

ORDINANCE NO. 3792

AN ORDINANCE OF THE CITY OF NORTH RICHLAND HILLS, TEXAS, RESTATING AND ADOPTING CHAPTER 18, ARTICLE IV, DIVISION 6, OF THE NORTH RICHLAND HILLS CODE OF ORDINANCES, FOOD AND FOOD ESTABLISHMENTS, MOBILE FOOD UNITS; PROVIDING A PENALTY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES AND REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of North Richland Hills (“City”) is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, On April 26, 2021, the City Council enacted a temporary ordinance to address changes affecting the mobile food vendor industry due to partial closures and/or limited capacity for occupancy caused by the COVID-19 Pandemic; and

WHEREAS, City staff and vendors have been satisfied with the results produced by the temporary ordinance; and

WHEREAS, To assist local businesses and to ensure compliance with the rules and regulations of the Texas Department of State Health Services, the City Council wishes to restate and adopt Division 6 of Chapter 18, Article IV, to include permanent administrative and enforcement requirements for mobile food unit operations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH RICHLAND HILLS, TEXAS:

SECTION 1: That Chapter 18, Article IV, Division 6, Mobile Food Units, of the North Richland Hills Code of Ordinances, shall be restated in its entirety and read as follows:

DIVISION 6. - MOBILE FOOD UNITS.

Sec. 18-279. - Definitions.

When specifically used in this article, the following words and terms, unless the context indicates a different meaning, shall have the meaning assigned to them below. Unless otherwise defined herein in this Division 6, this section shall include and

incorporate all definitions included in the regulations adopted in Chapter 18, Article IV, Section 18-191, of the North Richland Hills Code of Ordinances, and the Texas Food Establishment Rules (“TFER”), 25 TAC 228. If there is any conflict between Divisions 1-5, and this Division 6, the definition specifically set forth in this Division 6 shall control during the time this ordinance is in effect.

Commissary means an approved central preparation food facility that is permitted and inspected by a municipal, county, or state regulating health authority and is constructed and operated in compliance with this ordinance.

Fee exempt means a mobile food unit is exempt from the payment of a permit fee under this Division 6, if the Person provides proof that (i) the mobile food unit business is a non-profit or 501(c)(3) tax-exempt entity; or (ii) the mobile food unit is providing food services to a non-profit organization or 501(c)(3) tax-exempt entity with proof of such non-profit status; a parent-teacher association; a scholastic-based booster club; or a city-owned facility, city-operated food service operation, or city sponsored event. The Person claiming fee-exempt status shall provide the appropriate documentation as deemed necessary by the Director of Neighborhood Services to evaluate the request for fee-exempt status.

Food establishment as it is defined in Section 18-191, and/or as referenced in Article IV, Divisions 1-5, shall not apply to this Division 6 during the time this ordinance is in effect.

Food service establishment means any establishment or operation where food is prepared or served at wholesale or retail for pay. Food service establishments include but are not limited to, restaurants, food stands, mobile food units, push carts, drink stands.

Mobile food establishment as it is defined in Section 18-191, and/or as referenced in Article IV, Divisions 1-5, shall not apply to this Division 6 during the time this ordinance is in effect.

Mobile food unit means a vehicle-mounted food service establishment or a food service establishment pulled behind a vehicle to be readily moveable.

Non–Time/Temperature Control for Safety (NTCS) food means a food that does not require time and temperature control for safety to limit pathogen growth and toxin production. NTCS foods include but are not limited to popcorn, pretzels, chips, snow cones, cotton candy, pickles, and cookies and food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution.

Person means an operator or registered owner of a vehicle that qualifies as a mobile food unit, whether permitted or unpermitted.

Person in Charge means the individual present at a food establishment who is responsible for the operation at the time of inspection.

Property Owner means the owner or tenant of the property where the mobile food unit is operating, whether permitted or unpermitted.

