

ORDINANCE O-03-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KAUFMAN, TEXAS AMENDING THE CODE OF ORDINANCES CHAPTER 50, HEALTH AND SANITATION, ARTICLE II, BY AMENDING SECTION 50-33 PERMIT FEE SCHEDULE, SECTION 50-34 DEFINITIONS, SECTION 50-36 INSPECTION FREQUENCY, SECTION 50-37 REQUIREMENTS FOR MOBILE FOOD ESTABLISHMENTS, SECTION 50-40 OPERATING REQUIREMENTS FOR MOBILE FOOD UNITS, SECTION 50-46 OVERHEAD PROTECTION, AND SECTION 50-47 APPEALS, RELATIVE TO AMENDING THE FEE SCHEDULE, AMENDING DEFINITIONS, AMENDING THE FREQUENCY OF INSPECTIONS, AMENDING THE REQUIREMENTS FOR MOBILE FOOD ESTABLISHMENTS; ESTABLISHING OPERATING REQUIREMENTS IN PUBLIC PARKS; ESTABLISHING AN APPEALS PROCESS; PROVIDING FOR THE INCORPORATION OF PREMISES; PROVIDING FOR AMENDMENTS; CLARIFYING VERBIAGE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00) FOR EACH OFFENSE, AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED UPON EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING A CUMULATIVE REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Kaufman desires to implement regulations for mobile food establishments to ensure the health and safety of the general public by adding words and terms, in conjunction with the operation of mobile food **units**, amending the fee schedule, and establishing application requirements for mobile food units operating inside the city limits of Kaufman; and

WHEREAS, the City Council of the City of Kaufman desires to establish a public park permit for permitted mobile food units that allows them to sell at the city public parks; and

WHEREAS, the City Council of the City of Kaufman desires to increase the safety of the public by requiring a more detailed examination of the individuals that will be operating the mobile food units in the city and in the public parks: and

WHEREAS, the City Council of the City of Kaufman desires to establish a procedure to appeal the revocation or denial of a mobile food establishment permit or a public park permit; and

WHEREAS, the City Council has reviewed the proposed revisions to Chapter 50, Health and Sanitation, Article II, in the attached Exhibit "A" to this Ordinance, and has determined that the regulations therein are necessary and reasonable for the public health, safety and welfare, and that the fees imposed therein are reasonable and necessary fees

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KAUFMAN, TEXAS:

SECTION 1. INCORPORATION OF PREMISES. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

SECTION 2. AMENDMENTS. That Chapter 50, Article II, Food Service Establishments, Sections 50-33, 50-34, 50-36, 50-37, 50-40, 50-46 and 50-47 are hereby amended as shown in Exhibit "A", attached hereto and incorporated herein as if written word for word, to amend the food permit fee schedule, the definition of a mobile food establishment, revise the number of inspections for mobile food units, amend the application requirements for mobile food establishments, establish regulations for permitting and operating on public property, establish an appeals process for any food permit, and shall be amended from time to time as necessary by separate ordinance.

SECTION 2. PENALTY. Any person who violates any provision of this Ordinance, upon conviction, shall be deemed guilty of a misdemeanor and shall be fined a sum not to exceed two thousand dollars (\$2,000.00) for each offense, and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SECTION 3. CUMULATIVE REPEALER. This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated or has arisen under or pursuant to such Ordinance on the date of adoption of this Ordinance shall continue to be governed by the provisions of that Ordinance and for that purpose the Ordinance shall remain in full force and effect.

SECTION 4. SEVERABILITY. If any section, subsection, clause, phrase or provision of this Ordinance, or any application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unconstitutional, the remaining sections, subsections, clauses, phrases and provisions of this Ordinance, or any application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and publication of its Caption as required by law and Charter.

PASSED AND APPROVED this 19th day of March, 2018.

PASSED AND ADOPTED this 23rd day of April, 2018.

J-Jordan

**JEFF JORDAN
MAYOR**

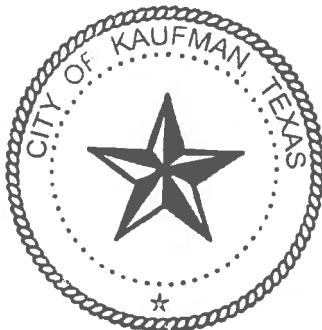
ATTEST:

Regina Farris

**REGINA FARRIS
CITY SECRETARY**

APPROVED AS TO LEGAL FORM:

**PATRICIA ADAMS
CITY ATTORNEY**



ARTICLE II. - FOOD SERVICE ESTABLISHMENTS

Sec. 50-31. - Adoption of state regulations.

