item (2) shall not be applicable to renewals, provided that the applicant certifies in writing to the health officer that the previously provided procedures and plans are still valid.

(3)

Locations of operation. Prior to the issuance of any initial or renewal medallion, the operator of a mobile food unit, other than a restricted operations mobile food unit, shall submit to the department a list of locations where the mobile food unit will be in operation. The operator shall also give written notice at least two business days prior to beginning operations at or relocating operations to any location not currently included on the list of active locations submitted to the department.

(4)

Operation on private property. Prior to the issuance of a medallion or renewal, the operator of a mobile food unit that will be operated on private property for more than one hour in a single day shall submit to the department proof of ownership of the property or a signed and notarized written statement from the owner or owner's agent, including the name, address and telephone number of the property owner or authorized agent, granting permission for operation of the mobile food unit at the proposed location. If the property owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or officers. A copy of the statement shall be displayed in the mobile food unit in plain view of the public at all times. The operator of a mobile food unit shall immediately cease operations and remove the mobile food unit from said property upon receipt of a citation for a violation of this subsection.

(5)

Access to toilets. Prior to the issuance of a medallion or renewal, the operator of a mobile food unit, other than a restricted operations mobile food unit, a licensed park vending unit or a fixed location mobile food unit, to be operated on private property shall submit to the department proof of availability of restrooms with flushable toilets for the use of the mobile food unit employees located in a business establishment within 500 feet of each location where the mobile food unit will be in operation for more than 1 hour in any single day. Proof of availability of adequate facilities shall be in the form of a written statement from the owner or owner's agent, including the

name, address and telephone number of the property owner or authorized agent, and the type of business and hours of operation, granting permission for use of the facilities. If the business owner is a partnership or corporation, the statement shall include the name, address, and telephone number of one of the partners or officers. A copy of the statement shall be displayed in the mobile food unit in plain view of the public at all times. The operator of a mobile food unit shall immediately cease operations and remove the mobile food unit from said property upon receipt of a citation for a violation of this subsection.

(6)

Signage. Every mobile food unit must be readily identifiable by business name, printed, permanently affixed, and prominently displayed upon at least two sides of the units, in letters not less than three inches in height.

(7)

Mobility. A mobile food unit must demonstrate mobility at any reasonable time if requested by any peace officer or health officer.

(8)

Use of LP-gas. The operator of a mobile food unit in, on or in conjunction with which LP-gas is used to cook or otherwise prepare food shall obtain from the fire department a permit for the use of LP-gas and LP-gas equipment for each mobile food unit and shall make the permit available for inspection and/or copying upon the request of any peace officer, fire department employee, or health officer.

(d)

Sanitation. In addition to complying with the requirements of this section, all mobile food units shall comply with the following items of sanitation:

(1)

Single-service articles. Mobile food units shall provide only single-service articles for use by the consumer.

(2)

Water systems. A mobile food unit, other than a restricted operations mobile food unit, shall have a potable water system under pressure. All water used in connection with the mobile food unit shall be from sources approved by the health officer. The water system shall include a potable water tank of not less than 30 gallons capacity for conventional mobile food units and not less than 5 gallons capacity for units used by a vendor licensed under [chapter 32](#), article IX of this Code and for fixed location mobile food units. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitization, and hand-washing, in accordance with the requirements of this article. The water inlet shall be located so that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing and potable water tanks shall be constructed of materials meeting standards established by an American National Standards Institute (ANSI) or other approved accredited certification program and installed according to the requirements of this article. Connection to a water system at an operational location is prohibited. The water system shall comply with the following additional items:

a.

Tank design and construction. A mobile food unit's water tank shall be enclosed from the filling inlet to the discharge outlet and sloped to an outlet that allows complete drainage of the tank.

b.

Tank inspection and cleaning port, protected and secured. If a water tank is designed with an access port for inspection and cleaning, the opening shall be in the top of the tank and:

[1]

Flanged upward at least 13 mm (one-half inch);

[2]

Equipped with a port cover assembly that is provided with a gasket and a device for securing the cover in place; and

[3]

Flanged to overlap the opening and sloped to drain.

c.

"V" type threads, use limitation. A fitting with "V" type threads on water tank inlets or outlets shall be allowed only when a hose is permanently attached.

d.

Tank vent, protected. If provided, a water tank vent shall terminate in a downward direction and shall be covered with;

[1]

A screen of 16 mesh to one inch or equivalent when the vent is in a protected area; or

[2]

A protective filter when the vent is in an area that is not protected from wind blown dirt and debris.

e.

Protective cover or device. A cap and keeper chain, closed cabinet, closed storage tube, or other approved protective cover or device shall be provided for each water inlet, outlet, and hose.

(3)

Mobile food establishment water tanks, when required. Materials that are used in the construction of a mobile food unit water tank and appurtenances shall be safe, durable, corrosion-resistant, and nonabsorbent, and finished to have an easily cleanable surface.

a.