Pushcart means a non-self-propelled MFU limited to serving foods requiring a limited amount of preparation as authorized by the regulatory authority and readily movable by one or two persons. A pushcart is classified as an MFU. A pushcart does not include non-self-propelled units owned and operated within a retail food store. This type of MFU requires the support of a commissary. Pushcarts are limited to the sale of Non-TCS and packaged frozen desserts such as ice cream bars, popsicles, or frozen ice pops), unless the regulatory authority approves the sale of other items based upon an approved written Hazard Analysis Critical Control Point (HACCP) Plan or food safety plan.

Readily movable means that a vehicle has not been altered in such a way that would limit its ability to promptly be moved or conveyed from one place to another.

Regulatory authority means any City of North Richland Hills officer, employee, or department of the city, designated by the city manager to administer and enforce this article.

Reinspection means an inspection to determine compliance with applicable health regulations.

Reinspection fee means a fee assessed by the regulatory authority based on (i) an establishment's failure to correct one or more issues addressed at the time of inspection within the time frame established by the inspector; (ii) an establishment's failure to pass an annual mobile food unit inspection; (iii) an establishment's failure to arrive at a scheduled mobile food unit inspection; (iv) when reinspection is necessary to determine compliance with the ordinance.

Rules and regulations means the state rules found at 25 Texas Administrative Code, Chapter 228. These rules are also known as the "Texas Food Establishment Rules" ("TFER"). Such rules and regulations have been adopted by the City and shall be in full force and effect within the city limits of the city.

Sanitary facilities means a water closet, toilet or restroom facilities which discharge the sewage effluent and wastewater into an approved holding tank, on-site sewage disposal system, or municipal sanitary system.

Single-Service Articles means a container or utensil intended for one time usage only.

Solicitor means any person who requests any orders for goods or services, whether for profit or not-for profit, including any person who makes requests for money, goods or

services on behalf of any religious, veterans', charitable or fraternal organization. Solicitors include mobile food units that enter into any residential or multi-family zoned districts or parks.

Temporary food establishment as it is defined in Section 18-191, and/or as referenced in Article IV, Divisions 1-5, shall not apply to this Division 6 during the time this ordinance is in effect,

Temporary Food Unit means a food service establishment which operates at a fixed location for a period of time not to exceed three consecutive days in conjunction with a Special Event or celebration.

Temperature Control for Safety Food (TCS)--(formerly Potentially Hazardous Food (PHF)) means food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation. An animal food that is raw or heat-treated. A plant food that is heat-treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes or mixture of cut tomatoes that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation, or garlic-in-oil mixtures that are not modified in a way so that they are unable to support pathogenic microorganism growth or toxin formation.

Weekend food vendor as it is defined and set forth in Section 18-191, and/or as referenced in Article IV, Divisions 1-5, shall not apply to this Division 6 during the time this ordinance is in effect.

Sec. 18-280. - Permit required.

(a) No Person, company, corporation, or Property Owner shall operate, maintain, park, or allow to be operated, maintained, or parked on said Property Owner's property, a mobile food unit (MFU) without a valid permit issued by the City of North Richland Hills Neighborhood Services Department. Each mobile food unit requires a separate permit.

(b) A vehicle that qualifies as a mobile food unit may receive a temporary food establishment permit for one (1) event per calendar year as defined and regulated by Chapter 18, Article IV, Divisions 1-5. If operating under a temporary food establishment permit, the mobile food unit must comply with all requirements for temporary food establishments under Article IV, Divisions 1-5 as well as Sections 18-284, 18-285, 18-286, 18-287, 18-288, and 18-289 of this Code.

Sec. 18-281 – Permit categories.

