

## NOTICE OF PUBLIC MEETING

BE IT KNOWN that the **City Council** of the **City of Alvin** will meet in **Workshop Session** on **Thursday, June 18, 2015 at 5:30 P.M.** in the **Council Chambers** located on the 2<sup>nd</sup> floor of Alvin City Hall, 216 West Sealy Street, Alvin, Texas, with the following agenda:

1. **CALL WORKSHOP SESSION TO ORDER:**
2. **INVOCATION**
3. **PLEDGE OF ALLEGIANCE**
4. **PURPOSE OF THE WORKSHOP:**
  - A. Discuss proposed changes to Chapter 10 - Food and Food Establishments and Chapter 13 - Itinerant Merchants and Vendors.
  - B. Review Emergency Management and City operations during a disaster.
5. **ADJOURNMENT**

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I hereby certify that this Public Notice was placed on the Official Bulletin Board at City Hall on THURSDAY, JUNE 11, 2015 at 6:00 p.m.

(SEAL)



A handwritten signature in blue ink, which appears to read "Dixie Roberts", is written over a horizontal line.

Dixie Roberts, City Clerk

I hereby certify that this Public Notice was removed from the Official Bulletin Board at City Hall on this the \_\_\_\_\_ day of \_\_\_\_\_, 2015, at \_\_\_\_\_ a. /p.m.

\_\_\_\_\_  
Dixie Roberts, City Clerk

**\*\* All meetings of the City Council are open to the public, except when there is a necessity to meet in Executive Session (closed to the public) under the provisions of Chapter 551, Texas Government Code. The Council reserves the right to convene into executive session on any of the above posted agenda items that qualify for an executive session by publicly announcing the applicable section of the Open Meetings Act, including but not limited to sections 551.071 (litigation and certain consultation with the attorney), 551.072 (acquisition of interest in real property), 551.073 (contract for gift to city), 551.074 (certain personnel deliberations), or 551.087 (qualifying economic development negotiations).**

*If you plan to attend this meeting and you have a disability that requires special arrangements at the meeting, please contact the City Clerk at 281-388-4255 or [droberts@cityhall.cityofalvin.com](mailto:droboterts@cityhall.cityofalvin.com). Requests for special services must be received 48 hours prior to the meeting time. Reasonable accommodations will be made to assist your needs. City Hall is wheel chair accessible and a sloped curb entry is available at the East and West Entrances to the City Hall.*

## **Chapter 13 - ITINERANT MERCHANTS AND VENDORS**

FOOTNOTE(S):

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**State Law reference**— Cancellation of certain consumer transactions, V.T.C.A., Business and Commerce Code ch. 39. [\(Back\)](#)

ARTICLE I. - IN GENERAL

FOOTNOTE(S):

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**Editor's note**— Ord. No. 13-MM, §§ 1, adopted Aug. 15, 2013, amended Art. I in its entirety to read as set out herein. Former Art. I, §§ 13-1—13-4, pertained to similar subject matter and derived from Ord. No. 239-A, §§ 1, 2, 5, 8, adopted Feb. 2, 1955; Ord. No. 66-T, adopted Dec. 1, 1966; Ord. No. 68-J, adopted Aug. 1, 1968.

**DIVISION 1. - GENERAL PROVISIONS**

**Sec. 13-1. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Commodities, goods or merchandise* means personal property of any nature whatsoever.

*Crime involving moral turpitude* means a conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the licensed occupation, the determination of which shall be made in accordance with V.T.C.A., Government Code § 411.122.

*Itinerant vendor* means any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in a business in the city of selling, or offering for sale, any goods or merchandise, or exhibiting goods or merchandise for sale, or for the purpose of taking orders for the sale thereof, who displays, exhibits, sells, or offers for sale such goods, merchandise or services upon or from a truck or other vehicle within the city, or who temporarily hires, rents, leases or occupies any room or space in any building, structure or other enclosure, or vacant lot in the city upon which such business is to be operated or conducted. This term shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

*Peddler* means any individual, firm, organization, or corporation, as well as its representatives, agents and employees, who engages in the business in the city of selling, offering for sale, or exhibition for sale of any commodity or service, from house to house or from place to place and not from one established spot. Delivery of the commodity or service is made at the time of sale. Collection of the sales price at time of sale or later is immaterial. This term shall not include individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

*Religious, civic, or charitable solicitation* means the seeking of support or contributions for political, religious, charitable or civic causes, including, without limitation, the promotion of conservation of resources or animals, or advocating a philosophy or religion.

*Services* means the performance of labor for the benefit of another or at another's command.

*Solicitor or canvasser* means any individual, firm, organization or corporation, as well as its representatives, agents and employees, who engages in the business in the city of taking orders for future delivery of commodities or services, or solicits subscriptions, orders, contributions, or any kind of support, for remuneration or gain, from house to house or from place to place. This term shall not include

individuals connected with a noncommercial or nonprofit purpose or cause, as that phrase is defined in this section.

*Temporary business* means the business use of any real property in the city for which definite written arrangements with the owner have not been made for occupancy of the premises for a term in excess of ninety (90) days. Definite arrangements would include, without being limited to, a lease agreement or other document conveying an enforceable right of occupancy.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-2. - Exemptions from article.**

- (a) A peddler, solicitor, canvasser or itinerant vendor conducting activities on the property of another by the express, prior invitation of the owner thereof is exempt from the provisions of this article.
- (b) A vendor selling or exhibiting for sale commodities, goods, merchandise or services to persons engaged in the business of buying, selling and dealing in the same within the city is exempt from the provisions of this article.
- (c) Persons conducting religious, civic, or charitable solicitations are exempt from the provisions of this article.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-3. - Unlawful conduct.**

It shall be unlawful for any peddler, solicitor, canvasser or itinerant vendor to:

- (1) Conduct a business or related activities in the city without a valid registration certificate, as provided in this article.
- (2) Conduct a business or related activities in the city without a valid identification card, as provided in this article.
- (3) Conduct a business or related activities without visibly displaying the identification card issued to that individual.
- (4) Alter a registration certificate or identification card issued by the city.
- (5) Conduct a business or related activities within the city after the expiration of the registration certificate issued by the city.
- (6) Conduct a business or related activities within the city different than described in the registration statement required by section 13-11
- (7) Provide false, inaccurate or misleading information in the registration statement.
- (8) Use a vehicle in the conduct of a business or related activities not identified in the registration statement.
- (9) Conduct a business from a location within the city not listed in the registration statement.
- (10) Conduct a business selling, offering for sale, exhibiting for sale, or taking orders for delivery of any commodities, goods, merchandise or services not listed and described in the registration statement.
- (11) Sell, assign or transfer, or attempt to sell, assign or transfer, a registration certificate or identification card.
- (12) Conduct a business authorized under a registration certificate issued pursuant to this article, on any public sidewalk, public street right-of-way, or other public property within the city, without written authorization from the city.
- (13) Conduct a business during hours other than those permitted by this article.

