



CITY OF WESLACO

PLANNING & CODE ENFORCEMENT DEPARTMENT

*****NOTE: PROCESSING TIME TAKES ABOUT TEN BUSINESS DAYS*****

THE FOLLOWING IS REQUIRED AS PART OF THE APPLICATION:

_____ Completed & Notarized Application	_____ Letter of Authorization from business
_____ Copies of TX DL or ID's of 4 - 7 people assisting	_____ **Letter must be typed on Business Letter Head
_____ Proof of Non-Profit Status	_____ Processing fee (\$75) Non-refundable
_____ Letter of Intent/Purpose for fundraiser	_____ Receipt#

THIS PART FOR OFFICE USE ONLY

TO: City Health Official,
Police Chief,
Fire Marshal,

BL# _____

FROM: Planning/Code Enforcement Office

SUBJECT: Mobile Vendor

DATE SUBMITTED: _____, 20____

Please review the attached application and submit your comments to the P/CE Department as soon as possible. Should you have any questions, please call (956) 447-3401.

Route **STAFF**
Date/Initial **RESPONSES**

THIS SECTION
FOR P/CE ONLY
DATE RECEIVED

POLICE CHIEF SIGN/DATE:

FIRE MARSHAL SIGN/DATE:

CITY HEALTH OFFICIAL SIGN/DATE:



CITY OF WESLACO
PLANNING & CODE ENFORCEMENT DEPARTMENT

MOBILE FOOD VENDOR APPLICATION

PERMIT NO. _____

*****NOTE: PROCESSING TIME TAKES ABOUT TEN BUSINESS DAYS*****

NAME: _____ PHONE: _____
D.O.B.: _____ D.L. # _____

PERMANENT ADDRESS: _____

NAME & PHONE OF COMPANY, FIRM OR ORGANIZATION REPRESENTING: _____

ADDRESS OF COMPANY OR ORGANIZATION: _____

NAMES OF ALL PERSONS ASSOCIATED WITH BUSINESS: 1) _____

2) _____ 3) _____

4) _____ 5) _____

6) _____ 7) _____

LISTING OF ALL VEHICLES (make, model, year and VIN) : _____

GENERAL DESCRIPTION OF THINGS TO BE SOLD: _____

NAME OF RESTAURANT IF FOODS ARE BEING PREPARED OR PACKAGED: _____

PROOF OF LIABILITY INSURANCE: _____

Please Note: Once an application is approved the issuance of a permit can take up to 10 days to process

I, hereby swear (under oath) that I have (have not) been sued in a civil or criminal proceeding in a duly constituted court of law of any form of fraud, theft or embezzlement, and swear to my knowledge the person, partnership, firm association, corporation or other business entity that I represent, has (has not) been convicted in a court of law of any form of fraud, theft or embezzlement.

Applicant Signature

NOTARY

Sworn and subscribed before me at Weslaco, Texas, this the _____ day of _____, 20____

Notary Public is and for Hidalgo County, Texas

My Commission Expires: _____

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CITY OF WESLACO

PLANNING & CODE ENFORCEMENT DEPARTMENT

Sec.102.03 Mobile Food Vendors.

(a) Definitions

- a. *Edible goods* may include, but are not limited to:
 - i. Prepackaged food including, but not limited to candy, beverages, and ice cream.
 - ii. Prepared food including, but not limited to hot dogs, desserts, and pizza.
 - iii. On-site prepared food including, but not limited to shaved ice, sandwiches and tacos.
- b. *Mobile food vendors* shall mean any business which sells edible goods from a non-stationary location within the city. The terms shall include, but not be limited to:
 - i. Mobile food trucks: a self-contained motorized unit selling items defined as edible goods.
 - ii. Concession trailers: a vending unit which is pulled by a motorized unit and has no power to move on its own.
- c. *Non-refrigerated* shall mean edible goods that are not required to be kept at a temperature below 41 degrees Fahrenheit according to the Federal Food and Drug Administration and the Texas Food Establishment Rules.

(b) Permit and application.