- a) The rules on food service establishments, 25 TAC 229.161—229.171 and 229.173—229.175, of the division of food and drug safety and retail foods division of the state department of health, as adopted by the board on October 6, 1998, are hereby adopted as the minimum standards for food service operations and food stores, respectively, within the corporate limits of the city. Wherever in such rules the words "municipality of Kaufman" appear, they shall be understood to refer to the City of Kaufman and the words "regulatory authority" shall refer to the City of Kaufman. A copy of Texas Food Establishments Rules along with city amendments shall be kept on file in the office of the city secretary.
- b) Any revision, addition, or deletion to the Texas Food Establishment Rules (TFER) by the Texas Department of State Health Services, or the United States Food and Drug Administration shall be deemed to be an amendment to this article and adopted as of the time it goes into effect or is published.

Sec. 50-32. - Violations; penalties.

Violation of the rules on food establishments adopted in Section 50-31 is subject to the penalties and remedies listed in the compliance procedures (attachment A to Ordinance No. O-35-99, not codified in this section).

Sec. 50-33. - Permit fee schedule.

The permit fee schedule for food service establishments is as follows:

Category	Fee
Application Fee	\$50.00
Plan Review by Health Official (New or Remodel)	\$100
Annual Food Service Permit	\$200.00 per food establishment – add \$150 per catering unit, plus \$5.00 per employee (up to a maximum 100 employees)
Annual grocery stores and convenience stores	\$200.00 per store — add \$150.00 per department (bakery, per catering unit, deli, meat market, processed produce, seafood, sushi, etc.), plus \$5.00 per employee (up to a maximum 100 employees)
General and full mobile food establishment permit	\$200.00 per mobile unit

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General and full mobile food public park permit	\$200 per mobile unit (Must have a general and full mobile food establishment permit in conjunction with the public park permit)
Limited mobile food establishments	\$100.00 per mobile unit – catering unit fees are under Annual Food Service Permit and Annual Grocery Stores.
Limited mobile food public park permit	\$100 per mobile unit (Must have a limited mobile food establishment permit in conjunction with the public park permit)
Seasonal food service permit and snow cone stands	\$100.00 – permit is only valid from April 1 st to September 31 st
Temporary food service permit	\$50.00 per booth – 1 st day and \$15 for each additional day
Day cares, schools (public or private), and jails with food service permit	\$200.00

Sec. 50-34. - Definitions.

The following words and terms, in conjunction with those listed in the Texas Food Establishment Rules, when used in this article shall have the following meanings unless the context clearly indicates otherwise and shall apply in the interpretation and enforcement of this article:

- a) *City Sanitarian* means an employee of the City of Kaufman's Consumer Health Division, part of the Development Services Department, who is registered with the Texas Department of State Health Services.
- b) *Commissary* means a permitted fixed food establishment that serves as an operating base for a mobile food unit. The commissary is where the unit will be stored, parked, serviced, cleaned, supplied, and maintained.
- c) *Eating Establishment* means any permitted establishment that cooks, prepares or otherwise handles open food products.
- d) *Food* means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or sale, in whole or in part, for human consumption.
- e) *Food Establishment Permit (aka health permit)* shall mean the annual permit required for a food service establishment to operate in accordance with city regulations.

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- f) *Food Handler Certificate* means a certificate issued by an accredited food handler program, which is valid for two (2) years. All accredited food handler programs that issued certificates shall be recognized statewide by regulatory authorities as the valid proof of successful completion of an accredited food handler program. All food service employees shall have in their possession a food handler certificate. All newly hired food service employees have 60 days to provide their employer with a copy of their certified food handler's certificate.
- g) *Food Manager* means an individual who conducts, manages, or operates a food service establishment.
- h) *Food Service Employee* means an individual employed/working with a food service establishment, and is not a food manager, and whose work involves unpackaged food, food equipment or utensils, or food-contact surfaces. All food service employees must have a food handler's certificate from an accredited program.
- i) *Food Service Establishment* shall mean an operation that stores, prepares, packages, serves, or otherwise provides food for retail human consumption such as: a retail food store; a temporary food service establishment; a mobile food unit and/or pushcart food vendor; a catering operation, if the operation provides food directly to a consumer; a food bank; or other establishment that relinquishes possession of food to a consumer directly or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout or delivery service. The term does not include an establishment that offers only prepackaged foods that do not require temperature control (items that must be kept hot or cold); a food processing plant; or a kitchen in a private home not used to create income or revenue.
- j) *Law* includes federal, state and local statutes, ordinances and regulations.
- k) *Mobile Food Establishment* shall mean a food service establishment or company that serves, sells, or distributes any food or beverage from a mobile food unit that is not operating at a permanent fixed location.
- l) *Mobile Food Unit* is vehicle-mounted or wheeled unit that is capable of being readily moveable and is fully self-contained. A mobile food unit is a commercially manufactured vehicle from which food is prepared, served, or provided for the public with or without charge.

