

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:

- (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) **RIGHT OF WAY** means a public roadway and property dedicated or reserved for public pedestrian or vehicular travel
- (4) **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 violates any provision of this section commits an offense.

(E) A person who seeks to operate a mobile retail establishment must provide the following upon request:

- (1) The name and address of the business owner;
- (2) proof of motor vehicle or trailer registration;

- 1 (3) a description of the items to be sold;
- 2 (4) proof of sales tax and use permit;
- 3 (5) proof of Texas Department of Licensing and Regulation license(s), if
- 4 applicable for Personal Services use;
- 5 (6) an itinerary of the locations where sales occur;
- 6 (7) if at one location more than two hours, a written agreement from a
- 7 business within 150 feet of the location for employees of the mobile
- 8 retail establishment to have use of flushable restrooms or other
- 9 facilities approved by the health authority during hours of operation;
- 10 (9) any other information reasonably required by the director to enforce
- 11 this section.

12 (G) **Items and services to be sold.** A person operating a mobile retail can only

13 sell non-food, retail items or services that are described in the application

14 submitted to the director. Mobile retail vendors may only sell items or

15 services permitted under General Retail Sales (Convenience) Use, Pet

16 Services Use, and Personal Services Use. All sale items and supplies must

17 be stored within the mobile unit.

18 (J) **Use of Private Property.** Except as provided in this section, a mobile retail

19 establishment is not permitted on private property.

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

- 21 (1) A mobile retail establishment is permitted in all commercial and
- 22 industrial zoning districts, except in a neighborhood office (NO),
- 23 limited office (LO), or general office (GO) zoning district.
- 24 (2) Unless located in a CBD zoning district, a mobile retail establishment
- 25 may not be located within fifty feet of a lot with a building that
- 26 contains both a residential and commercial use;
- 27 (3) A mobile retail establishment may not be less than fifty feet from
- 28 property:
 - 29 (i) in an SF-5 or more restrictive district; or
 - 30 (ii) on which a residential use permitted in an SF-5 or more
 - 31 restrictive district is located;

- 1 (4) A mobile retail establishment may not operate between the hours of
2 11:00 p.m. and 6:00 a.m.;
- 3 (5) A mobile retail establishment may not be located within twenty feet of
4 General Retail Sales (Convenience), General Retail Sales (General)
5 use, Pet Services Use, or Personal Services Use;
- 6 (6) A drive-in service is not permitted;
- 7 (7) Exterior lighting must be hooded or shielded so that the light source is
8 not directly visible to a residential use; and
- 9 (8) A mobile retail establishment may not be located within the right of
10 way, without separate authorization under § 14-8-2 or § 14-9-21.

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

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

18 (1) must be secured and mounted flat against the mobile retail
19 establishment; and

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

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

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

29 (Q) **Exemption.** This ordinance does not apply to a mobile retail establishment
30 that is located on private property for three hours or less between the hours
31 of 6:00 a.m. and 11:00 p.m.

- 1 (R) **Waste and Disposal.** All waste generated by a mobile retail operation must
2 be disposed of in accordance with City Code regulations.
- 3 (S) **Mobility.** A mobile retail establishment shall demonstrate that the vehicle is
4 readily moveable if requested by the Planning and Development Review
5 Department or the Code Compliance Department.
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- 7 (T) **Operations.** A person who operates a mobile retail establishment may not
8 place sales items, equipment, or supplies that are part of its operations
9 outside of the permitted unit and must conduct all of its operational activities
10 within the mobile retail establishment.
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- 12 (U) **Compliance Required.** The operator shall comply with this section. A
13 violation of this section is a Class C misdemeanor.
- 14 (V) **Other Regulations.** A mobile retail establishment does not need a site plan,
15 site plan exemption, or temporary use permit in order to operate.
- 16 (W) **Director's Authority.** If necessary to protect against public nuisances or to
17 enforce this section, the director may impose specific requirements in
18 addition to those contained within this section.
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PART 4. This ordinance takes effect on _____, 2014.

PASSED AND APPROVED

_____, 2014 § _____
 § _____
 § _____

Lee Leffingwell
Mayor

APPROVED: _____
Karen M. Kennard
City Attorney

ATTEST: _____
Jannette S. Goodall
City Clerk