(a) Mobile Food Unit

- (1) *Full Service Mobile Food Unit* is a full-service kitchen and must be equipped with a hand sink, three compartment sink, 100°F potable hot water, and a gray water tank 15% larger than the potable water tank. Open windows must have 16 mesh per square inch screening, and all equipment must be National Sanitation Foundation (NSF)-approved, commercial grade. Operators must have accredited food handler training and operations must be overseen by a Certified Food Manager.
- (2) *Dessert Truck Mobile Food Unit* is a truck serving baked goods such as cupcakes, snow cones, shaved ice, scooped ice cream, or other desserts with limited preparation and handling. Dessert truck mobile food units must be equipped with a hand sink, three compartment sink, 100°F potable hot water, and a gray water tank 15% larger than the potable water tank. Open windows must have 16 mesh per square inch screening, and all equipment must be National Sanitation Foundation (NSF)-approved, commercial grade. Operators must have accredited food handler training and operations must be overseen by a Certified Food Manager.
- (3) *Limited Service Mobile Food Unit* is a mobile food unit from which one the following foods and beverages are served, sold or distributed:
 - i. food that is prepackaged, bottled, or otherwise prepared and packaged in individual servings at a commissary, properly labeled and held at 41°F or less or 135°F or more;
 - ii. NTCS beverages that are dispensed from covered urns or other protected equipment. Limited service may not be required to comply with requirements of this chapter pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at its commissary. Mobile food units that serve prepackaged ice cream are included as limited service. Open food handling such as nachos, shaved ice, or bulk pickles is specifically prohibited.
- (4) *Vegetable and Fruit Vendor Mobile Food unit* is a mobile food unit from which only whole, uncooked vegetables or fruits are served, sold, or distributed. Produce vendors cannot cut or sample fruit/vegetables on site.

Sec. 18-282 – Application.

A Person seeking a mobile food unit permit shall make application for a permit as required by this Section 18-280 of this article on a form provided by the regulatory authority. The form must be notarized prior to submission to the city.

(a) In addition to other information specifically required on the form, the applicant shall provide the following information as part of the application:

1. Name, date of birth, and valid driver's license number of the applicant;
2. Applicant's address (both physical and mailing addresses) and telephone number;
3. Applicant's email address;
4. Registered Agent name, address and telephone number, if applicable;
5. A description of the vending vehicle which will be used under this permit. This information shall include the manufacturer, model year, and color and vehicle identification number;
6. Proof of current vehicle insurance for mobile food unit;
7. A complete menu identifying the type of food to be vended and the manner in which it is to be vended;
8. Proof of Certified Food Manager for Person in Charge of the mobile food unit;
9. Accredited Food Handler cards for any staff who may operate the mobile food unit;
10. If the permit application is for the sale of approved, openly handled food from a vehicle or a trailer, a water sample test result from a drinking water bacteriology laboratory accredited by the Texas Commission on Environmental Quality showing the absence of coliform and E. coli which was performed within thirty (30) days prior to the date of the permit application;

11. Completion of a form issued by the regulatory authority that contains the address and food establishment permit number of the commissary required by this article. The form must be notarized, signed by the commissary operator, and include a statement that the mobile food unit applicant has access to commissary facilities for food preparation, all food and utensil storage, and cleaning and maintenance activities. The form shall not be dated more than thirty (30) days prior to the application submission to the city and must identify the location of the commissary and contact information for the commissary operator. A copy of the most recent health inspection for the commissary is also required at the time of application;

12. Any other information required by the regulatory authority, including written permission from the Property Owner on a form designated by the regulatory authority, authorizing use of the property by the MFU and specifying the date and time of operations, including use of the restroom facilities.

(b) The valid MFU permit sticker shall be provided by the regulatory authority and shall be displayed prominently on the back of the mobile food unit.

(c) Mobile food unit permits shall be valid for one (1) year from the time of the permit issuance.

(d) Mobile food unit permits shall not be transferred and shall be considered suspended should the ownership, operation or use be altered from that specified in the permit application or at the time of permit issuance.

(e) A service fee may be charged by the regulatory authority if a payment of a fee required by this chapter fails to successfully process, is canceled or voided by the applicant, or is returned by a financial institution for insufficient funds. A mobile food unit permit will not be issued or will lose its validity if all fees required by this chapter are not paid in full.

Sec. 18-283. – Inspection.

(a) The regulatory authority shall inspect the mobile food unit at the time of initial permitting and at permit renewal each year to determine if the vending operation is being conducted in such a manner as to comply with the conditions of the permit, the provisions of this article, other applicable city ordinances and state and federal statutes, regulations and rules. Said inspection shall be conducted at a time and location designated by the regulatory authority.