Types of mobile food units: The mobile food unit classifications are based upon the type of menu served. For a more detailed definition of the different types of food units please see Section 50-38 of this ordinance.

- 1) *Limited Mobile Food Unit* shall mean a mobile food unit that provides cold prepackaged foods and/or beverages not time/temperature controlled.
- 2) *General Mobile Food Unit* shall mean a mobile food unit that is not a limited mobile food unit or a full service mobile food unit.
- 3) *Full Service Mobile Food Unit* these mobile food units may serve a full menu as approved by the city sanitarian.

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- m) *Non-Potentially Hazardous Beverage*: shall mean a non-alcoholic liquid intended for consumption, whether natural or synthetic, that does not require temperature control because it is not capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms or the growth and toxic production of *Clostridium botulinum*. The term includes:
- 1) Tea and coffee, excluding espresso, with powdered creamer or ultra-high, pasteurized half-and-half in individual servings;
 - 2) Commercially made, high acid beverages with a pH level of 4.6 or below, such as apple juice, lemonade, limeade, and orange juice;
 - 3) Fresh squeezed, high acid beverages;
 - 4) Commercially filled carbonated beverages;
 - 5) High acid beverages made from a commercial mix; and
 - 6) Mineral water sold in open, single-service cups with ice from an approved source.
- n) *Potentially Hazardous Foods* shall mean fish, seafood, sushi, curing food, live molluscan, sprouting seed, reduce oxygen pack, custom processed animals.
- o) *Pushcart* shall mean a mobile food unit pushed by human power to various locations and shall serve a menu associated a limited mobile food unit and/or a general mobile food unit.
- p) *Seasonal Food Service Establishment* shall mean any food service establishment that operates from a fixed location consecutively from April 1st to September 31st.
- q) *Temporary Food Establishment* means a food service establishment that operates for a period of no more than fourteen (14) consecutive days in conjunction with a single event or celebration.
- r) *Texas Food Establishment Rules* means the rules of the Texas Department of State Health Services found in Title 25 Texas Administrative Code, Chapter 228, as amended.
- s) *Texas Food Handlers Course* means a Texas Department of State Health Services accredited course for food service employees giving a basic overview of food safety principles and practices that are necessary to ensure safe food is served at any establishment.
- t) *Texas Certified Manager Program* means a program accredited by the Texas Department of State Health Services that provides food safety education for food establishment managers and administers an approved examination for certification or recertification purposes.
- u) *Toilet Facilities* shall mean flush toilets and sinks with hot and cold running water connected to an approved system.

Sec. 50-35. - Food inspections—Health and sanitation.

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- a) All eating and food service establishments shall be inspected uniformly using an inspection form, as provided by the City of Kaufman. The score of each eating establishment shall be determined by the city sanitarian, using the scoring method provided on the inspection form by Texas Food Establishment Rules.
- b) There are specific critical items observed during an inspection conducted by the regulatory authority of Kaufman and are listed on the retail food establishment inspection form. The retail food establishment inspection form includes the main categories listed below as essentials for a routine health inspection.
 - 1) Food temperature/time requirements (improper holding temperature violations and inadequate cooking violations).
 - 2) Personnel/handling/source requirements (poor personal hygiene violations and unsafe food source violations).
 - 3) Facility and equipment requirements (contaminated equipment violations).
- c) In addition to the Texas Food Establishment Rules, all food service employees in the City of Kaufman shall be required to have a food handler's course certificate accredited by the Texas Department of State Health Services. All newly hired food service employees have 60 days to provide their employer with a copy of their certified food handler's certificate. The effective date of this requirement is March 22, 2010.
- d) Denial of access to the health authority shall be cause for suspension or revocation of the food service permit and results in the immediate closure of the facility.
- e) Jail trustees serving food while incarcerated in the Kaufman County Jail and volunteers serving for a nonprofit entity shall be exempted from this requirement.