- (14) Conduct any activity for which a registration is required by this article at any building or dwelling, or upon any lot, tract or parcel of land, upon which is located, in a conspicuous location, any sign which gives notice that peddlers, solicitors, canvassers or itinerant vendors are prohibited. For the purpose of this section, any sign containing the words "no solicitors," "no solicitation," "solicitors prohibited," or any other phrase of similar meaning, shall constitute notice that peddlers, solicitors, canvassers and itinerant vendors are prohibited at such location.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-4. - Penalty.**

Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine prescribed by section 1-5. Each day's violation shall constitute a separate offense.

(Ord. No. 13-MM, § 1, 8-15-13)

**DIVISION 2. - REGISTRATION**

**Sec. 13-5. - Application.**

- (a) Prior to commencement of business and related activities by any peddler, solicitor, canvasser or itinerant vendor, a registration statement shall be completed on a form provided by the chief of police for that purpose, stating the following:
- (1) Name of applicant (person who completes the registration statement).
  - (2) Height, weight, sex and hair color of applicant.
  - (3) A recent color or black and white photograph of the applicant, no larger than two (2) inches by two (2) inches.
  - (4) Social Security Number of applicant.
  - (5) Permanent home address, and local address, if different.
  - (6) Applicant's driver's license number and state of issuance.
  - (7) Name of individual, firm, company or organization represented, if any, and the permanent address and local address of any individual, firm, company or organization represented.
  - (8) The last four (4) communities in which business was conducted by the individual, firm, company or organization represented shall be listed, with the period (beginning and ending month/year) business was conducted in each community listed.
  - (9) Providing the following information:
    - a. If such applicant or individual, firm, company or organization represented is a corporation incorporated under the laws of this state, the corporation shall provide a certified copy of the charter or articles of incorporation; or
    - b. If such applicant or individual, firm, company or organization represented is a corporation incorporated under the laws of a state other than this state, the corporation shall provide a certified copy of its certificate of authority to do business in this state.
  - (10) Description, vehicle license number, and state of registration of each vehicle, if any, that will be operated under the registration certificate being applied for.
  - (11) The name, height, weight, sex, hair color, Social Security Number, permanent home address, and driver's license number and state of issuance for each individual who will be involved in business under the registration certificate. If an individual has no driver's license, other identification shall be provided.

- (12) A recent color or black and white photograph of each individual who is listed by the applicant, no larger than two (2) inches by two (2) inches.
  - (13) A description of the business and related activities to be conducted.
  - (14) Character and description of commodities, goods, merchandise or services to be offered for sale.
  - (15) Location or locations from which the business and other activities will be conducted.
  - (16) The term or period during which the business and activities will be conducted, not to exceed one hundred eighty (180) days. Upon expiration of the one-hundred-eighty-day period, or shorter period indicated by the applicant on the permit registration statement, the applicant must complete a new registration statement, in accordance with the requirements of this article, if renewal is desired.
- (b) Every registration statement shall be accompanied by a registration fee established in chapter 28, comprehensive fee ordinance, itinerant merchants and vendors/other merchants to compensate the city for the cost of administration of this article. A fee established in chapter 28, comprehensive fee ordinance, itinerant merchants and vendors/other merchants shall be charged for replacement of a registration certificate.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-6. - Identification of applicant, etc.**

Prior to issuance of the registration certificate and identification cards provided for in this division, each individual whose name is listed on the registration certificate by the applicant shall present his driver's license or other identification in person to the chief of police for verification of the information provided by the applicant.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-7. - Statement of felony, etc., convictions.**

- (a) Prior to issuance of the registration certificate and identification cards provided for in this division, the applicant and each individual whose name is listed by the applicant shall answer on the registration statement, or on an attachment thereto, whether he has ever been convicted of a felony or a misdemeanor involving moral turpitude.
- (b) Prior to issuance of the registration certificate and identification cards provided for in this division, the applicant and each individual whose name is listed by the applicant shall, on the registration statement or attachment thereto, separately list and explain the nature of each and every conviction, if any, whether for felony or misdemeanor offenses, other than conviction for misdemeanor traffic law offenses, and give the state where the conviction occurred and the year of such conviction.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-8. - Issuance of registration certificate.**

- (a) When all prerequisites of this article have been complied with, the chief of police shall initiate appropriate action to process the application. The chief of police shall make an appropriate investigation of an applicant, any person listed by the applicant, and any information provided. The chief of police shall verify the information on the registration statement regarding the driver's license from the applicant's driver's license. If the applicant has no driver's license, other identification shall be provided.
- (b) The chief of police shall issue a registration certificate to the applicant authorizing the sale, offer for sale, taking of orders for sale, and exhibition of commodities, goods, merchandise and services within fifteen (15) working days after the applicant has fully complied with all applicable provisions of

this article, subject to denial of the registration certificate or identification card as outlined in section 13-14

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-9. - Duration; renewal.**

The registration certificate shall state the effective term, and the beginning and ending dates, not to exceed one hundred eighty (180) days. Upon expiration, the registration certificate may be renewed upon full compliance with the requirements of this article.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-10. - Transfer prohibited.**

A registration certificate issued under the terms of this article shall be personal to the applicant and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of a registration certificate shall be grounds for revocation of the registration certificate.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-11. - Identification cards.**

- (a) In conjunction with the issuance of a registration certificate, the chief of police shall issue issuance, and height, weight, sex and hair color of the cardholder, the term of the permit, and the identification cards for each individual whose name is listed in the registration statement. The identification card shall state the holder's name, driver's license number and state of nature of the business and related activities. The card shall contain the following disclaimer of any endorsement by the city, to be placed in a conspicuous place upon such card: "The City of Alvin, Texas, does not endorse the product, service or activity promoted by this cardholder."
- (b) An identification card issued in accordance with this article shall be personal to the cardholder and shall not be sold, assigned or transferred to any other person. Any attempted sale, assignment or transfer of an identification card shall be grounds for revocation of the registration certificate and the identification cards issued there under.
- (c) The chief of police shall issue identification cards with the registration certificate upon payment to the city of a fee as established in chapter 28, comprehensive fee ordinance, itinerant merchants and vendors/other merchants.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-12. - Display of identification card.**