- (b) An annual fire inspection shall be required for mobile food units upon initial permitting and for each renewal of the mobile food unit permit to determine compliance with ordinances related to fire and life safety. The fire inspection may be conducted simultaneously with the annual inspection by the regulatory authority, or prior to the regulatory authority's inspection. At the discretion of the Fire Marshal, mobile food units that do not prepare or serve heated food or beverages and that do not utilize liquid propane gas, gasoline, or natural gas may be exempt from the requirement to obtain an annual fire inspection. However, all mobile food units are required to have at least one fire extinguisher available with a minimum rating of 2-A:10-B:C and with a current inspection/service tag affixed from a State licensed fire extinguisher company. Such fire extinguisher shall be visible, unobstructed, and in good working order.
- (c) The regulatory authority shall require a mobile food unit operator to demonstrate that the unit is readily moveable. Alteration, removal, attachments, placement or change in, under, or upon the mobile food unit that would prevent or otherwise reduce the mobile food unit's ability to be readily moveable is prohibited.
- (d) The regulatory authority may take food samples to be examined or taken for analysis as often as necessary for enforcement of this article and may, upon written notice to the owner or Person in Charge specifying with particularity the reasons thereof, place a hold order on any food which is believed to be in violation of any portion of this article, and shall tag, label, or otherwise identify any food subject to the hold order.
- (e) No food subject to a hold order under Section 18-283(d) shall be used, served or removed from the unit until the vendor of such food has furnished proof of the wholesomeness of the food product to the regulatory authority. The regulatory authority shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within ten (10) days and that if no hearing is requested, the food shall be destroyed. A hearing shall be held in accordance with Section 18-234 of the North Richland Hills Code of Ordinances if so requested and, on the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or Person in Charge of the food may be directed by written notice to denature or destroy such food to bring it into compliance with the provisions of this article. All costs accruing from such removal thereof shall be borne and paid for by the owner thereof.

- (f) Mobile food units shall be prepared for inspection by the regulatory authority or designee at all times when operating within the City of North Richland Hills.
- (g) Nothing provided in this section shall be construed to prohibit the regulatory authority from conducting inspections of mobile food units as often as needed to ensure compliance with the Texas Food Establishment Rules and as provided in this Code.
- (h) Health inspections of mobile food units shall be conducted at least once annually at the time of permit issuance. Additional health inspections may be performed of the mobile food unit, as deemed necessary by the regulatory authority.
- (i) The regulatory authority may make written requests for information to a Person operating the Mobile Food Unit regarding the unit layout and operation. Based on the responses to that request, a review of the Mobile Food Unit layout, operation, or schematic may be required prior to inspection of the Mobile Food Unit. A plan review fee may be charged.

Sec. 18-284. - Operating requirements.

Generally.

- (a) Mobile food units shall comply with all requirements of the Texas Food Establishment Rules (TFER) and Chapter 18, Article IV, except Section 18-275 (c) – (e) regarding onsite restrooms, grease traps, and mop sinks. Additional requirements may be imposed to protect against health hazards related to the conduct of the food establishment as a mobile operation, sale of some or all TCS may be prohibited, and when no health hazard will result, requirements of this chapter relating to physical facilities may be waived or modified.
- (b) If deemed necessary to protect public health and safety, the regulatory authority may limit the menu, food items, or preparation methods utilized by the mobile food unit.
- (c) The mobile food unit shall operate in a manner that does not violate any existing laws or ordinances of the City of North Richland Hills.
- (d) Mobile food units shall identify the vehicle with characters not less than three (3) inches high on both exterior sides of the unit stating the name of the company.