Sec. 50-36. - Inspections—frequency; regulatory authority's right of access.

- a) The City of Kaufman's Consumer Health Division shall inspect:
 - 1) Eating and food service establishments at least twice (2x) annually.
 - 2) Limited mobile food units shall be inspected at least twice (2x) annually.
 - 3) General and full mobile food units shall be inspected at least two (2x) times annually.
- b) Additional inspections of the mobile food units, eating and food service establishments shall be performed as often as necessary for the enforcement of this article.
- c) Whenever necessary to make an inspection to enforce any of the provisions of this article, or whenever the Director of Development Services, City Sanitarian or his designee has reasonable cause to believe that there exists, in any building or upon any premises, any condition or violation of this article, the Director of Development Services, City Sanitarian or his designee may enter such building or premises at all reasonable times to inspect the same, or to perform any duty imposed upon the administrator or his designee by this article. If such building or premises is occupied, he shall first present proper credentials and request entry. If such building or premises is unoccupied, he

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shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused or if no owner or other person having charge or control of the building or premises can be located, the Director of Development Services, City Sanitarian or his designee shall have recourse to every remedy provided by law to secure entry.

- d) A signed copy of the official inspection form shall be delivered to the owner, operator, or person in charge of the food service establishment or food facility who shall sign in receipt thereof.

Section 50-37. - Requirements for mobile food establishments.

a) Application process.

- 1) In order to obtain a permit to operate a mobile food establishment or unit within the city limits of Kaufman, an applicant shall pay all required fees and submit all required applications and applicable documents with the City of Kaufman, which shall include, but is not limited to the following:
 - A) Copy of food manager's certification.
 - B) Current driver's license for any and all persons operating motorized units.
 - C) Current state issued identification for any and all persons operating a non-motorized units.
 - D) Copy of current State of Texas issued sales tax permit number.
 - E) Copy of current Texas vehicle registration and proof of current vehicle insurance meeting at least the minimum requirements for vehicle financial responsibility in the State of Texas.
 - F) Whether the applicant or any person operating a motorized or non-motorized food unit has been convicted within the five (5) years preceding the date of the application of murder, burglary, theft, fraud, robbery, rape, or any drug-related felony or is a registered sex offender.
 - G) Documentation from the Texas Department of Public Safety that the applicant or any person operating a motorized or non-motorized food unit has not been convicted within the five (5) five years preceding the date of the application of murder, burglary, theft, fraud, robbery, rape, or any drug-related felony or is a registered sex offender.
- 2) If the application contains false information or the applicant and/or person operating a motorized or non-motorized food unit under the applicant's permit has been convicted of any of the following offenses within the five (5) years preceding the date of the application: murder, burglary, theft, fraud, robbery, rape, or any drug-related felony or is a registered sex offender; the permitting department shall not issue the permit.
- 3) A mobile food unit shall have written authorization from the owner or person in control of each premises from which the mobile food unit will sell or serve food.

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- A) A separate written agreement shall be obtained from the owner or person in control of a nearby premises granting permission to the mobile food unit employee's use of the toilet facilities and garbage receptacles.
 - B) A current copy of each authorization shall be maintained on file with Development Services and also in the unit for inspection by the city sanitarian, a code compliance officer or a peace officer upon request.
- 4) An itinerary shall be required for all mobile food units that will stop and sell food on any one (1) parcel of land for more than one (1) hour, not to exceed three (3) hours. The itinerary of listed locations shall be approved by Development Services. The approved itinerary verifies that all sales locations stated in the submitted location itinerary are in a nonresidential zoned district (as defined in the Kaufman Comprehensive Zoning Ordinance O-02-07). Other documentation may be required by Development Services. The itinerary shall include:
- A) The address of each premises to be serviced.
 - B) The name and telephone number of the owner or person in control of those premises.
 - C) The scheduled times of arrival at and departure from each premises to be serviced, which times shall be accurate to within thirty (30) minutes.
 - D) The Development Services shall be given written notice at least two (2) business days before implementation of any changes to the approved, filed itinerary. Notification shall be done in writing.
- 5) The application shall include the menu or listing of all the foods and beverage items to be offered by the mobile food unit. If a large rotating menu cycle, may provide a representative listing of the types of items served.
- 6) The application shall include a completed commissary form.
- 7) New hires or operators will have to submit a completed application and applicable documents as required in Section 50-37.a.1
- b) Permit Issuance.
- 1) Upon receiving a completed application for a permit, the city sanitarian shall make appropriate inspections of the unit; equipment and other reasonable inspections concerned with the mobile food unit and shall issue a permit and sticker only if the inspection reveals compliance with the applicable requirements of all federal and state statutes and regulations and city ordinances governing the proposed mobile food units operation.
 - 2) The valid mobile food unit sticker shall be displayed by a mobile food unit that was inspected and approved.
 - A) The hard copy of the permit shall be kept with the mobile food unit at all times.