- a. *Permit*. Every mobile food vendor shall have a permit issued by the city to conduct business in the city.
- b. *Application*. Every mobile food vendor shall apply for a permit on a form promulgated by the city. Each vending unit requires a separate permit.
- c. *Permit form*. A complete application shall require the following information from the applicant to be considered:
 - i. Name of applicant.
 - ii. Legal name of business or entity.
 - iii. State of incorporation or filing of a partnership or articles of association.
 - iv. If applicable, copy of charter or articles of incorporation and current listing of the directors, partners, or principles.
 - v. Sales tax number with a copy of sales tax permit.
 - vi. Signed permission form or provide notarize affidavit from the private property owner granting permission for unit placement.
 - vii. Name, phone number and driver's license number of business owner.
 - viii. Proposed itinerary with route, vending locations and times.
 - ix. Contact name and phone number for mobile food vending unit while in route.
 - x. Description of product being sold.
 - xi. Vehicle identification number and description of mobile food vending unit.
 - xii. Signed affidavit with photo identification that each individual applicant:
 1. Has no unpaid civil judgments against him or her in any state of U.S. possession which arise from a business activity which would have been covered by this section if in effect at the time in the jurisdiction where such judgments are of record.
 2. A statement of all convictions in any state, the United States or U.S.

possession within the last ten years.

d. *Permit fee.*

- i. The application fee for a mobile food vendor permit shall be \$150.00. Each mobile food vendor unit shall be permitted separately.
- ii. Mobile food vendor permits shall be valid for one year from the date of permit issuance.
 1. Upon renewal the applicant shall pay the renewal \$100.00 fee, and update any changes in the permitting documentation upon permit renewal. The applicant must submit the application and the renewal fee within 30 days before expiration of the permit or must reapply as a new applicant.

e. *Permit denial.* A permit may be denied where:

- i. An applicant is found to have an unpaid civil judgment(s) against him which relates to the duties and responsibilities of the permitted occupation which shall be determined by the nature and amount of the judgment, the relationship of the judgment to the purpose of the permit and the extent that the permit would allow someone to engage in further activity that would lead to unsatisfied civil judgments; or
- ii. An applicant has been convicted of a crime which directly relates to the duties and responsibilities of the licensed occupation which shall be determined by the nature and seriousness of the crime, the relationship of the crime to the purpose of the permit and the extent that the permit would allow someone to engage in further criminal activity; or
- iii. The required information is incomplete or incorrect or shows that a person is not otherwise entitled to conduct business as a mobile food vendor.
- iv. The opportunity to issue a permit has been denied due to previous violations as described in this section.

f. *Display of permit.* Every permit, including those from the city, shall be displayed at all times in a conspicuous place where it can be read by the general public on the mobile food vendor's truck or concession trailer.

g. *Permit revocation or suspension.*

- i. A permit may be revoked upon conviction of any offense committed by an individual operating as a mobile food vendor in the city while engaged in the permitted business, or if a final conviction occurs or is found to have existed at the time of application, or if civil judgments, as set forth above, are placed or found of record against an applicant. A permit may be suspended in the event of pending charges of a crime, as set forth above, upon a magistrate's determination of probable cause in connection with such charges.
- ii. A permit may be revoked for non-conformity to the application location specifications or requirements as well as to non-conformity to an approved location plan or diagram
- iii. Any employee working for an applicant permitted as an employer under this section above may be denied the right to solicit under such permit, or such rights may be suspended or terminated, under the same circumstances and procedures which apply to the holder of the permit. Revocation or suspension of an employer's permit terminates all employee permits.
- iv. A permit may be suspended or revoked for not complying with the requirements of this section, or any other ordinances, or laws.

h. *Appeal of permit revocation, suspension, or denial.*

- i. The notice of revocation, suspension, or denial of a permit shall include the procedure for appealing the suspension, revocation, or denial.
 - ii. If a city official revokes, suspends, or denies a mobile food vendor permit, the holder or applicant of the permit which had been revoked, suspended, or denied, shall have the right to appeal to the city manager or designee by submitting an appeal in writing to the health director within ten business days of the revocation, suspension, or denial.
 - iii. Pending action on the appeal, a permit which had been revoked or suspended shall be considered revoked or suspended.
 - iv. If a written appeal is not submitted within the ten business days of revocation, suspension, or denial, or if the appeal is denied, the permit shall hence be considered revoked, suspended or denied.
- i. *Reapplication after revocation, suspension, or denial of permit.*
 - i. If a mobile food vendor or applicant is not in compliance with this section or any other ordinance, law or the approved vendor application, the following action will be taken:
 - 1. *1st violation.* A warning may be issued, or the permit may be revoked or suspended and the vendor may become ineligible for a new or reissued permit for 90 consecutive days.
 - 2. *2nd violation.* Permit will be revoked and the vendor may become ineligible for a new or reissued permit for 90 consecutive days.
 - 3. *3rd violation.* Permit will be revoked and the vendor will become ineligible for new or reissued permit for one year.
 - 4. If an applicant's permit has been denied and the appeal is denied the applicant may not reapply for 90 consecutive days.