- (e) Mobile food units shall comply with all state and local laws pertaining to the registration of the mobile food unit vehicle. All Persons operating and/or driving the mobile food unit must have a current and valid driver's license and have current vehicle liability insurance for the mobile food unit vehicle.
- (f) Mobile food unit operator(s) shall report any accident involving the MFU to the Neighborhood Services Department within twenty-four (24) hours of the time the accident. An inspection of the mobile food unit vehicle involved in the accident shall be conducted prior to resuming operations within the City of North Richland Hills to ensure that there is no damage to the vehicle that may result in the contamination of the food carried or any damage that results in a violation of this section. Food service from the vehicle involved in the accident will not be authorized within the City of North Richland Hills until it has been inspected and cleared of any potential hazards resulting from accident. The accident report shall be made by the mobile food unit permit holder.

Section 18-285. Approved Locations; Operations.

- (a) *Public or private property.* Mobile Food Units may operate upon properties with the permission of the Property Owner or an authorized agent for the Property Owner. It shall be unlawful for a mobile food unit to vend:
 - (1) From a vacant property, stand or other temporary structure;
 - (2) Upon an area not paved by an asphalt or concrete surface;
 - (3) Within a visibility triangle as defined by Section 118-714, and illustrated in Article IX, Illustration Figure I.9, of the North Richland Hills Code of Ordinances;
 - (4) Within fifty (50) feet of an intersection;
 - (5) Within an area within which the standing or parking of vehicles is prohibited;
 - (6) From a public street, right-of-way, sidewalk or other adjacent public or private property, unless such street, right-of-way, sidewalk or other property is designated by the City of North Richland Hills as an approved MFU location and for the timeframes specified by the city for such location;

- (7) From an area other than the side of the MFU;
 - (8) Upon a premise holding a Texas Alcohol and Beverage Commission license in which alcoholic beverage consumption is prohibited.
- (b) *Special event permit.* Mobile food units may operate in conjunction with a Special Event Permit as issued by Neighborhood Services Department of the City of North Richland Hills.
- (1) *Commercial or industrial property.* Mobile food units may operate on private commercial or industrial property, properly zoned and with the written notarized permission of the Property Owner and/or landlord if the mobile food unit has access to approved flush type toilet facilities, connected to an approved type sewage system on the private commercial or industrial property and within one hundred and fifty feet from the MFU. Mobile food units must be parked on a paved surface and are not allowed to discharge wastewater or grey water on site.
 - (2) *Residential property.* Mobile food units may operate on residential private property up to two times per year with written notarized permission from the Property Owner and with a Special Event Permit, if required by the City of North Richland Hills. They must be parked on a paved surface and are not allowed to discharge wastewater or grey water on site.
- (c) All mobile food units shall comply with this Code as well as with state and federal law and nothing in this article shall exempt a food vendor from zoning ordinances.

Section 18-286. Hours of operation.

The hours of operation of any mobile food unit are subject to the following restrictions, which such restrictions are in addition to all other restrictions included in the permitting process:

- (a) A mobile food unit may operate in a residential zoned area from 7:00 a.m. Central Standard Time (CST) until 9:00 p.m. CST.
 - (1) MFU may only operate at the location following the issuance of the MFU permit by the regulatory authority and with written permission of the Property Owner or authorized agent of the property.

- (2) MFU must adhere to the noise level restrictions described in the City of North Richland Hills Code of Ordinances Chapter 34-33 (23) – Specific Nuisances.
 - (3) The MFU must leave the location at the end of the service and may not remain parked or stored at the location overnight even with the permission of the Property Owner.
- (b) A mobile food unit may operate in a commercially zoned area during the normal hours of operation for the business location on which it is permitted to be parked however, under no circumstances can the MFU operate earlier than 7:00 AM CST nor later than 11:00 PM CST.
- (1) MFU may only operate at the location following the issuance of the MFU permit by the regulatory authority and with written permission of the Property Owner or landlord of the property.
 - (2) MFU may only operate in the area of the property designated in the application submitted by the Property Owner or landlord of the property.
 - (3) The MFU must leave the location each day and may not remain parked or stored at the location overnight even with the permission of the Property Owner.
 - (4) MFU must adhere to the noise level restrictions described in the City of North Richland Hills Code of Ordinances Chapter 34-33 (23) – Specific Nuisances.
- (c) A mobile food unit may operate in a Mixed Use/Transit Oriented Zoned District during the normal hours of operation for the business location on which it is permitted to be parked however, under no circumstances can the MFU operate earlier than 6:00 a.m. CST or after 11:00 p.m. CST.
- (1) If parked on commercial property within the district it may only operate during the hours of operation for the business.
 - (2) If parked in a street parking spot approved for an MFU within the district it may operate for no more than three (3) consecutive hours.