While conducting business covered by the registration certificate, each identification card holder shall visibly display the identification card for identification by clipping the identification card to the clothing of the holder, so that the identification card is in plain view.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-13. - Inspection.**

A representative of the city designated by the chief of police shall have the authority to request admission to inspect, at a reasonable time without advance notice, a business operating under a registration certificate issued pursuant to this article, to determine whether the permit holder's business and related activities are as represented in the registration statement. If such admission is denied, or if the chief of police deems it advisable, the chief of police shall have the authority to obtain a warrant, in accordance with applicable law, for the purpose of allowing the inspection.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-14. - Denial of registration certificate or identification card to specified individuals.**

- (a) The issuance of a registration certificate may be denied if:
  - (1) Any violation of this article or other city ordinances or laws relating to the business or related activities to be conducted under the registration certificate applied for has been committed by any individual or individuals who would operate under such registration certificate;
  - (2) False, inaccurate, incomplete or misleading information is contained in the registration statement; or
  - (3) The applicant is overdue in payment to the city of taxes, fees, fines or penalties assessed or imposed against him.
- (b) Conviction of a felony or crime involving moral turpitude shall be grounds for the denial of issuance to that individual of an identification card, and/or the removal from the registration statement on file with the city of any such person so convicted, and/or the denial of the right to conduct the business covered by such certificate by any person so convicted.
- (c) Notice of a denial of a registration certificate or denial of an identification card to any individual shall be given in writing, specifically setting forth the reason for such denial and what action will be required before a registration certificate can be issued. Such notice shall be served in person, or by depositing the notice in the United States Mail, addressed to the applicant's local address, if provided, or to the permanent business or home address listed on the registration statement.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-15. - Hours.**

Business conducted in accordance with this article shall be permitted only between the hours of 9:00 a.m. and 7:00 p.m., Monday through Saturday only.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-16. - Revocation of certificate.**

- (a) The city may revoke a registration certificate if:
  - (1) Any violation of this article, or any violation of other city ordinances or laws relating to the business or related activities covered by the registration certificate is committed by any individual or individuals operating under the registration certificate during the original term or renewal thereof;
  - (2) False, inaccurate, incomplete or misleading information is contained in the registration statement; or
  - (3) Any certificate holder is convicted of a crime involving moral turpitude.
- (b) If a certificate is revoked pursuant to this section, the period of revocation shall extend until the date the certificate so revoked would have otherwise expired. Any itinerant vendor, peddler, solicitor or canvasser having two (2) certificates revoked within any twenty-four-month period shall be ineligible to receive a certificate for a period of one year following the date of the second revocation.

(Ord. No. 13-MM, § 1, 8-15-13)

**Sec. 13-17. - Appeal of denial or revocation of registration certificate or identification card.**

An applicant or other individual who has been denied a registration certificate or identification card, or who has had a registration certificate revoked, may appeal that action to the city council by submitting a letter to the city clerk's office within ten (10) days of the action complained of. A hearing on the denial will be scheduled for the next regular city council meeting. The city council will render its decision on the appeal at the meeting during which the appeal is presented.

Any person who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine prescribed by section 1-5. Each day's violation shall constitute a separate offense.

(Ord. No. 13-MM, § 1, 8-15-13)

## **ARTICLE II. - RESERVED**

FOOTNOTE(S): --- (3) ---

**Editor's note**— Ord. No. 13-MM, § 2, adopted Aug. 15, 2013, repealed Art. II in its entirety. Former Art. II, §§ 13-10—13-16, pertained to license and derived from Ord. No. 239A, § 2—4, 6—8, adopted Feb. 2, 1955; Ord. No. 66-J, adopted July 7, 1966; Ord. No. 66-T, adopted Dec. 1, 1966; Ord. No. 67-N, adopted June 1, 1967; Ord. No. 72-M, adopted Nov. 16, 1972; Ord. No. 84-N, § 12, adopted Sept. 20, 1984; Ord. No. 00-PP, § 28, adopted Oct. 19, 2000.

## **ARTICLE III. - MOBILE VENDOR**

### **Sec. 13-18. - Definitions.**

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

*Charitable organization.* An organization engaged in the sale of items to raise money for public benevolent purposes. A charitable organization must provide proof of a nonprofit, tax-exempt certificate to meet the requirements of this definition.

*Craft show/event.* A special event or show where the owner(s) leases or otherwise provides space to individual vendors for the sale of arts, crafts or homemade goods. For the purpose of this article, a craft show must consist of six (6) or more vendors to meet the definition of a show or event.

*Flea market/trade fair.* A market where the owner(s) leases or otherwise provides spaces to individual vendors for the sale of used and/or secondhand goods, items, materials and merchandise which are usually less than twenty (20) years old, or older items which would not normally derive a value from their age (i.e. not antiques).

*Fundraisers.* An organized activity of the general public for the purpose of raising funds for an institution, political organization or activity with charitable or civil interest.

*Mobile vendor.* Includes, but is not limited to, a merchant, peddler, hawker, or food vendor that conducts a business from any truck, trailer, manufactured housing, van, cart, bicycle or other type of structure or vehicle capable of being transported on the streets or highways of the city. A mobile vendor also includes any person or business entity not having a fixed place of business in a permanent building in the city which is either owned by the vendor or under lease to such vendor.

*Person.* Any individual, partnership, association, corporation, business entity or enterprise, club, or trustee.

*Regulatory authority.* Any municipal officer or department of the city appointed by the city manager to administer this article.

*Sanitary facilities.* Toilet or restroom facilities which discharge the sewage effluent and wastewater into an approved holding tank, on-site sewage disposal system, or municipal sewer system.

(Ord. No. 04-W, § 1, 9-16-04)

### **Sec. 13-19. - Compliance required.**

It shall be unlawful for any mobile vendor or any person as agent or employee of such mobile vendor, to buy, sell, offer or exhibit for the purpose of taking orders for sale thereof, any goods, wares,

merchandise, services, photographs, newspapers, magazines, other personal property or animals, at any location in the city without having complied with the provisions of this article.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-20. - Application for permit.**