Tank hose, construction and identification. A hose used for conveying drinking water from a water tank shall be safe; durable, corrosion-resistant, and nonabsorbent; resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition; finished with a smooth interior surface; and clearly and durably identified as to its use if not permanently attached.

b.

Tank filter, compressed air. A filter that does not pass oil or oil vapors shall be installed in the air supply line between the compressor and the drinking water system when compressed air is used to pressurize the water tank system.

c.

Mobile food unit tank inlet. A mobile food unit water tank inlet shall be 19.1 mm (three-fourths inch) in inner diameter or less and provided with a hose connection of the size or type that will prevent its use for any other service.

d.

Operation and maintenance system flushing. A water tank, pump, and hoses shall be flushed and sanitized at an approved commissary before being placed in service after construction, repair, modification, and periods of nonuse.

e.

Using a pump and hoses; backflow prevention. An individual shall operate a water tank, pump, and hoses so that backflow and other contamination of the water supply are prevented.

f.

Protecting inlets, outlets, and hose fittings. If not in use, a water tank and hose inlet and outlet fittings shall be protected using a cover or device as specified in sub-item g below.

g.

Tank, pump, and hoses; dedication. A water tank, pump, and hoses used for conveying drinking water shall be used for no other purpose. Water tanks, pumps, and hoses approved for liquid foods may be used for conveying drinking water if they are cleaned and sanitized before they are used to convey water.

(4)

Waste retention. If liquid waste results from operation of a mobile food unit, it shall be stored in permanently installed vented retention tanks that are at least 15 percent larger than the water supply tank. A mobile food unit waste retention tank shall be sloped to an outlet that allows complete drainage of the tank during servicing operations. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion or at an operational location. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the food unit. The waste connection shall be located below the water connection to preclude contamination of the potable water system. Connection to a sewerage system at an operational location is prohibited.

(5)

Garbage and refuse. A mobile food unit shall have adequate and approved garbage and refuse storage facilities for the operator's use and shall have garbage and refuse storage facilities attached to the exterior of the mobile food unit that are insect and rodent-proof for customers(use. Disposal shall be in accordance with [section 20-21.20](#) of this Code.

(6)

Damage report. Any accident involving a mobile food unit shall be reported within 24 hours of the time the accident occurred if the accident results in damage to the water system, waste retention tank, food service equipment, or any facility that may result in the contamination of the food being carried or any damage that results in a violation of this section. Reports shall be made by the holder of the mobile food unit medallion.

(7)

Operation capacity limited. The operator of a mobile food unit shall prepare, serve, store and display food and beverages on or in the mobile food unit itself and shall not attach, set up or use any other device or equipment intended to increase selling, serving, storage, or display capacity of the mobile food unit. It shall be unlawful for the operator of a mobile food unit to:

a.

Allow items, such as but not limited to brooms, mops, hoses, equipment, containers and boxes or cartons, to remain adjacent to or beneath the mobile food unit;

b.

Provide or allow any sign or banner to remain that is not attached to and solely supported by the mobile food unit;

c.

Provide or allow any canopy, awning or other covering that is not attached to and solely supported by the mobile food unit to remain over any part of the mobile food unit or over any area within 100 feet of the mobile food unit, except that any awning or covering provided by others and primarily used for other purposes and only incidentally or coincidentally used by the mobile food unit shall not be considered a violation of this subsection;

d.

Provide or allow any portable toilet facility within 100 feet of the mobile food unit; and

e.

Provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, within 100 feet of the mobile food unit. Dining areas or seating areas adjacent to fixed location mobile food units operating inside of an enclosed space such as a mall or lobby or park vending units where the seating is provided by someone other than the mobile food unit operator and only incidentally or coincidentally used by the patrons of the mobile food unit are acceptable if approved by the health officer.

(8)

Utility connections. Utility connections, if any, shall be limited to quick-connect electrical and telephone services and shall be in full compliance with the Electrical Code. Utility connections for water, sewerage and gas are prohibited.

(9)

Exterior surfaces. Exterior surfaces of mobile food units shall be of weather-resistant materials and shall comply with all applicable laws.

(e)

Servicing of mobile food units by commissaries; servicing records.

(1)

Servicing by commissaries. Mobile food units, other than restricted service mobile food units, shall operate from a commissary approved by the health officer and shall report to such location for supplies, cleaning, and servicing operations as follows:

a.

Fixed location mobile food units shall return to the commissary at least once per day of operation for the performance of all servicing operations.

b.

Licensed park vendor mobile food units shall return to the commissary at least once per day of operation for the performance of all servicing operations.

c.

All other mobile food units shall return to the commissary for the performance of all servicing operations within the 24-hour period preceding operations.

