

**ORDINANCE NO. 20060928-020**

**AN ORDINANCE ADDING SECTION 25-2-812 TO THE CITY CODE AND AMENDING SECTION 25-2-1406 OF THE CITY CODE RELATING TO MOBILE FOOD ESTABLISHMENTS; AND PROVIDING FOR EMERGENCY PASSAGE.**

**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 25-2-812 to read:

**§ 25-2-812 MOBILE FOOD ESTABLISHMENTS.**

(A) In this section:

- (1) PERMIT HOLDER means the person to whom the health authority issues a permit for a mobile food establishment permit 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.

(B) A mobile food establishment is not permitted on private property except as provided in this section.

(C) 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.; and
  - (5) may not be located within 20 feet of a restaurant (general) or restaurant (limited) use.
- (D) The noise level of mechanical equipment or outside sound 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.
- (E) A drive-in service is not permitted.
- (F) Exterior lighting must be hooded or shielded so that the light source is not directly visible to a residential use.
- (G) A mobile food establishment is limited to signs attached to the exterior of the mobile food establishment. The signs:
  - (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.
- (H) During business hours, the permit holder shall provide a trash receptacle for use by customers.
- (I) The permit holder shall keep the area around the mobile food establishment clear of litter and debris at all times.
- (J) A permanent water or wastewater connection is prohibited.
- (K) Electrical service may be provided only by:
  - (1) temporary service or other connection provided by an electric utility; or
  - (2) an onboard generator.
- (L) A neighborhood association may request that the city council require a mobile food establishment in the neighborhood association area comply with the additional distance requirements set forth in Subsection (N). A request may be made in accordance with this subsection.

- (1) An officer of a neighborhood association may submit an application to the director requesting that the city council require mobile food establishments in the association area comply with Subsection (N).
  - (2) The director shall accept an application made under this subsection during February of each year. The council shall consider the applications during April of each year.
  - (3) The director shall give notice of the public hearing before the council by publishing notice in a newspaper of general circulation not later than the 16th day before the date of the public hearing. The City is responsible for the cost of publication.
  - (4) A neighborhood association may not file a request under this subsection for the portion of a neighborhood association area that is within a neighborhood planning combining district that the council approves or amends after December 31, 2006.
  - (5) The director shall maintain a map that depicts the areas to which Subsection (O) applies.
  - (6) A neighborhood association must be registered with the Public Information Office of the City.
- (M) The requirements of Subsection (N) may be added to an ordinance zoning or rezoning property as a neighborhood plan combining district in accordance with Section 25-2-1406 (*Ordinance Requirements*).
- (N) The subsection establishes additional distance requirements that may be applied under Subsections (L) or (M).
- (1) A mobile food establishment may not be less than 50 feet from property:
    - (a) in a SF-5 or more restrictive district; or
    - (b) on which a residential use permitted in a SF-5 or more restrictive district is located.
  - (2) A mobile food establishment may operate between 6:00 a.m. and 10:00 p.m. if the mobile food establishment is more than 50 feet and not more than 300 feet from a property:
    - (a) in a SF-5 or more restrictive district; or

- (b) on which a residential use permitted in a SF-5 or more restrictive district is located.
- (3) A mobile food establishment may operate between 6:00 a.m. and 3:00 a.m. if the mobile food establishment is more than 300 feet from a property:
  - (a) in a SF-5 or more restrictive district; or
  - (b) on which a residential use permitted in a SF-5 or more restrictive district is located.
- (O) A mobile food establishment must comply with Subsection (N) not later than the 60<sup>th</sup> day after the effective date of an ordinance adopted under Subsection (L) or (M).
- (P) This subsection applies to a mobile food establishment that is located on the same site as a restaurant (limited) or restaurant (general) use and serves food provided by the restaurant (limited) or restaurant (general) use. The mobile food establishment:
  - (1) may only operate between the hours of 6:00 a.m. and 10:00 p.m. if the mobile food establishment is located 300 feet or less from property in a SF-5 or more restrictive district or on which a residential use permitted in a SF-5 or more restrictive district is located; and
  - (2) must comply only with Subsections (D), (F), (G), (H), and (I).
- (Q) This ordinance does not apply to a mobile food establishment that is located on private property for three hours or less between the hours of 6:00 a.m. and 10:00 p.m.
- (R) A site plan, site plan exemption, or temporary use permit is not required for the operation of a mobile food establishment.
- (S) The permit holder shall comply with the section. A violation of this section is a Class C misdemeanor.

**PART 2.** Section 25-2-1406 of the City Code is amended to read:

**§ 25-2-1406 ORDINANCE REQUIREMENTS.**

An ordinance zoning or rezoning property as a NP combining district:

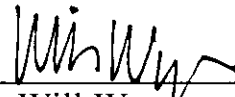
- (1) must prescribe the special uses described in Section 25-2-1403 (*Special Uses*) that are permitted in the district;
- (2) must describe the location of each residential infill special use, neighborhood urban center special use, or neighborhood mixed use building special use, if any;
- (3) may restrict the time of day during which a business in a neighborhood mixed use building special use may be open to the public;
- (4) may restrict a corner store special use, cottage special use, secondary apartment special use, or urban home special use, if any, to a designated portion of the district;
- (5) for a single-family residential use or a secondary apartment special use on an existing legal lot:
  - (a) may reduce the required minimum lot area to 2,500 square feet;
  - (b) may reduce the required minimum lot width to 25 feet; and
  - (c) for a lot with an area of 4,000 square feet or less, may increase the maximum impervious coverage to 65 percent;
- (6) may apply the requirements of Section 25-2-1602 (*Front Porch Setback*), Section 25-2-1603 (*Impervious Cover and Parking Placement Requirements*), or Section 25-2-1604 (*Garage Placement*) to the district or a designated portion of the district; ~~[and]~~
- (7) may restrict front yard parking by including all or a portion of the district in the restricted parking area map described in Section 12-5-29 (*Front or Side Yard Parking*); and
- (8) may apply the requirements of 25-2-812 (N) (*Mobile Food Establishments*) to the district or a designated portion of the district.

**PART 3.** The Council finds that the need to avoid a lapse in regulations relating to the operation of a mobile food establishment, constitutes an emergency. Because of this emergency, this ordinance takes effect on September 30, 2006 for the immediate preservation of the public peace, health and safety.

**PASSED AND APPROVED**

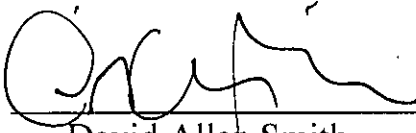
September 28, 2006

§  
§  
§



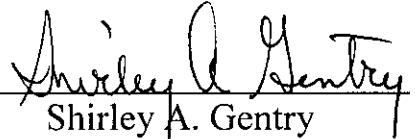
Will Wynn  
Mayor

**APPROVED:**



David Allan Smith  
City Attorney

**ATTEST:**



Shirley A. Gentry  
City Clerk