(c) *Zoning and location restrictions.*

- a. *Distance regulations.*
 - i. No mobile food vendor shall conduct business within any single-family residential or agricultural zoning district unless otherwise approved in writing by the health official.
 - ii. A mobile food vendor may not be located within 100 feet of the primary entrance of an open and operating fixed-location food service establishment.
- b. A mobile food vendor shall not conduct sales at a stationary location:
 - i. For a duration exceeding eight hours per location per day.
 - ii. For a duration exceeding 30 minutes on any public street.
 - iii. On any public street designated on the city's [thoroughfare] plan as a major collector or greater.
 - iv. In congested areas where the operation impedes vehicular or pedestrian traffic.
 - v. Between the hours of 3:00 a.m. and 6:00 a.m.
- c. *Location regulations.*
 - i. No mobile food vendor shall be located on any private property without written permission to do so and must comply if asked to leave by the property owner or city official. A copy of the written permission to operate in a specific location signed by the private property owner shall be kept within the mobile vending unit at all times.
 - ii. No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill.

- iii. No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill upon any premises if requested by the property owner or city not to do so, or if there is placed near or at the entrance thereof a sign bearing the words "no advertisement".
- iv. No person shall sell or offer for sale any item upon any premises if requested by the property owner or city official not to do so, or if there is placed at or near the entrance thereof a sign bearing the words "no peddlers or vendors" or "no trespassing" or "no solicitors."

(d) Mobile food vendor requirements.

- a. The following regulations shall apply to mobile food vendors within any zoning district:
 - i. Mobile food establishments shall operate from a central preparation facility or other permitted fixed food establishment and shall report to such location for supplies and for cleaning and servicing operations.
 - ii. Each unit shall be equipped with a portable trash receptacle, and shall be responsible for proper disposal of solid waste and waste water in the sanitation facility legally accessed by the food service establishment. All disturbed areas must be cleaned following each stop to a minimum 20 feet of the sales location.
 - iii. Mobile food vendor may not have a drive through.
 - iv. Mobile food vendor may be allowed to have multiple locations within a day but not exceeding eight hours of operations per location.
 - v. Continuous music or repetitive sounds shall not project from the mobile unit.
 - vi. A five-foot clear space can be maintained around the mobile food vending unit.
 - vii. The mobile unit will be subject to inspection upon permit application through the code enforcement and the fire marshals office, and may be subject to random inspections and upon reissuance of the permit.
 - viii. No sales are allowed within public park facilities while park concession units are operating.
 - ix. A "No Smoking" sign must be posted next to the order window or area.
 - x. A tagged fire extinguisher shall be kept accessible as directed by the city fire marshal or designee.
 - xi. An extinguishing vent hood, Type 1 or other if approved by the city fire marshal, shall be required when the cooking process produces grease laden particles within the mobile unit. Said hood shall require testing in the presence of a city fire marshal designee.

(e) Offenses and regulations.

- a. It shall be unlawful for any individual as the agent or employee of another regulated under this section to sell edible goods in the city unless it's principal or employer has received a permit under this section.
- b. A permit issued under this section is not transferable.
- c. It shall be unlawful for an individual to sell edible goods while displaying a valid permit issued by the city in the name of another individual, organization, or entity.
- d. It shall be unlawful for any individual directly or through an agent or employee to sell goods within the corporate limits of the city after the expiration of the permit issued by the city under this section.
- e. It shall be unlawful for an individual directly or through an agent or employee to misrepresent on the permit affidavit any acts that are regulated under this section.
- f. It shall be unlawful for any individual directly or through his agents or employees to represent that the issuance of a permit by the city constitutes the city's endorsement or

approval of the product for sale.

g. It shall be unlawful to operate a mobile food vendor operation that is not in compliance with the Texas Food Establishment Rules as amended from time to time.

h. A violation of this section is a Class C misdemeanor and shall be punished by a fine pursuant to the general penalty set out in section 1-5 of this Code.

(f) *Exemptions.*

a. Individuals selling only non-refrigerated farm products in an unrefined state shall be considered as a mobile food vendor, as defined by this division, but shall be exempt from the requirements of this section.