- (a) A written application for a permit under this article shall be obtained from the regulatory authority and must be filed with the regulatory authority during normal business hours, at least forty-eight (48) hours before any business related activity begins. An application for a permit under this article shall contain the following information:
  - (1) Name, date of birth, and driver's license number of the applicant.
  - (2) Applicant's permanent address (both physical and mailing addresses) and telephone number.
  - (3) A brief description of the nature of the business or services and the goods to be sold.
  - (4) If the applicant is an employee or agent of a company, the name, address and telephone number of the company.
  - (5) Written authorization from the landowner showing such applicant has permission to use such location.
  - (6) A copy of the limited sales tax permit issued to the business by the Texas Comptroller's office must be attached to the application.
- (b) Mobile food vendors shall comply with additional application requirements. A written application shall be obtained from the regulatory authority and must include the following items for each operator or employee.
  - (1) The full name, age, place of birth and present residential and business addresses of the applicant.
  - (2) The full name of the person or employer of the applicant.
  - (3) The length of the residence of the applicant in the city and the state, and whether he or she is a citizen of the United States.
  - (4) A full personal description of the applicant, including age, height, weight, race, color of eyes, complexion, and color of hair. A photograph of the applicant must also be included. Photograph must be taken within twelve (12) months preceding the date of application.
  - (5) Whether the applicant has been charged with or convicted of any felony or misdemeanor, and if so, full information concerning each.
  - (6) Whether the applicant has been convicted of any violation of any law in the operation of motor vehicles, and if so, full information concerning each.
- (c) Applicants engaging in the sale of any food or food product, must obtain a food handler's permit and comply with all applicable city, state and federal health codes and ordinances.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-21. - Permit.**

Upon completion and presentation of the application, the regulatory authority shall issue a permit in the form of a certificate, which must be kept by the permittee in a place where it is visible by the general public at all times while conducting business. The permit will be issued unless grounds for denial exist under section 13-24 of this article. Such permit shall contain the signature of the issuing officer and shall show the permittee's name, address, kind of goods to be sold, date of issuance, and expiration date of such permit. The regulatory authority shall keep a permanent record of all permits issued.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-22. - Denial of permit.**

- (1) The regulatory official may deny or suspend a permit for failure to comply with any provision of this article.
- (2) The regulatory authority shall make written notification of denial within forty-eight (48) hours from the receipt of the application.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-23. - Suspension of permit.**

- (1) A permit holder must immediately cease operation and surrender his/her permit upon written notification by the regulatory authority for any violation of this article.
- (2) Operation shall remain suspended pending a hearing before the city council. A request for a hearing must be filed with the regulatory authority within ten (10) days of notice of suspension of permit. If no request for hearing is received, the suspension shall be upheld and the permit shall be revoked.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-24. - Grounds for revocation or denial of a permit.**

- (1) Fraud, misrepresentation or false statement contained in the application for permit.
- (2) Fraud, misrepresentation or false statement made in the course of carrying on applicant's business.
- (3) Any violation of this article.
- (4) Conviction of any misdemeanor or any felony if the crime directly relates to the conduct of a vendor's business.
- (5) Conducting the business in an unlawful manor or in such a manor as to constitute a breach of the peace or to constitute a menace to the health, safety and general welfare of the public.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-25. - Duration and number of permits.**

Permits issued under this article are good for sixty (60) days, with no more than three (3) permits issued to a person, business, or location within one calendar year.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-26. - Permit fee.**

The city shall charge and collect a fee before issuance of a permit, in an amount as set forth in chapter 28 of this Code. If the business activity ceases, closes, or is terminated for any reason prior to the expiration of the permit, there shall be no refund of such fee.

If the mobile food vendor has obtained a food handler's permit and paid the ascribed fee, the mobile vendor permit fee shall be waived.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-27. - Hours of operation.**

The business activity shall be allowed to conduct business no earlier than 9:00 a.m. and must close no later than 10:00 p.m. Business can only be conducted after dark in areas with adequate lighting that is provided from a source approved by the building official.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-28. - Distance requirement from the roadway.**

No mobile vendor operating from a fixed location can set up within twenty-five (25) feet of the roadway or the public easement.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-29. - Parking.**

No mobile vendor may impact the required number of parking spaces required for any permanent business, or impact more than five (5) percent of an existing parking lot.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-30. - Sanitary facilities.**

In the case of a mobile vendor who conducts a business from any fixed location, the regulatory authority shall not issue a permit under this article unless satisfied that adequate toilet facilities are available within fifty (50) feet for use by such vendor's employees and patrons. The mobile vendor must have written permission from the owner/lessee of the restrooms for the use of the facilities by the vendor's employees and patrons.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-31. - Exclusion of operation in high congestion areas and along major arterial roadways.**

- (1) No mobile vendor shall be permitted to operate in any congested areas or along major arterial roadways, where their operations might impede or inconvenience the public. The major arterial roadways consist of the following:
  - (a) North and South Gordon Street (Business 35).
  - (b) East and West Highway 6.
  - (c) Highway 35 Bypass.
  - (d) FM 1462.
  - (e) FM 528.
  - (f) South Street.
  - (g) Mustang Road.
  - (h) Johnson Street.
- (2) No mobile vendor may operate within any school zone or within three hundred (300) feet of a school during the period when school zone warning lights are in operation.
- (3) Exemptions.
  - (a) Christmas tree vendors are exempt from the exclusion of operation along major arterial roadways between the dates of November 1 and December 25. This exemption applies to Christmas tree vendors operating from a fixed location and as long as they comply with all of the other provisions of this article.
  - (b) Any veterinarian(s) with a valid license issued by the Texas State Board of Veterinary Medical Examiners providing services to the public are exempt from the exclusion of operation along major arterial roadways.

(Ord. No. 04-W, § 1, 9-16-04; Ord. No. 12-VV, § 1, 11-1-12)

**Sec. 13-32. - Grandfather provision.**

- (1) *Fixed location.* Preexisting mobile vendors operating at a fixed location prior to the date of enactment of this article shall be exempt from the sanitary facilities in section 13-30 and the location exclusions in section 13-31. However, if the mobile vendor changes ownership or voluntarily moves from its current location, then the mobile vendor will be considered a new vendor and subject to all provisions of this article. A mobile vendor who is forced to move, may retain grandfather status as long as the vendor provides satisfactory documentation to the city explaining the circumstances of the move.
- (2) *Permit requirements.* Preexisting mobile vendors will be required to obtain an annual permit and shall be exempt from the number and duration of permits in section 13-25. However, failure to renew or any lapse in obtaining the required annual renewal permit shall change the status of the business from an exempt business to a new business and will remove any exemptions granted to the business under this article.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-33. - Exceptions and exemptions.**

- (1) *Civic interest events.* Events such as parades, organized holiday festivities and special events on behalf of charitable organizations shall be exempt from distance requirements and restricted locations.
- (2) *Craft show/event.* A craft show/event as defined by this article is exempt from the location restrictions of this article as set forth in section 13-31. However, an application for site approval must be submitted by the event coordinator to the building official for approval at least seven (7) days prior to the date of the event or show. The building official will review the proposed location and will approve or disapprove the site on the following basis:
  - (a) Impact on the surrounding businesses and community;
  - (b) Adequate facilities to support the show or event; and
  - (c) Safety of the location based on increased pedestrian and vehicular traffic and parking.