- (3) The MFU must leave the location at the end of the three (3) hour timeframe for operation and may not remain in the parking spot overnight.
- (4) The total noise level of any mobile food unit shall comply with NRH Code of Ordinances Section 34-33 (23), Specific nuisances. The mobile food unit shall turn off all music and recorded messages while stationary, except when stopped at a controlled intersection.

Sec. 18-287. - Restricted operations.

- (a) Food prepared or packaged in a private home may not be used or offered for human consumption from a mobile food unit. Food must comply with all labeling laws as required by Texas Food Establishment Rules.
- (b) Refrigeration and equipment must be commercial grade, National Sanitation Foundation approved and maintain TCS food at the required temperatures as specified in Texas Food Establishment Rules.
- (c) Mobile food units shall not utilize any required business parking spaces or park in a designated or marked fire lane.
- (d) Mobile food units shall not park, stop or stand in areas designated or marked as “no parking areas” or park in violation of North Richland Hills Code of Ordinances, Ch. 54.
- (e) Mobile food units must comply with North Richland Hills Code of Ordinances, Ch. 34, as it relates to public nuisances.
- (f) Mobile food units may operate at locations where on premise alcohol consumption is allowed as permitted by Texas Alcohol Beverage Code.
- (g) Mobile food units may not dispense alcohol from the vehicle at any time.
- (h) Mobile food units may not erect a tent or supply tables or chairs to be used outside the vehicle or trailer.
- (i) At no time shall there be more than one mobile food unit per location or within 300 feet of another mobile food unit unless operating pursuant to a North Richland Hills Special Event permit, or as otherwise permitted by City ordinance.

Sec. 18-288. - Sanitation requirements generally.

Mobile food units shall comply with the following requirements. These requirements pertain to all mobile food units unless a specific exception applies:

- (a) Mobile food units shall comply with all sanitation and construction regulations as outlined in Texas Administrative Code § 228 of the Texas Food Establishment Rules as adopted in this chapter unless specifically addressed in this section.
- (b) Garbage storage containers must be maintained on each mobile food unit in a number sufficient to contain all trash and garbage generated by the mobile food unit. A trash container must be provided by the mobile food unit for customers. Garbage must be properly disposed of in accordance with all existing laws.
- (c) Any waste discharged from the Mobile Food Unit must be in accordance with all existing laws.
- (d) No cooking may be conducted while the vehicle is in motion. All TCS food must be under strict temperature control as required by TFER at all times.
- (e) Equipment for cooling, heating, and cold and hot holding shall be sufficient in number and capacity to provide adequate temperature control as specified by the TFER.
- (f) All equipment used for maintaining adequate temperature control of TCS foods, including cold holding and hot holding units, must be functional and remain operational at all times.
- (g) A three compartment sink for washing, rinsing, and sanitizing is required.
- (h) A least one hand sink stocked with soap, paper towels, and 100°F hot water shall be available for convenient use by employees.
- (i) Mobile food units shall provide only single-service articles (ex. disposable plasticware) for use by the consumer.
- (j) Floors, walls, and ceilings of the mobile food unit must be constructed of durable, easily cleanable material, including, but not limited to, anodized aluminum, stainless steel, or tile.

Sec. 18-289. - Sanitation requirements for units with facilities for preparing or dispensing unpackaged food.