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- B) The mobile food unit sticker shall be posted on the back right corner on the outside of the motorized mobile food unit displaying the date of expiration of the permit and the unit ID number.
 - C) The mobile food unit sticker shall be posted on the front right corner on the outside of the non-motorized mobile food unit displaying the date of expiration of the permit and the unit ID number.
 - D) The stickers must be visible at all times displaying the date of expiration of the permit and the unit ID number.
- 3) An approved food permit shall be valid from January 1st to December 31st of each year.
 - 4) Mobile food unit permits and stickers shall not be transferable and shall be revoked should the food vending operation be changed from that specified in the permit.
 - 5) The City of Kaufman may revoke the mobile food establishment permit if one or more of the following apply:
 - A) Any information provided on the application or with the application is not correct or has not been continuously updated to reflect current information.
 - B) Sales taxes are not paid to the City of Kaufman and State of Texas.
 - C) If the applicant or any person operating a motorized food unit is convicted of driving under the influence or reckless driving.
 - D) If the applicant or any person operating a motorized or non-motorized food unit is convicted of criminal charges such as murder, burglary, theft, fraud, robbery, rape, or any drug-related felony or is registered as a sex offender.

Section 50-38. - Mobile Food Unit Types.

- a) *Limited Mobile Food Unit*: these mobile food units may provide cold prepackaged foods and/or beverages not time/temperature controlled.
 - 1) Types of Limited Mobile Food Units:
 - A) *Produce Vendors*: approved to vend whole, uncut fruit and vegetables.
 - B) *Ice Cream Trucks*: approved to vend pre-wrapped and sealed ice cream, canned soft drinks, bottled water, packaged candy, chips, and pickles.
 - C) *Mobile Grocery Truck*: approved to vend pre-wrapped non-potentially hazardous food including pre-wrapped and sealed ice cream, canned soft drinks, bottled water, prepackaged grocery items, packaged candy, chips and pickles.

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- D) *Mobile Catering*: approved to deliver prepared food from an existing permitted food establishment to a specific location for a specific event, location, or person. The food will not be sold to the general public.
- 2) *Pushcart*: approved to vend foods pre-wrapped, bottled or otherwise packaged.
 - 3) Self-service by customers of unpackaged foods is not allowed.
 - 4) Preparation, assembly, or cooking of foods is not allowed on the mobile food unit.
 - 5) Non-potentially hazardous beverages shall be provided from covered urns or dispenser heads only.
 - 6) All foods sold will need to meet proper labeling requirements.
 - 7) Vendor's selling prepackaged food shall provide a copy of the commercial food establishment's Texas Food Manufacturing permit (or Meat Safety Assurance Permit - if applicable) from the Texas Department of State Health Services.
- b) *General Mobile Food Units*: these mobile food units that are not a limited mobile food units or a full service mobile food units is a general mobile food units.
- 1) Types of Limited Mobile Food Units:
 - A) Mobile Truck
 - B) Pushcart
 - C) Mobile Trailer: These types of units are not allowed to operate unless stationary for over one (1) hour.
 - 2) Food prepared and packaged in individual servings at an approved commissary or eating and food establishment and transported and stored under conditions meeting the requirements of this article.
 - 3) Light food preparation allowed are hot dogs, nachos with artificial cheese base, corn on the cob, snow cones, popcorn, pretzels, sausage on a stick, roasted peanuts ,tea, and lemonade,
 - 4) Food and beverages included under Limited Mobile Food units are also allowed under this type.
 - 5) All units shall be equipped with hot and cold running water.
 - 6) Potentially hazardous beverages such as individual servings of milk, milk products and coffee creams that have been packaged at a pasteurizing plant shall be maintained at the proper temperature.
 - 7) The city sanitarian may approve additional food and beverage menu items to be offered.