The site application shall include the following:

- (a) Event date and proposed location;
- (b) A letter from the registered property owner specifying the event coordinator's intended use of the property;
- (c) A site layout map showing the number and location of each vendor and facilities available; and
- (d) Contact information for the event coordinator.

The event coordinator will be required to submit one application and one permit fee for the event. However, in addition to the information required in section 13-20, a list of vendors must be included with the application. The vendor information must contain the name and contact information for each vendor.

- (3) *Fundraisers.* "Fundraisers" as defined in this article will not be considered mobile vendors for the purpose of this article and are not required to get a permit.
- (4) *Charitable organization.* "Charitable organization" as defined by this article is required to submit an application for a permit, but is exempt from the location and distance requirements under this section. Upon submission of supporting documentation of nonprofit status, the charitable organization will be issued a permit, but all fees associated with this permit shall be waived.

(Ord. No. 04-W, § 1, 9-16-04)

**Sec. 13-34. - Penalty.**

Any person who shall violate any provision of this article shall be guilty of a misdemeanor, which shall be punishable by a fine prescribed by section 1-5 for each violation and each day of violation of any provision of this article.

# **Chapter 10 - FOOD AND FOOD ESTABLISHMENTS**

FOOTNOTE(S):

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**Editor's note**— Ord. No. 00-Z, § 1, adopted Aug. 3, 2000, repealed provisions formerly codified as Ch. 10, Food and Food Establishments, which derived from Ord. No. 79-T, adopted Jan. 17, 1980; Ord. No. 84-N, adopted Sept. 20, 1984; Ord. No. 87-P, adopted Aug. 20, 1987. Section 2 of said Ord. No. 00-Z enacted new provisions dealing with the same subject matter which have been included herein as a new Ch. 10

**State Law reference**— Food and drugs generally, V.T.C.A., Health and Safety Code ch. 431 et seq.; public health measures relating to food, V.T.C.A., Health and Safety Code ch. 438. ([Back](#))

## **ARTICLE I. - IN GENERAL**

Sec. 10-1. - State regulations adopted.

The City of Alvin adopts by reference the most current version of the Texas Food Establishment Rules promulgated by the Texas Department of Health with an effective date of October 6, 1998, and set forth in 25 Texas Administrative Code, chapter 229, sections 161 through 171 and 173 through 175. The Texas Food Establishment Rules shall be considered incorporated herein by reference for all purposes. From and after enactment of this chapter, the Texas Food Establishment Rules shall govern the regulation of food and food establishments in the City of Alvin in addition to any other requirements set forth in this chapter and other applicable laws and regulations. Any subsequent revisions or changes to the Texas Food Establishment Rules shall automatically become a part of this chapter unless council action is required by law. A copy of the Texas Food Establishment Rules shall be on file in the office of the city clerk.

(Ord. No. 00-Z, § 2, 8-3-2000)

### **Sec. 10-2. - Definitions.**

For purposes of this chapter, the words, terms and phrases set forth in the Texas Food Establishment Rules as definitions shall have the meanings set forth therein. Additionally, the following words, terms and phrases shall have the meanings set forth below except where the context clearly indicates a different meaning:

*Authorized agent or employee* means an employee(s) of the City of Alvin.

*Municipality* means the City of Alvin, Texas.

*Regulatory authority* means the City of Alvin, Texas.

*Roadside food vendor* means [a] person who operates a mobile retail food store from a temporary location adjacent to a public road or highway. Potentially hazardous foods shall not be processed or prepared by a roadside food vendor. A roadside food vendor is classified as a food establishment. For purposes of this definition, a person who owns or operates a fruit or produce stand shall be considered a roadside food vendor.

*Texas Food Establishment Rules* means the rules promulgated by the Texas Department of Health with an effective date of October 6, 1998, set forth in 25 Texas Administrative Code, chapter 229, sections 161 through 171 and 173 through 175, as such rules may be hereafter amended.

(Ord. No. 00-Z, § 2, 8-3-2000)

### **Sec. 10-3. - Application of chapter.**

- (a) This chapter shall apply to all areas within the corporate limits of the city.
- (b) Nonprofit organizations shall not be required to pay a permit fee under this article, but nonprofit organizations shall be required to obtain a permit and comply with the requirements of this chapter.
- (c) Persons or organizations whose food services are regulated and regularly inspected by another federal or state governmental entity are required to comply with this chapter.

(Ord. No. 00-Z, § 2, 8-3-2000)

**Sec. 10-4. - Enforcement.**

This chapter shall be enforced by the city's planning and development department.

(Ord. No. 00-Z, § 2, 8-3-2000)

**Sec. 10-5. - Penalty.**

Any person who violates any provision of this chapter shall be guilty of a misdemeanor which shall be punishable by a fine not to exceed two thousand dollars (\$2,000.00). Each day of violation of this chapter shall constitute a separate offense. Prosecution in municipal court shall be in addition to other remedies provided in this chapter, by law, or in equity.

(Ord. No. 00-Z, § 2, 8-3-2000)

**Sec. 10-6. - Injunction.**

- (a) If it appears that a person has violated, is violating, or threatens to violate this chapter, the city may institute a civil suit in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation.
- (b) The city may petition a district court for a temporary restraining order to immediately halt a violation or other action creating an emergency condition if it appears that:
  - (1) A person is violating or threatening to violate this chapter; and
  - (2) The violation or threatened violation creates an immediate threat to the health and safety of the public.

(Ord. No. 00-Z, § 2, 8-3-2000)

**Secs. 10-7—10-10. - Reserved.**

**ARTICLE II. - PERMIT**

**Sec. 10-11. - Required.**

No person shall operate a food establishment, temporary food establishment, mobile food establishment, child care center or group residence that provides food service or mobile retail food store (roadside food vendor) without a valid permit issued by the city under this chapter. Only a person who complies with the requirements of this chapter shall be entitled to receive or retain a permit. Permits are not transferable from place to place or person to person. A valid permit shall be posted in public view in every establishment. Food caterers shall obtain a separate permit from the city for the food establishment or commissary. Each and every food establishment, whether under one roof or not, shall be considered a separate establishment, and a permit must be obtained for each establishment. Each such establishment is subject to the requirements in this chapter.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-12. - Duration.**

Permits shall be issued annually and shall extend from the date of issuance or renewal, as applicable. Annual renewal applications must be submitted at least thirty (30) days prior to the expiration date of the permit. A permit shall be issued only if the establishment complies with this chapter.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-13. - Fees.**

- (a) Before any permit shall be issued under this chapter, the applicant shall pay the applicable fees set forth in chapter 28 of this Code. A food establishment with a frozen dessert machine shall obtain a separate permit for such machine and pay an additional permit fee as set forth in chapter 28 of this Code.
- (b) The reinspection fee set forth in chapter 28 of this Code shall apply in cases where reinspection is deemed necessary by the City's health inspector/code enforcement officer.