In addition to the sanitation requirements described in section 18-287, mobile food unit vendors preparing and vending food from a mobile food unit, shall comply with the following requirements:

- (a) The commissary shall include at least overhead protection for any supplying, cleaning or servicing operation. Areas used only for the loading of water and/or the discharge of sewage and other liquid waste, through the use of a closed system of hoses, need not be provided with overhead protection. The commissary shall include a location for the flushing and the draining of liquid waste separate from the location provided for water servicing and for the loading and the unloading of food and related supplies.
- (b) The commissary shall maintain a log of mobile food units being serviced at the commissary and require each mobile food unit that is serviced to document the date and time of arrival and departure from the commissary and the services performed.
- (c) The commissary will make available for inspection the records of the mobile food units serviced.
- (d) All water and gas distribution pipes or tubing shall be constructed and installed in accordance with public health, fire department, and plumbing standards as set out by the ordinances of the city. The water for said operations shall be potable water from an approved source. At least once each calendar month, the owner operator of a mobile food unit shall sanitize water tanks. Records of sanitization shall be made available to the department upon inspection.
- (e) A water heating device of sufficient capacity, or an instantaneous water heater, capable of producing one hundred (100) degrees Fahrenheit hot water during the entire time of operation shall be provided in the mobile food unit.
- (f) All food service operations shall be conducted within the mobile food unit or within the commissary.

Sec. 18-290. – Enforcement Authority.

- (a) Except as otherwise specifically provided in this chapter, the regulatory authority, or designee, shall have authority to enact rules and regulations for the effective implementation of Chapter 18, Article IV, including regulations pertaining to construction and size requirements for mobile food units, and, with input from the fire department, regulations pertaining to the installation, use, safety, and maintenance of propane tanks and natural gas apparatus in a mobile unit vehicle.
- (b) Except as otherwise specifically provided in this chapter, Sections 18-192- 194, 18-211-215, and 18-231- 234 of this Code related to compliance, fees, penalties, permits, correction of violations, permit suspension and revocation, and fines apply to mobile food units.
- (c) The regulatory authority is hereby authorized to impose additional requirements when necessary to protect against public health hazards or nuisances, and may impose specific requirements in addition to the requirements contained in these rules as authorized by law. The regulatory authority shall document the conditions that necessitate the imposition of additional requirements and the underlying public health rationale. The documentation shall be provided to the permit applicant or permit holder and a copy shall be maintained in the department's records for the facility.

Sec. 18-291. - Penalty.

- (a) Any Person, firm, association of Persons, company, and corporation or their agents, servants, employees, or Property Owners violating or failing to comply with any of the provisions of this article shall be fined, upon conviction, as provided in Section 1-13. A violation under this article is declared to be unlawful and a misdemeanor, with such offense being punishable by a fine not exceeding \$500.00; provided, however, that a penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning, or public health and sanitation, including dumping of refuse, shall be a fine not exceeding \$2,000.00. Each day any violation continues shall constitute a separate and distinct offense. In addition to imposing a criminal penalty, the city may, in accordance with Chapter 54, of the Texas Local Government Code, as amended, bring a civil action against a Person violating a provision of this chapter.

Sec. 18-292. - Correction of violations; suspension of permit; revocation of permit.

- (a) *Enforcement procedures.* The regulatory authority may establish enforcement procedures to ensure compliance with this article which are consistent with the regulations adopted herein, including, but not limited to written warnings, compliance time limits, re-inspection fees, citations, permit suspensions and permit revocation.

(b) *Inspections.* The inspection report form shall specify a reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

- (1) If an imminent hazard exists, due to an emergency such as a fire, flood, extended interruption of electrical or water service, lack of hot water (at least 100°F or no less than the minimum required temperature set by the TFER), sewage backup, misuse of poisonous or toxic materials, onset of apparent food borne illness outbreak, uncontrolled infestation of insects or rodents, grossly unsanitary occurrence or condition, or other circumstance that may endanger public health or safety, the permit holder shall immediately discontinue operations and notify the regulatory authority. If a mobile food unit is closed or operations have ceased for any of the above mentioned violations, they must cease operation and shall not reopen until such time as the violations or repairs have been completed and a re-inspection has been completed by the regulatory authority.
- (2) Mobile food unit violations shall be corrected immediately and within a time specified by the regulatory authority, and not to exceed 24 hours following the inspection identifying the violation, unless such time is extended by the regulatory authority.
- (3) Mobile food units closed by the regulatory authority shall not operate at any location within the city limits of North Richland Hills until such time as a re-inspection conducted by the regulatory authority determines that the conditions responsible for the closure of the MFU no longer exist and any other violations addressed by the regulatory authority have been resolved. A reinspection fee may be charged by the regulatory authority if required to determine compliance with this ordinance.