(2)

Servicing records. It shall be unlawful for an operator of a mobile food unit, other than a restricted service mobile food unit, to be in operation without a valid servicing record in his possession.

(3)

Servicing records to be kept by mobile food unit operators. The operator of a mobile food unit, other than a restricted operations mobile food unit, shall keep and maintain servicing records on the mobile food unit for a period of one year from the date of servicing. The servicing records must be immediately available to any peace officer or health officer for inspection and copy at the mobile food unit during the mobile food unit's hours of operation.

(4)

Servicing records to be kept by commissaries. The commissary from which a mobile food unit operates shall issue and maintain servicing records for each mobile food unit in a manner and form prescribed by the health officer. The permit holder, person in charge, employee, or representative of any commissary shall keep and maintain servicing records at the commissary for a period of two years from the date of servicing or until retrieved by the health officer, whichever comes first. Servicing records maintained at the commissary shall be immediately available to any peace officer or health officer for inspection and copying during normal business hours.

(5)

Falsification of servicing records. It shall be unlawful for an owner, permit holder, person in charge, employee, or representative of any commissary to issue a servicing record without first verifying that the mobile unit has complied with all servicing requirements. It shall be unlawful for any owner, permit holder, person in charge, employee, or representative of any commissary or mobile food unit to knowingly present or issue any false, fraudulent, or untruthful servicing record for the purpose of demonstrating compliance with this subsection.

(6)

Maintenance of servicing records. The health officer may promulgate rules and procedures regarding maintenance of the servicing records by the commissaries and mobile food units. The health officer may require the use of electronic or other technology to facilitate or monitor compliance with the requirements of this chapter.

(f)

Commissaries.

(1)

Permitting of commissaries as food establishments. A commissary servicing any mobile food unit, other than a restricted service mobile food unit shall be an approved and permitted food establishment at which the mobile food unit is supplied with fresh water, emptied of waste water into a proper waste disposal system, and cleaned, including washing, rinsing, and sanitizing of those food-contact surfaces or items not capable of being immersed in the mobile food unit utensil-washing sink.

(2)

Permitting of commissaries as food dealers. A commissary shall acquire and maintain a valid food dealer's permit and meet all requirements of this article including, but not limited to:

a.

Maintenance of proper structures pursuant to [section 20-21.28](#) of this Code;

b.

Issuance and maintenance of servicing records and maintenance of equipment pursuant to subsection [20-22\(c\)](#) and (h) of this Code; and

c.

Compliance with all other applicable rules and operational guidelines as may be promulgated by the health officer.

(3)

Private residences. Use of a private residence as a commissary is prohibited.

(4)

Commissary servicing area and operations.

a.

An enclosed service building separated from commissary operations shall be provided for supplying and maintaining mobile food units. The servicing area shall be at an approved location and constructed and operated in compliance with the requirements of this article. Fixed location mobile food units authorized under this article and mobile food units licensed under article IX of [Chapter 32](#) of this Code shall be stored in the servicing area except while in operation for food service and during transport to and from the service building. A fixed location mobile food unit that does not fully meet the foregoing storage requirements and was first operated under a medallion on or before February 13, 2000, shall be exempt from this requirement provided that the operation continues under the same ownership and the medallion is continuously renewed without lapse or termination and provided that the permit holder uses alternative storage arrangements that are approved by the health officer.

b.

Servicing operations.

[1]

Potable water-servicing equipment shall be stored and handled in a way that protects the water and equipment from contamination.

[2]

The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with [section 20-21.16](#) of this Code. The flushing and draining area for liquid wastes shall be separate from the area used for loading and unloading of food and related supplies.

[3]

Vehicle cleaning and in-place cleaning of nonfood-contact surfaces of equipment not requiring sanitization shall be done with potable water and shall be done in a manner that will not contaminate the vehicle's food storage or food preparation areas or equipment. If hoses are used in the cleaning process, they shall be food-grade and kept off the floor or pavement, on racks or by other approved suitable means, and the system shall meet the requirements of [section 20-21.17](#) of this Code. All cleaning areas shall be paved with a smooth surface of nonabsorbent material such as concrete or machine-laid asphalt, which is sloped to drain toward an approved catch basin or floor drain where the liquid waste can be disposed of in accordance with the requirements of [section 20-21.16](#) of this Code.

[4]

The use of liquid waste transport vehicles, otherwise known as vacuum trucks, for the removal and disposal of liquid waste resulting from mobile food unit operations is prohibited. Provided, however, that a fixed location mobile food unit operating exclusively in a permanent nonresidential building that is primarily used for other purposes, such as a retail shopping mall, office atrium, or hospital lobby, may utilize other means to fill water tanks and to drain and flush wastewater tanks if approved by the health officer.