(Ord. No. 00-Z, § 2, 8-3-00; Ord. No. 00-PP, § 22, 10-19-00)

**Sec. 10-14. - Refunds/proration.**

Permit fees are not refundable and shall not be prorated.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-15. - Suspension.**

The city may, without warning, notice or hearing, suspend any permit to operate a food establishment, temporary food establishment, mobile food establishment, and roadside vendor if the holder of the permit does not comply with the requirements of this chapter and the violation creates an immediate threat to the health and safety of the public. Suspension is effective upon written notice, and service operations shall immediately cease. Whenever a permit is suspended, the holder of a permit shall be afforded an opportunity for a hearing before the city's health officer within ten (10) days of the city's receipt of a request for a hearing from the permit holder. Whenever 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 the 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 clerk by the holder of the permit within ten (10) days. If no written request for hearing is filed within ten (10) days, the suspension is sustained. The city's health inspector/code enforcement officer may end the suspension at any time if reasons for suspension no longer exist.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-16. - Revocation.**

The city may, after providing opportunity for a hearing, revoke a permit issued under this chapter for serious or repeated violation(s) of any of the requirements of this chapter or for interference with the health inspector/code enforcement officer in the performance of his/her duties. Prior to revocation, the city shall notify the holder of the permit or the person in charge in writing of the reason(s) 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 with the city clerk by the holder of the permit within such ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final. If a request for hearing is filed a hearing shall be scheduled within thirty (30) days of receipt of such request.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-17. - Service of notice.**

A notice provided for in this article is properly served when it is delivered to the holder of the permit or the person in charge or when it is sent by registered or certified mail, return receipt requested, to the

last known address of the holder of the permit or when it is delivered by the city in person to the last known address of the holder of the permit.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-18. - Hearings.**

The hearings provided for in this article shall be conducted by the city's health officer. Based upon the recorded evidence of such hearing, the health officer shall make a final finding and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit, and a copy shall be filed with the city clerk.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-19. - Appeals.**

Any person aggrieved by a decision of the health officer made under this article may appeal such decision to the city council by filing written notice of such appeal with the city clerk within ten (10) days of the date of the health officer's written report/decision. The city council shall conduct a hearing de novo and its decision shall be final and binding.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-20. - Application for a new permit after revocation.**

The holder of a permit that has been revoked may make written application for a new permit.

(Ord. No. 00-Z, § 2, 8-3-00)

**Secs. 10-21, 10-22. - Reserved.**

**ARTICLE III. - INSPECTIONS**

**Sec. 10-23. - Frequency.**

Inspections shall be performed as often as necessary to enforce this chapter.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-24. - Access.**

The authorized agent of the regulatory authority, after proper identification, shall be permitted to enter any food establishment or establishment for which a permit has been issued hereunder at any reasonable time for the purpose of making inspections to determine compliance with this chapter. The employees/agents shall be permitted to examine the records of the establishment to obtain information pertaining to food and supplies purchased, received or used or to persons employed by the establishment.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-25. - Reports.**

Whenever an inspection of a food establishment or other establishment is made, the findings shall be recorded on the inspection report form. The inspection report form shall reference, by section number, the section violated and shall state the correction to be made. A copy of the inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The complete inspection report shall be prominently displayed in the establishment.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-26. - Correction of violations.**

The inspection form shall specify a reasonable period of time to correct the violations and such violations must be corrected within the specified period; provided, however that (i) if an imminent health hazard exists the establishment shall immediately cease food service operations and operations shall not be resumed until authorized by the city; (ii) the establishment must initiate corrective action on all identified violations within forty-eight (48) hours; and (iii) all violations at temporary food establishments must be corrected within twenty-four (24) hours and such establishment shall immediately cease food service operations until the city authorizes operations to resume. The inspection form shall state that failure to comply with any time limits for correcting violations may result in cessation of food service operations. Whenever an establishment is required under this chapter to cease operations, it shall not resume operations until such time as a reinspection determines that the condition(s) responsible for the requirement to cease operations no longer exists. The city shall offer to reinspect the establishment within a reasonable time.

(Ord. No. 00-Z, § 2, 8-3-00)

**Secs. 10-27—10-31. - Reserved.**

**ARTICLE IV. - CONSTRUCTION, REMODELING AND CONVERSION**

**Sec. 10-32. - Plans.**

Two (2) sets of properly prepared plans and specifications for each construction, remodeling or alteration of a food establishment shall be submitted to the planning and development department prior to any on-site construction. The plans must be drawn to scale no smaller than one-eighth (1/8) inch and shall consist of a plot plan, floor plan, foundation plan, structural plan, plumbing plan, elevation plan, wall section, engineer's scale and survey (if required by applicable law), mechanical and electrical details, and health equipment detail with elevations. Plans shall be required for construction, remodeling and conversion of an existing food establishment only when twenty (20) percent or more of the total area of the food establishment is to be constructed, remodeled or converted.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-33. - Regulations.**

The following regulations shall apply to construction, remodeling and conversion of all food establishments:

- (1) *Floors.* The floors and floor coverings of all food preparation, food storage and utensils washing areas and the floors of walk-in refrigerating units, dressing rooms, locker rooms and toilet rooms shall be constructed of smooth, durable materials, such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum, vinyl or plastic, and shall be maintained in good repair. All floors and floor coverings shall be nonabsorbent, easily cleanable and kept clean. No pipes or conduit shall be exposed on the floor.
- (2) *Walls and ceilings.* Walls and ceilings in food preparation areas, food storage areas, equipment and utensil washing areas, walk-in refrigerating units, toilet rooms and vestibules shall be smooth, nonabsorbent, easily cleanable and light-colored. Protected walls shall be in equipment areas. No pipes, conduits, electrical panels, studs, joists or rafters shall be exposed. Areas not mentioned in this subsection shall have easily cleanable studs, joists and rafters. No insulation may be exposed in any food establishment.
- (3) *Toilet rooms.* Toilet rooms shall be completely enclosed and well-lighted; shall have outside ventilation; shall have self-closing, tightfitting, solid doors; and shall not open directly into any room in which food, drinks or utensils are handled or stored. Walls shall be of impervious material up to four (4) feet or level of splash.