(c) *Suspension of permit.*

- (1) The regulatory authority may, without notice or hearing, suspend any permit authorized herein if the holder of this permit does not comply with the requirements of the ordinance, or if the operation otherwise constitutes a substantial hazard to the public health or safety. Suspension is effective upon service of the notice as required in section 18-233. When a permit is suspended, the holder of the permit, or the Person in Charge, shall be notified in writing that the permit is, upon service of notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the city by the holder of the permit, within ten (10) days of the issuance of the written notice by the City. The permit holder shall be afforded a hearing within ten (10) days of the date on which the city is in receipt

of the written request for said hearing.

- (2) If the permit holder or the Person in Charge of a MFU does not file a written request for a hearing with the city within ten (10) days of the notice of suspension, then the suspension is sustained. The city may end the suspension at any time if the reason for suspension no longer exists.
- (3) Whenever a mobile food unit permit is suspended under provisions of this article, it shall not resume operations until such time as a reinspection by the regulatory authority determines that conditions responsible for the suspension of operations no longer exist and any other violations addressed by the regulatory authority have been resolved. The opportunity for reinspection shall be offered within a reasonable time during the hours of 8AM – 5PM, Monday through Friday.

(d) Revocation of permit.

- (1) The regulatory authority may, after providing opportunity for a hearing as specified in subsection (c) of this section, revoke a permit for:
 - i. serious or repeated violations of the requirements of this article; or
 - ii. interference with the city's enforcement officer in the course of his or her duties.
- (2) The city shall notify the holder of the permit or Person in Charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten (10) days following service of such notice unless a written request for a hearing is filed within the ten-day period.
- (3) The permit holder shall be afforded a hearing within ten (10) days of the date on which the city is in receipt of the written request for said hearing. If the permit holder or the Person in Charge of a MFU does not file a written request for a hearing with the city within ten (10) days of the notice of revocation, then the revocation of the permit shall become final.
- (4) Whenever a revocation of a permit has become final, the holder of the revoked permit may make written application for a new permit after the expiration of one year from the effective date of such revocation.

- (e) It is a violation to operate a MFU during the period of suspension or revocation of the MFU permit.

SECTION 2: Appendix A, Fee Schedule, Section 18-193, Mobile Food Unit permit fee shall be amended to be \$ \$180.00

SECTION 3: Any Person, firm, corporation, or Property Owner who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. provided, however, that a penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning, or public health and sanitation, including dumping of refuse, shall be a fine not exceeding \$2,000.00. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 4: This Ordinance shall be cumulative of all provisions of the Code of Ordinances of the City of North Richland Hills, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, the provisions in this Ordinance shall control.

SECTION 5: It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 6: All rights and remedies of the City of North Richland Hills are expressly saved as to any and all violations of the provisions of any ordinances in the Code of Ordinances of the City of North Richland Hills that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 7: The City Secretary is hereby authorized and directed to cause the publication of the descriptive caption and penalty of this ordinance two times in the official City newspaper.

SECTION 8: This ordinance shall become effective from and after its passage and publication as required by Section 7 herein.

AND IT IS SO ORDAINED.

PASSED AND APPROVED on the _____ day of _____, 2023.

CITY OF NORTH RICHLAND HILLS

By: _____
Oscar Trevino, Mayor

ATTEST:

Alicia Richardson
City Secretary/ Chief Governance Officer

APPROVED AS TO FORM AND LEGALITY:

Maleshia B. McGinnis, City Attorney

APPROVAL RECOMMENDED:

Stefanie Martinez
Director of Neighborhood Services