

**ORDINANCE NO. 20140626-145**

**AN ORDINANCE AMENDING CITY CODE CHAPTER 25-2 TO ADOPT 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 to add a new Section 25-2-818 to read as follows:

**§ 25-2-818 MOBILE RETAIL ESTABLISHMENTS.**

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

- (1) **MOBILE RETAIL ESTABLISHMENT** means a retail establishment that sells non-food items and services to an end user consumer from a movable vehicle or trailer that routinely changes locations.
- (2) **OPERATOR** means a person who operates a mobile retail establishment.
- (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 does not apply to a mobile food establishment defined in Section 25-2-812 (*Mobile Food Establishments*) of the City Code or to a mobile retail establishment that is located on private property for three hours or less between the hours of 6 a.m. and 11 p.m.

**(C) Time Limit.** A mobile retail establishment may not remain at the same location for more than 180 consecutive days.

**(D) Required Approvals.**

- (1) A person may not operate a mobile retail establishment until the director of the Planning and Development Review Department approves the establishment.
- (2) The director of the Planning and Development Review Department shall approve an establishment if all of the following is provided by the operator:
  - (a) the name and address of the mobile retail establishment owner;

- (b) proof of motor vehicle or trailer registration;
  - (c) a description of the items that the mobile retail establishment sells;
  - (d) proof of sales tax and use permit;
  - (e) proof of Texas Department of Licensing and Regulation license(s), if applicable for Personal Services use;
  - (f) an itinerary of the locations where sales occur;
  - (g) if at one location more than two hours, a written agreement from a business within 150 feet of the location to allow employees of the mobile retail establishment to use flushable restrooms or other facilities approved by the health authority during hours of operation;
  - (h) a fee, as established by separate ordinance; and
  - (i) any other information reasonably required by the director of the Planning and Development Review Department to enforce this section.
- (3) A site plan, site plan exemption, or temporary use permit is not required for the operation of a mobile food establishment.
- (E) **Items and Services to be Sold.** An operator may only sell non-food retail items or services. Mobile retail establishments may only sell items or services permitted under a general retail sales (convenience) use, pet services use, and personal services use. All sales items and supplies must be stored within the mobile unit.
- (F) **Zoning.** A mobile retail establishment shall comply with the regulations in this section.
- (1) A mobile retail establishment is permitted in all commercial and industrial zoning districts except in a neighborhood office (NO), limited office (LO), or general office (GO) zoning district.
  - (2) Unless located in a central business district (CBD) zoning district, a mobile retail establishment may not be located less than fifty feet from a lot with a building that contains both a residential and commercial use.
  - (3) A mobile retail establishment may not be less than fifty feet from property:

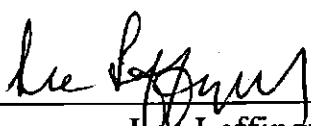
- (a) in an SF-5 or more restrictive district; or
  - (b) on which a residential use permitted in an SF-5 or more restrictive district is located.
- (4) A person may not operate a mobile retail establishment between the hours of 11:00 p.m. and 6:00 a.m.
- (5) A mobile retail establishment may not be located less than twenty feet from a general retail sales (convenience) use, general retail sales (general) use, pet services use, or personal services use.
- (6) A drive-in service is not permitted.
- (7) Exterior lighting must be hooded or shielded so that the light source is not directly visible to a residential use.
- (8) A mobile retail establishment may not be located within the right-of-way unless the mobile retail establishment obtains and possesses the permission required under Sections 14-8-2 (*Permit Required; Waiver of Deadlines*) and 14-9-21 (*Street Vendor License Authorized*) of the City Code.
- (9) A mobile retail establishment may not occupy or impede required parking for another use.
- (G) **Noise Level.** The noise level of mechanical equipment or outside sound equipment used in association with a mobile retail establishment may not exceed seventy decibels when measured at the property line that is across the street from or abutting a residential use.
- (H) **Signs.** A mobile retail establishment is limited to signs attached to the exterior of the mobile retail establishment. The signs:
- (1) must be secured and mounted flat against the mobile retail establishment;
  - (2) may not project more than six inches from the exterior of the mobile retail establishment;
  - (3) may not use a flashing light source; and
  - (4) may not use an LED message board.
- (I) **Debris and Litter.** During business hours a mobile retail establishment shall provide a trash receptacle for use by customers. The mobile retail

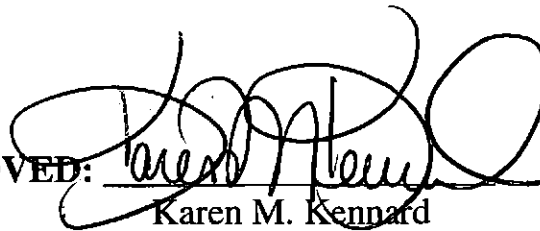
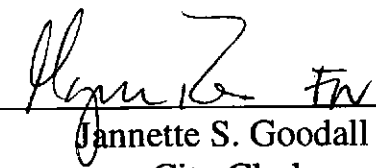
establishment shall also keep the area around the mobile retail establishment clear of litter and debris at all times.

- (J) **Utilities.** A permanent water or wastewater connection is prohibited. Electrical service may be provided only by a temporary service or other connection provided by an electric utility or by an onboard generator.
- (K) **Waste and Disposal.** An operator must dispose of all waste generated by the mobile retail establishment in accordance with City Code regulations.
- (L) **Mobility.** An operator must demonstrate that the vehicle or trailer is readily movable if requested by the directors of the Planning and Development Review Department or the Code Compliance Department.
- (M) **Operations.** An operator may not place sales items, equipment, or supplies that are part of its operations outside of the permitted unit and must conduct all of its operational activities within the mobile retail establishment.
- (N) **Bad Actor.**
  - (1) The director may revoke an approved application granted under this section if an operator provides false information on an application or commits repeated violations of applicable law.
  - (2) In determining whether to revoke an approved application, the director shall consider the frequency of any repeated violations, whether a violation was committed intentionally or knowingly, and any other information relevant to the degree to which an operator has endangered the public health, safety, or welfare.
  - (3) An operator may appeal the director's decision to revoke an approved application to the Planning Commission.
  - (4) An operator must file an appeal under this section with the director no later than the 20th day following the date of the director's decision. The appeal must be on a form approved by the director.
  - (5) After notice and public hearing, the Planning Commission shall either uphold or overturn the decision of the director. In making its decision, the Planning Commission shall consider the criteria contained within this Subsection (N). The Planning Commission's decision shall be final on this matter.
- (O) **Compliance Required; Offense.** An operator shall comply with this section. A violation of this section is a Class C misdemeanor.

**PART 2.** This ordinance takes effect on July 7, 2014.

**PASSED AND APPROVED**

June 26, 2014      §  
   §        
   §      Lee Leffingwell  
        Mayor

**APPROVED:**       **ATTEST:**   
   Karen M. Kennard      Jannette S. Goodall  
   City Attorney      City Clerk