- (4) *Vestibule.* The minimum size of the vestibule shall be four feet by four feet (4' × 4') or sixteen (16) square feet. The vestibule shall be lighted, shall have outside ventilation, shall have a self-closing door and must be of such dimensions as to prevent both doors from being opened simultaneously by the same person.
- (5) *Lavatory.* The lavatory shall be wall hung and installed in the kitchen or working area and in or immediately adjacent to toilet room or vestibule. It shall be provided with hot and cold running water, tempered by means of a mixing valve or combination faucet. The minimum size of the lavatory shall be 15 inches by 15 inches (15" × 15") and the lavatory shall be adequate, convenient and easily accessible to employees. It shall be required only for employees to wash their hands.
- (6) *Manual cleaning and sanitizing.* A three-compartment sink, large enough to fully submerge the largest utensil, of the minimum size of fifteen (15) inches long by fifteen (15) inches wide by fourteen (14) inches deep shall be provided, and each compartment shall be equipped with an integral heating device or chemical sanitizer, drain boards and an approved basket. For establishments with no multi-use utensils, a two-compartment sink shall be provided equipped with drain boards, and each compartment shall be a minimum of fifteen inches by fifteen inches by fourteen inches (15" × 15" × 14").
- (7) *Mechanical cleaning and sanitizing.* For multi-use utensils, an approved dishwashing machine with a booster heater or sanitizer injector and drain boards shall be provided. Also, a three-compartment sink with drain boards adequate to fully submerge cooking and covered utensils shall be provided.
- (8) *Stockroom.* The stockroom shall be suitable for ample storage with approved storage racks.
- (9) *Water heater.* The water heater cannot be located in the kitchen or working area.
- (10) *Grease trap.* The grease trap shall be located outside the building and shall comply with the plumbing code. In no event shall the grease trap have a minimum capacity less than seven hundred fifty (750) gallons.
- (11) *Dressing rooms.* Dressing rooms shall be adequate, ventilated and lighted, and lockers or other suitable facilities for employees' clothing or other belongings shall be provided. The dressing room shall be used for no other purpose.
- (12) *Walk-in refrigeration units.* Walk-in refrigeration units cannot have a threshold and cannot have floor drain with a direct connection.
- (13) *Equipment.* Equipment shall be located in a way that facilitates cleaning the establishment and prevents food contamination. Floor-mounted equipment, unless readily movable, shall be sealed to the floor or installed on a raised platform of concrete or other smooth masonry in a way that meets all requirements for sealing or floor clearance or elevated on legs to provide at least six (6) inches of clearance between the floor and equipment. Unless sufficient space is provided for easy cleaning between and behind each unit of floor-mounted equipment, the space between it and adjacent walls shall be closed or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls. Aisles and working spaces between units of equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact.
- (14) *Mop sink.* A city-approved plumbing fixture designated as a mop sink shall be provided in an approved location.
- (15) *Ventilation.* All rooms shall have sufficient ventilation, including metal filtered hoods over equipment where particulate matter is deposited, i.e., fryers, broilers, grills, etc. All ventilation hoods shall be professionally cleaned at least two (2) times during each annual permit period.
- (16) *Lighting.* At least fifty (50) footcandles of light shall be provided to all working surfaces, and at least thirty (30) footcandles of light shall be provided to all other surfaces and equipment in food

preparation, utensil washing and handwashing areas and in toilet rooms. At least twenty (20) footcandles of light at a distance of thirty (30) inches from the floor shall be provided in all other areas, except that this requirement applies to dining areas only during cleaning operations.

- (17) *Protective shields.* Shielding to protect against broken glass falling onto food shall be provided for all artificial lighting fixtures located over, by or within food storage, preparation, service and display facilities and facilities where utensils and equipment are cleaned and stored.
- (18) *Infrared and other lamps.* Infrared or other heatlamps shall be protected against breakage by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.
- (19) *Poisonous or toxic materials.* All poisonous or toxic materials shall be stored in cabinets or similar physically separated compartments or facilities used for no other purpose. Each of the three (3) categories of poisonous or toxic materials shall be stored and located to be physically separated from each other.
- (20) *Laundry facilities.* Separate rooms for laundry facilities shall be provided and shall be restricted to the washing and drying of linens, uniforms and aprons necessary to the operation.

(Ord. No. 00-Z, § 2, 8-3-00)

#### **Sec. 10-34. - Other code requirements.**

A building permit shall be required for construction, alteration, remodeling or conversion of a food establishment in accordance with the Standard Building Code adopted by the city. Any construction, alteration, remodeling, or conversion of a food establishment shall comply with all applicable federal and state laws and codes and regulations of the city. To the extent of a conflict between or among the provisions of this chapter and other codes or ordinances of the city, the more restrictive provision shall control.

(Ord. No. 00-Z, § 2, 8-3-00)

#### **Sec. 10-35. - Ownership of food establishment.**

- (a) Often, when an existing food establishment is purchased, the purchase does not include the property or the structure, but includes the rental or lease of space and equipment. The city requires that the person who operates a food establishment to obtain a valid food dealer's permit. The person who applies for the food dealer's permit is considered, legally, to be the owner.
- (b) The person who is registered on the food dealer's permit is the responsible party for the property, premises, structure and complete operating services. The operator of the food establishment is the ultimate responsible party, and the conditions under which the food establishment was leased or rented does not release the operator from the requirements of this article.
- (c) A new owner may continue to operate a food establishment without interruption from the city when the establishment is in complete compliance with this chapter. Total compliance is the basis for issuing the food dealer's permit, which must be obtained prior to opening the establishment for business. An inspection of the premises and operations can demonstrate the extent to which the food establishment is in compliance. Upon normal conditions, depending on the condition of the food establishment, many violations can be corrected within such a short period of time that an interruption of food services is unnecessary and not required.
- (d) Depending on the wear and tear (depreciation) on the establishment, the building and equipment may already be close to compliance, and it is the responsibility of the new owner to schedule an inspection from the city to determine what is required to meet current codes.