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- c) Full Service Mobile Food units: these mobile food units may serve a full menu as approved by the Development Services.
 - 1) Types of Full Mobile Food units:
 - A) Mobile Truck: Ready-to-eat food that is cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution.
 - 2) Food and beverages included under Limited and General Mobile Food units are also allowed under this type.
 - 3) All units shall be equipped with hot and cold running water.
 - 4) Potentially hazardous beverages such as individual servings of milk, milk products and coffee creams that have been packaged at a pasteurizing plant shall be maintained at the proper temperature.

Section 50-39 – Requirements for special foods.

- a) Potentially hazardous foods are not permitted or allowed for any type of mobile food units.
- b) Ice.
 - 1) Ice used in a beverage shall be stored in a steel container that:
 - A) is covered;
 - B) is not installed above food equipment or food contact surfaces;
 - C) drains into the mobile food unit's liquid waste retention tank.
 - 2) Dispensed with an approved scoop by an employee of the mobile food units.
 - 3) All ice used to keep food cold shall be drained into the mobile food unit's liquid waste retention tank and properly disposed.
- c) Barbecue regulations.
 - 1) The barbecue pit shall be self-contained and permanently installed inside of the mobile food units.
 - 2) The barbecue pit area shall be completely enclosed by walls, ceiling and floor. The walls and ceiling of the pit area shall be smooth, non-absorbent, easily cleanable, and light colored. (They shall be cleaned frequently due to the excessive amount of smoke normally generated by barbecue pits.)
 - 3) If windows are in the barbecue pit area, they shall be screened or kept closed at all times.
 - 4) The smoke stack for the barbecue pit shall be vented directly to the outside through the ceiling or wall and the opening shall be sealed against the entry of pests and the elements.

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- 5) An exhaust fan shall be installed in the pit area that vents directly to the outside to remove excessive heat and smoke and shall be sealed against the entry of pests and the elements.
- 6) The barbecue pit is prohibited from being towed behind or located outside the unit.
- d) No raw poultry or seafood may be prepared in mobile food units, except for frozen, breaded poultry or seafood products that are directly placed from the freezer into a fryer.

Section 50-40 – Operating requirements for mobile food units.

- a) Location of operation.
 - 1) Mobile food units shall be allowed to stop and sell food in all nonresidential zoning district locations.
 - 2) Mobile food units shall not stop and sell food in a residential zoning district (as defined in the Kaufman Comprehensive Zoning Ordinance O-02-07) without written permission from the Homeowner's Association or a Neighborhood Association. Mobile food units shall not stop and sell food in any residential zone that does not have an active Homeowner's or Neighborhood Association, except for those mobile food units that regularly sell food to construction workers in residential zones with active construction activity.
 - 3) Limited mobile food units shall be allowed to stop and sell food in all residential zoning district locations.
 - 4) General mobile food units selling only ice cream and snow cones shall be allowed to stop in all residential zoning district locations.
 - 5) Mobile food units shall not stop at any location, unless the stop is for less than one (1) hour, to sell or serve food during any time other than the dates and times specified in the current approved itinerary on file with Development Services. The approved itinerary can allow stops from one (1) hour not to exceed three (3) hours.
 - 6) Mobile food units shall not stop at any location within three hundred (300) feet of an existing fixed business that sells, distributes, or offers for sale goods or services similar to those to be sold, distributed, or offered for sale by the mobile food unit.
 - 7) Mobile food units shall not park in any fire lanes.
 - 8) Mobile food units shall not park in any off-street parking spaces that are required by the Certificate of Occupancy of an existing business unless the business is closed and its required off-street parking spaces are available.
 - 9) Mobile food units shall not park at a residence.
 - 10) Mobile food units shall park only on an improved surface (asphalt or concrete) to sell or serve food unless at an active construction site.
 - 11) Mobile food units shall not be permitted to be washed out at the location of an existing food establishment, unless it is owned by the same entity. All interior washing shall

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be at an approved location. Only exterior washing of the mobile food unit may be done at a commercially operated carwash.