[5]

Servicing operations may be performed by the commissary operator or by the mobile food unit operator. It shall be the commissary operator's responsibility to observe or perform servicing on each mobile food unit and properly complete a servicing record as prescribed by the health officer. It is the responsibility of the mobile food unit operator to confirm that the requirements of this section are fulfilled prior to resuming operations.

(g)

Special requirements for mobile food units operated by licensed park vendors. In addition to complying with the other applicable requirements of this chapter, a mobile food unit operated by a vendor licensed under article IX of [chapter 32](#) of this Code, must meet the following requirements:

(1)

A unit shall not exceed four feet in width, eight feet in length and eight feet in height including the unit's shade umbrella. In the event of an emergency, the unit must be easily movable, controllable, and maneuverable by one person when the unit is fully loaded. A unit shall have at least two operable rubber or

rubber-like wheels that are less than eight inches in diameter. The bottom of the unit shall be at least one foot from the ground. The unit shall be non-motorized.

(2)

Each unit shall have protective glass guards and a roof or a shade umbrella to protect against exposure to insects, rodents, dust, or other contamination. Each unit shall have ample space available on the sides of the unit to display the prices of food, the name and street address of the vendor, and the medallion issued under [section 20-37](#) of this Code.

(3)

Each unit shall have a litter receptacle attached to the unit available, clearly marked, and maintained for patron use. This litter receptacle shall have not less than a twenty-gallon capacity and shall be composed of a leak-proof, nonabsorbent material.

(4)

The interior of a unit shall be equipped with cabinet units or compartments. All food-contact surfaces shall be smooth, easily accessible and cleanable. Unfinished or painted wood shall not be used as a food-contact surface. Units that will dispense beverages must be equipped to do so from a closed carbonation system or bulk dispensing units or to distribute packaged beverages.

(h)

Special requirements for fixed location mobile food units. A mobile food unit that does not meet all criteria applicable to the permitting of a conventional mobile food unit may be permitted on a fixed location only basis, provided:

(1)

The unit complies with the same criteria stated in items (1), (2), (3) and (4) of subsection (g) above for units operated by licensed park vendors;

(2)

The unit shall be restricted to operation on the premises of one food establishment that holds a valid permit under this article, and the commissary serving the unit shall be located in that establishment; and

(3)

The commissary shall meet all applicable requirements of state law and city ordinances.

A fixed location mobile food unit that does not fully meet the requirements of item (1) of subsection (g) above and was first operated under a medallion on or before February 13, 2000, shall be exempt from the requirements of item (1) of subsection (g) above provided that the operation continues under the same ownership and the medallion is continuously renewed without lapse or termination.

If the operator of the unit is not the operator of the food establishment, then the operator shall be required to furnish written proof of permission of the person who operates the food establishment premises to utilize the unit and commissary on the premises. In the event that the permit issued under this article for the food establishment on whose premises the unit and its commissary are situated expires without timely renewal or is revoked or suspended, the unit's medallion shall automatically be suspended until and unless the permit for the food establishment is restored to valid status.

(i)

Alternatives; waivers. The director of health and human services or any assistant or deputy director may authorize alternatives to particular requirements of this section or any other provisions of this article with respect to a mobile food unit. Any authorization shall be considered only upon written request, which shall set forth the provision for which an alternative is sought and the nature of the proposed alternative. Approval for the alternative shall be granted if it is determined that, for the purpose intended, the alternative proposed is at least equivalent to the requirement otherwise specified in this article with respect to safety, sanitation and related purposes. The burden of demonstrating compliance with the foregoing standard shall be upon the requestor. Consistent with the foregoing procedures and standards, the director of health and human services or any assistant or deputy director may waive any requirement of this article upon demonstration that it has no applicability for the purposes intended herein to the operation of the mobile food unit. An approval issued under this section shall be valid only if issued in writing and shall be limited in scope as provided therein.

(j)

Enforcement of this article. Failure by a mobile food unit or a commissary to comply with the requirements set forth in this article or rules promulgated by the health officer shall be unlawful and may result in one or more of the following penalties:

(1)

Immediate cessation of operations;

(2)

The suspension or revocation of the mobile food unit's medallion or the food dealer's permit for that commissary pursuant to sections [20-41](#) and [20-42](#) of this Code;

(3)

The issuance of a citation for a class C misdemeanor pursuant to subsection [20-19\(c\)](#) of this Code for every day of noncompliance;

(4)

The filing of a criminal charge under § 37.10 of the Texas Penal Code for the offense of Tampering with Governmental Record; and

(5)

The filing of a suit in district court by the city attorney to enjoin a food service establishment from operating without a permit or a medallion if a permit or medallion is required.

(k)

Additional offense. It shall be unlawful for an owner, permit holder, person in charge, employee, or representative of any commissary or mobile food unit to remove, disable or otherwise tamper with any electronic technology installed to facilitate or monitor compliance with the requirements of this chapter.