

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2 ADOPTING PERMITTING AND RELATED REGULATIONS FOR MOBILE RETAIL ESTABLISHMENTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Chapter 25-2 of the City Code is amended by adding a new Section 25-2-818 to read as follows:

§ 25-2-818 MOBILE RETAIL ESTABLISHMENTS.

(A) **Definitions.** In this section:

(1) **APPLICANT** means the person who submits an application for review by the planning authority for a mobile retail establishment permitted by Title 25 of the City Code.

(2) **MOBILE RETAIL ESTABLISHMENT** means a retail establishment that offers for sale non-food items and services to an ultimate consumer and that operates from a movable, licensed vehicle or trailer that routinely changes locations.

(3) **SOUND EQUIPMENT** has the meaning established in Section 9-2-1 (*Definitions*) of the City Code.

(B) **Applicability.** This section applies only to a mobile retail establishment. This section does not apply to a mobile food establishment, which is defined in Section 25-2-812 (*Mobile Food Establishments*) of the City Code.

(C) **Exception.** A mobile retail establishment may not remain on any property for more than 180 consecutive days.

(D) **Offense.** A person who operates a mobile retail establishment without an approved application or who violates any provision of this section commits an offense.

(E) **Application.** A person who seeks to operate a mobile retail establishment must submit a written application to the director on a form provided by the director. The application must include:

- 1 (1) The name and address of the applicant and valid government-issued
2 identification document that includes a photograph of the applicant;
- 3 (2) A description of the type of vehicle to be used for the proposed
4 mobile retail establishment;
- 5 (3) A description of the items to be sold;
- 6 (4) proof of sales tax and use permit;
- 7 (X) proof of Texas Department of Licensing and Regulation license(s), if
8 applicable for Personal Services use;
- 9 (5) an itinerary of the locations where sales occur;
- 10 (6) if at one location more than two hours, a written agreement from a
11 business within 150 feet of the location for employees of the mobile
12 retail establishment to have use of flushable restrooms or other
13 facilities approved by the health authority during hours of operation;
- 14 (7) the signature of the applicant;
- 15 (8) any other information reasonably required by the director to enforce
16 this section.

17 (F) **Suspension or Rescission.** The director may suspend or rescind application
18 approval of a mobile retail establishment if the director determines that:

- 19 (1) an applicant obtained approval to operate a mobile retail
20 establishment by knowingly providing false information on the
21 application;
- 22 (2) the mobile retail establishment violates the terms and conditions of
23 any written agreement submitted to the director under this section; or
- 24 (3) the applicant violates any provision of this section.

25 (G) **Items and services to be sold.** A person operating a mobile retail can only
26 sell non-food, retail items or services that are described in the application
27 submitted to the director. Mobile retail vendors may only sell items or
28 services permitted under General Retail Sales (Convenience) Use, Pet
29 Services Use, and Personal Services Use All sale items and supplies must be
30 stored within the mobile unit.

1 (J) **Use of Private Property.** Except as provided in this section, a mobile retail
2 establishment is not permitted on private property.

3 (K) **Zoning.** The following regulations apply to a mobile retail establishment:

4 (1) A mobile retail establishment is permitted in all commercial and
5 industrial zoning districts, except in a neighborhood office (NO),
6 limited office (LO), or general office (GO) zoning district.

7 (2) Unless located in a CBD zoning district, a mobile retail establishment
8 may not be located within fifty feet of a lot with a building that
9 contains both a residential and commercial use;

10 (3) A mobile retail establishment may not be less than fifty feet from
11 property:

12 (i) in an SF-5 or more restrictive district; or

13 (ii) on which a residential use permitted in an SF-5 or more
14 restrictive district is located;

15 (4) A mobile retail establishment may not operate between the hours of
16 11:00 p.m. and 6:00 a.m.;

17 (5) A mobile retail establishment may not be located within twenty feet of
18 general retail sales (Convenience) or general retail sales (General)
19 use;

20 (6) A drive-in service is not permitted; and

21 (7) Exterior lighting must be hooded or shielded so that the light source is
22 not directly visible to a residential use.

23 (M) **Noise Levels.** The noise level of mechanical equipment or outside sound
24 equipment used in association with a mobile retail establishment may not
25 exceed seventy decibels when measured at the property line that is across the
26 street from or abutting a residential use.

27 (N) **Signs.** A mobile retail establishment is limited to signs attached to the
28 exterior of the mobile retail establishment. The signs:

29 (1) must be secured and mounted flat against the mobile retail
30 establishment; and

1 (2) may not project more than six inches from the exterior of the mobile
2 retail establishment.

3 (O) **Debris and Litter.** During business hours a permit holder shall provide a
4 trash receptacle for use by customers. The permit holder shall also keep the
5 area around the mobile retail establishment clear of litter and debris at all
6 times.

7 (P) **Utilities.** A permanent water or wastewater connection is prohibited.
8 Electrical service may be provided only by a temporary service or other
9 connection provided by an electric utility or by an onboard generator.

10 (Q) **Other Regulations.** A mobile retail establishment does not need a site plan,
11 site plan exemption, or temporary use permit in order to operate.

12 (R) **Waste and Disposal.** All waste generated by a mobile retail operation must
13 be disposed of in accordance with City Code regulations.

14 (S) **Mobility.** A mobile retail establishment shall demonstrate that the vehicle is
15 readily moveable if requested by the Planning and Development Review
16 Department or the Code Compliance Department.
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18 (T) **Operations.** A person who operates a mobile retail establishment may not
19 place sales items, equipment, or supplies that are part of its operations
20 outside of the permitted unit and must conduct all of its operational activities
21 within the mobile retail establishment.

22 (U) **Compliance Required.** The applicant shall comply with this section. A
23 violation of this section is a Class C misdemeanor.

24 (V) **Director's Authority.** If necessary to protect against public nuisances or to
25 enforce this section, the director may impose specific requirements in
26 addition to those contained within this section.
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PART 4. This ordinance takes effect on _____, 2014.

PASSED AND APPROVED

_____, 2014 §
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Lee Leffingwell
Mayor

APPROVED: _____
Karen M. Kennard
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