(Ord. No. 00-Z, § 2, 8-3-00)

#### **Sec. 10-36. - Garbage and refuse.**

- (a) *Outside storage area.* Outside garbage and refuse storage areas or enclosures for a food establishment shall be large enough to store the garbage and refuse that has accumulated. Garbage, recyclable, returnable, and refuse containers, dumpsters and compactor systems shall be kept clean and in good repair and, if located outside, shall be stored on or about a smooth surface or slab of nonabsorbent material, such as concrete or machine-laid asphalt, that is kept clean and in good repair. Dumpsters and similar equipment shall be constructed with a removable plug to drain liquid from garbage, rain and cleaning operations, and such plug shall be kept in place except during the cleaning process.
- (b) *Cleaning facilities.* The nonabsorbent surface or slab of the garbage and refuse storage area shall be connected by a drain with an approved trap to an approved wastewater system, and the liquid waste from the cleaning or storage operations shall be disposed of as sewage. The slab shall be sloped to the drain, and the drain should not be located under the dumpster. The drain opening should be graded and should not be less than three (3) inches in diameter. The slab and drain shall be designed and constructed to prevent the draining of the surrounding area through the slab drain system. Suitable facilities, including hot and cold water and detergent or steam, shall be provided and used for washing containers. Before any construction of the storage or cleaning area begins, all plans and material for such construction must be approved by the city, the water district or other authority having jurisdiction.

(Ord. No. 00-Z, § 2, 8-3-00)

**Secs. 10-37—10-41. - Reserved.**

**ARTICLE V. - MOBILE FOOD ESTABLISHMENTS**

**Sec. 10-42. - In General.**

In addition to all other requirements set forth in this chapter and applicable state law, a mobile food establishment shall be subject to and shall comply with the provisions set forth in this article. The city's health officer may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation and may prohibit the sale of some or all potentially hazardous foods.

(Ord. No. 00-Z, § 2, 8-3-00)

**Sec. 10-43. - Mobile food establishment regulations.**

The following additional regulations shall apply to mobile food establishments:

- (1) *Submitting plans.* Plans must be submitted to the planning and development department at the time of permit application prior to operation of a mobile food establishment. Plans shall show the layout, arrangement of equipment, and construction material of the inside of the mobile food establishment including food preparation, storage and service window areas.
- (2) *Menu.* A menu or list of foods and beverages to be served shall be submitted for review and approval at the time of permit application.
- (3) *Description of operation.* A written description of operation shall be submitted to the planning and development department along with the permit application. The description shall include, but not be limited to the following: whether or not only prepackaged food items will be served, main hours of operation, main area of operation, method of serving food to customers, sanitation of equipment and utensils, and cleaning, flushing of potable water supply, and cleaning and flushing of wastewater retention tank.
- (4) *Central preparation facility or commissary; general.* Mobile food establishments shall operate from a central preparation facility or other fixed food establishment and shall report to such location for supplies and for cleaning and servicing operations. The central preparation facility or other fixed food service establishment, used as a base of operation for a mobile food

establishment, shall be constructed and operated in compliance with the requirements of applicable regulations. A written letter of commissary shall be provided to the planning and development department with the permit application.

- (5) *Operation location.* A mobile food establishment may not operate within any park inside the city limits of Alvin without the city's consent. A fixed location mobile food establishment shall obtain from the fixed location property owner written permission to operate on the property owner's premises. A copy of such letter must be provided to [the] city with the permit application. The operator of a fixed location mobile food establishment shall notify, in writing, the planning and development department each time the mobile establishment changes location of operation no later than twenty-four (24) hours after the change has taken place.
- (6) *Identification of mobile food units.* Every mobile food establishment must be readily identifiable by the business name which must be printed, permanently affixed and prominently displayed upon at least two (2) sides of such units in letters not less than three (3) inches in height.

Additionally, the following identification requirements are for mobile food establishments used for the purpose of selling or dispensing frozen desserts, prepackaged food and beverages from a moving truck:

- (a) A sign clearly visible from both the front and the rear, mounted on the top of the truck, must bear the warning sign "CAUTION—CHILDREN". The lettering for such sign shall be in block style letters and not less than six (6) inches in height and one-half inch wide, and letters shall be black against a yellow background.
  - (b) Flasher-type warning lights displaying yellow to the front and red to the rear and which operate continuously while the truck is stopped for the purpose of making a sale shall be installed at each end of the "CAUTION—CHILDREN" sign.
- (7) *Restricted operations.* A mobile food unit that serves no food other than:
    - (a) Food that was prepared and packaged in individual servings at an approved commissary, and transported and stored under conditions meeting the requirements of this article;
    - (b) Beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment;
    - (c) Potentially hazardous beverages such as individual servings of milk, milk products and coffee creams that have been packaged at a pasteurizing plant; and
    - (d) Prepackaged individual serving frozen dessert items including, without limitation, frozen ice and ice cream novelty bars, cones and serving cups that have been packaged at a pasteurizing plant or other approved facility need not comply with requirements of this article pertaining to the necessity of potable water and sewage systems or to the cleaning and sanitation of equipment and utensils if the required equipment for cleaning and sanitation exists at its commissary, nor with the requirement that the servicing area be located in an enclosed building.
  - (8) *Sanitation requirements.* The following sanitation requirements shall apply:
    - (a) A mobile food establishment shall provide only single-service articles for use by the consumer.
    - (b) A mobile food establishment requiring a water system shall have a potable water system under pressure. All water used in connection with the mobile food establishment shall be from a source approved by the local health inspector. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and hand washing, in accordance with all local and state requirements as set forth in this chapter. The water system must be designed, operated, and maintained to comply with all regulations set forth in the Texas Food Establishment Rules.

- (c) If liquid waste results from operation of a mobile food establishment, the waste shall be stored in a permanently installed retention tank. The size of the retention tank must be at least twenty-five (25) percent larger than the water supply tank and sloped to drain with a shut off valve. The retention tank design, operation and maintenance must comply with all requirements set forth by the Texas Food Establishment Rules.
- (d) A mobile food establishment shall have adequate and approved garbage and refuse storage facilities. Each establishment shall have a least one twenty-five-gallon leak-proof, nonabsorbent material garbage container, clearly marked and maintained for the patron's use.
- (e) The interior of such establishment shall be equipped with lockable cabinets or compartments for storage. All food contact surfaces shall be smooth, easily accessible and cleanable. Unfinished or painted wood shall not be used as a food contact surface. Mobile establishments which dispense beverages must be equipped to do so from a closed carbonation system, bulk dispensing units or prepackaged beverage containers.
- (f) Any accident involving a mobile food establishment shall be reported in writing, to the planning and development department within twenty-four (24) hours from the time the accident occurred, and before operation of mobile food establishment resumes if such accident results in damage to the water system, waste retention tank, food service equipment, or any facility which may result in the contamination of the food being carried. Such report shall be made by the holder of the mobile food establishment permit.
- (g) In the event that the permit issued under this chapter to any food establishment that has agreed to be a commissary for a mobile food establishment has been revoked, suspended, or without timely renewal, the permit for the same mobile food establishment shall be automatically suspended until and unless the permit for the food establishment is restored to valid status.

(Ord. No. 00-Z, § 2, 8-3-00)