- 12) Grease or wastewater shall not be dumped or drained at a carwash. Grease and wastewater removal shall be in accordance with Section 50-39.
- b) Operations on public property.
- 1) No mobile food unit shall operate in a public park or on publicly owned property or site during an approved special event without written permission from the City of Kaufman. (Note: A food establishment permit does not authorize you to operate in a public park or on publicly owned property.)
 - 2) No mobile food unit shall operate in a public park without a public park permit in conjunction with a mobile food establishment permit.
 - 3) Parking in a public park
 - A) The Public Works Director or his designee shall establish the approved parking locations.
 - B) All mobile food units shall only drive or park on concrete or asphalt surfaces.
 - C) Mobile food units shall not be parked within a public park at any time other than during regular park hours, which is 6:00 am to 10:00 pm.
 - 4) Public park permit issuance
 - A) Upon receiving a completed food permit application with the public park permit requested, the City shall review the application for compliance with the requirements of this article and shall issue a public park permit sticker in conjunction with a mobile food unit permit sticker if approved.
 - B) Valid stickers shall be displayed on each approved mobile food unit.
 - (i) The hard copy of the permit shall be kept with each mobile food unit at all times.
 - (ii) The public park permit sticker shall be posted on the back right corner on the outside of each motorized mobile food unit and shall be located above the mobile food unit sticker.
 - (iii) The public park permit sticker shall be posted on the front right corner on the outside of the non-motorized mobile food unit and shall be located above the mobile food unit sticker.
 - (iv) The stickers must be visible at all times displaying the date of expiration of the permit and the unit ID number.
 - C) An approved Public Park Permit shall be valid from January 1st to December 31st of each year.

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- D) Mobile food unit permits and public park permit stickers shall not be transferable and shall be revoked should the ~~food-vending~~ operation be changed from the approved applicant, or if the person operating a motorized or non-motorized food unit is not listed on the approved application.

- E) The City of Kaufman may revoke the public park permit if:
 - (i) Any information provided on the application or with the application is not correct or has not been continuously updated to reflect current information.

 - (ii) Sales taxes are not paid to the City of Kaufman or State of Texas.

 - (iii) A If the applicant or any person operating a motorized food unit is convicted of driving under the influence or reckless driving.

 - (iv) If the applicant or any person operating a motorized or non-motorized food unit is convicted of criminal charges such as murder, burglary, theft, fraud, robbery, rape, or any drug-related felony or is registered as a sex offender.

- c) Each mobile food unit shall:
 - 1) report daily to a commissary where:
 - A) The vehicle is properly cleaned and serviced.
 - B) All food contact surfaces are washed, rinsed and sanitized.
 - C) The liquid waste is properly disposed.
 - D) The vehicle receives potable water necessary to operate.
 - E) Food served from the mobile food vehicle is stored, handled or prepared.
 - F) Single service articles are properly stored.
 - G) The vehicle is stored overnight (minimum of five (5) hours).
 - 2) Maintain the unit in a clean, undamaged condition, both inside and outside, and in good working order;
 - 3) Keep proof of minimum vehicle insurance that is issued in at least six (6) month increments;
 - 4) Display on the vehicle current license plates and a current vehicle safety inspection sticker issued by the State of Texas, when required by state law; and
 - 5) No mobile food units shall be equipped with any sound amplification device that, when operated, violates Section 42-1 or Section 102-5 of this code.
 - 6) Fire extinguishers shall be readily available and easily accessible.

