



Thursday, August 24, 2006

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**Item(s) to Set Public Hearing(s)**  
**RECOMMENDATION FOR COUNCIL ACTION**

**ITEM No. 63**

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**Subject:** Set a public hearing and consider an ordinance amending Title 25 of the City Code to establish regulations relating to the distance separating a mobile food establishment from a residential use (C2O-06-007). (Suggested date and time: August 31, 2006 at 6:00 p.m., City Hall Council Chambers, 301 West Second Street.)

**Amount and Source of Funding:** (No fiscal impact.)

**Additional Backup Material**  
(click to open)

**Ordinance approved on  
6-8-06**

**For More Information:** Greg Guernsey, 974-2387; Sylvia Arzola, 974-6448.

**Prior Council Action:** 4/20/06 - Council directed the City Manager to process an amendment to the Land Development Code to allow mobile food establishments in certain zoning districts. 6/8/06 - Council approved an ordinance regarding mobile food establishments and requested that the Planning Commission make a recommendation regarding the appropriate buffering between a mobile food establishment and a residential use to Council by August 31, 2006.

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On June 8, 2006, the City Council approved an ordinance that addresses the location and operation of mobile food establishments. The ordinance allows mobile food establishments to exist and operate on private property without the need for a site plan, site plan exemption or temporary use permit. The ordinance approved by Council is attached.

The Council also requested that the Planning Commission recommend an amendment that would address appropriate distance between a mobile food establishment and a residential use, and report to Council by August 31, 2006.

The Planning Commission will consider an amendment regarding buffering at its meeting of August 22, 2006.

**ORDINANCE NO. 20060608-120**

**AN ORDINANCE ESTABLISHING TEMPORARY REGULATIONS RELATING TO MOBILE FOOD ESTABLISHMENTS.**

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

**PART 1. DEFINITIONS.**

In this ordinance:

- (1) **PERMIT HOLDER** means the person to whom the health authority issues a permit for a mobile food establishment required by Chapter 10-3 (*Food and Food Handlers*) of the City Code.
- (2) **MOBILE FOOD ESTABLISHMENT** has the meaning established in Title 25, Part 1, Section 229.162 (*Definitions*) of the Texas Administrative Code and Section 10-3-1 (*Definitions*) of the City Code.
- (3) **SOUND EQUIPMENT** has the meaning established in Section 9-2-1 (*Definitions*) of the City Code.

**PART 2. MOBILE FOOD ESTABLISHMENT REGULATIONS.**

- (A) A mobile food establishment is not permitted on private property except as provided in this part.
- (B) A mobile food establishment:
  - (1) must be licensed by the health authority;
  - (2) is permitted in all commercial and industrial zoning districts, except in a neighborhood office (NO), limited office (LO), or general office (GO) zoning district;
  - (3) may not be located within 50 feet of a lot with a building that contains both a residential and commercial use;
  - (4) may not operate between the hours of 3:00 a.m. and 6:00 a.m.;
  - (5) may not be located within 20 feet of a restaurant (general) or restaurant (limited) use.

- (C) The noise level of the following types of equipment used in association with a mobile food establishment may not exceed 70 decibels when measured at the property line that is across the street from or abutting a residential use:
- (1) mechanical equipment; and
  - (2) sound equipment located outside of the mobile food establishment use.
- (D) A drive-in service is not permitted.
- (E) Exterior lighting must be hooded or shielded so that the light source is not directly visible to a residential use.
- (F) A mobile food establishment is limited to a sign attached to the exterior of the mobile food establishment. The sign:
- (1) must be secured and mounted flat against the mobile food establishment; and
  - (2) may not project more than six inches from the exterior of the mobile food establishment.
- (G) During business hours, the permit holder shall provide a trash receptacle for use by customers.
- (H) The permit holder shall clear the area around the mobile food establishment of litter and debris each day of operation.
- (I) A permanent water or wastewater connection is prohibited.
- (J) Electrical service may be provided only by:
- (1) temporary service or other connection provided by an electric utility; or
  - (2) an onboard generator.
- (K) A mobile food establishment is an accessory use and not subject to this ordinance if it:
- (1) is located on the same site as a restaurant (limited) or restaurant (general) use; and
  - (2) serves food provided by the restaurant (limited) or restaurant (general) use.

(L) This ordinance does not apply to a mobile food establishment that is located on private property for three hours or less in a 24 hour period.

(M) A site plan, site plan exemption, or temporary use permit is not required for the operation of a mobile food establishment.

**PART 3. COMPLIANCE; PENALTY.**

The permit holder shall comply with this ordinance. A violation of this ordinance is a Class C misdemeanor.

**PART 4. PLANNING COMMISSION RECOMMENDATION.**

The Planning Commission shall make a recommendation to the Council regarding the appropriate buffering between a mobile food establishment and a residential use. The City Manager shall present the recommendation the Council on or before August 31, 2006.

**PART 5.** This ordinance expires on September 29, 2006.

**PART 6.** This ordinance takes effect on June 19, 2006.

**PASSED AND APPROVED**

\_\_\_\_\_, June 8, 2006

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Will Wynn  
Mayor

APPROVED:

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David Allan Smith  
City Attorney

ATTEST:

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Shirley A. Gentry  
City Clerk