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- A) All mobile food units require a 3A-40BC minimum fire extinguisher.
- B) A type K class portable extinguisher is also required when there is deep-fry cooking.
- C) A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors. A Type I hood system shall be equipped with an automatic fire extinguishing system. The fire extinguishing system shall have a current inspection/service tag from a licensed fire extinguisher company.
- d) Any person operating a motor vehicle as a mobile food unit shall have a current driver's license. The permit holder shall ensure that their vehicle driver(s) has a valid driver's license.
- e) Garbage storage containers shall be maintained on each mobile food unit in a number sufficient to contain all trash and garbage generated by the unit, its employees, or its customers.
 - 1) Every garbage container shall have a tight-fitting lid (insect and rodent proof).
 - 2) Before a mobile food unit leaves a vending site, all trash and garbage shall be removed from the site.
 - 3) Excessive trash and garbage may not be allowed to accumulate inside or around the mobile food unit.
 - 4) All trash and garbage shall be disposed of in an approved garbage receptacle.
- f) A mobile food unit shall demonstrate mobility at any reasonable time, if requested by any peace officer, city sanitarian, or designated city employee.
- g) Signage.
 - 1) Each mobile unit shall be readily identifiable by business name, printed, permanently affixed and prominently displayed upon at least two (2) sides of the units, in letters and numbers not less than three (3) inches in height.
 - 2) Each mobile food unit shall be clearly marked with the food establishment's name or a distinctive identifying symbol.
 - 3) The lettering shall be at least three (3) inches in height and of a color contrasting with the background color. If a symbol is used, it shall be at least twelve (12) inches in diameter or of an equivalent size.
 - 4) Each mobile food unit shall be clearly marked with the mobile food unit permit sticker and public park permit sticker for purposes of identifying each unit on inspection reports and other communications.
- h) During transportation, food and food utensils shall be kept in covered containers or completely wrapped or packaged so as to be protected from contamination.
- i) Food shall be maintained at required temperatures at all time during transport.

Exhibit "A"

Section 50-41 Operation limitations.

- a) The operator of a mobile food unit shall prepare, serve, store, and display food and beverages on or in the mobile food unit itself; and shall not attach, set up, or use any other device or equipment intended to increase the selling, serving, storing, or displaying capacity of the mobile food unit.
- b) It shall be un-lawful for the operator of a mobile food unit to:
 - 1) Allow items such as, but not limited to brooms, mops, hoses, equipment, containers and boxes or cartons to remain adjacent to or beneath the mobile food unit;
 - 2) Provide or allow any sign or banner to remain that is not attached and solely supported by the mobile food unit; or,
 - 3) Sell food outside of the unit, for example, from a table under a freestanding canopy. All food vending shall be done from the mobile unit.
 - 4) Sell, distribute, or offer for sale, goods or services that have not been approved by the Development Services; including, but not limited to: alcoholic and tobacco products, sexually explicit or obscene material, drugs or drug related paraphernalia, real estate, vacation packages, marketing and advertising activities, tickets for events, or other services or products not approved.
 - 5) Enter or occupy a public roadway to solicit or conduct a sale.
- c) Your food establishment permit may be revoked if found to be in violation of any part of this article.

Section 50-42. – Mobile food unit construction.

A mobile food unit may not serve, sell, or distribute any food or beverage from a unit that does not comply with the requirements of this Section 50-42.

- a) The interior of the unit shall be commercially manufactured or be approved by the city sanitarian.
- b) The food preparation area of the unit shall be completely enclosed.
- c) Mobile food units shall be required to provide an on board power source, such as a battery or generator, to assure maintenance of potential hazardous foods and time/temperature control standards (PHF/TCSS) foods at proper temperatures during transit, preparation and service. The unit shall be equipped with commercial mechanical facilities. All equipment on the unit is to be National Sanitation Foundation (NSF) approved, American National Standards Institute (ANSI) approved, or of commercial grade.
- d) The cab of the vehicle shall be physically separated from the food preparation area, and the seats designated for the cook and any passengers shall be located outside of the food preparation area.

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- e) All cooking equipment and hot holding units shall be located at the rear of a mobile food unit. Covers for deep fryers shall be provided and installed over fryer units while vehicle is in motion.
- f) Floor shall be constructed of durable, easily cleanable material, including, but not limited to anodized aluminum, stainless steel or tile. All junctures shall be properly sealed. All service lines and pipes shall installed off the floor to allow for easy cleaning.
- g) Walls shall durable, easily cleanable, nonabsorbent and light in color. Minimum wall covering materials include, but are not limited to, aluminum or fiberglass-reinforced paneling. Walls at vent-a-hood and grill areas shall be covered with stainless steel panels. Wall covering shall be installed to cover the entire height of each wall. Studs and utility lines may not be unnecessarily exposed on the wall or prevent cleaning.
- h) Ceilings shall be light in color, nonabsorbent, and easily cleanable. The height over the aisle-way portion of the unit shall be at least seventy-four (74) inches and unobstructed. Joists and rafters may not be exposed.
- i) Construction joints shall be tightly fitted and sealed with no gaps or voids, and all sealant solder and weld joints located in the food contact areas shall be smooth and approved for food contact.
- j) All equipment and utensils shall meet or exceed the standards published by the National Sanitation Foundation (NSF).
- k) All equipment shall be placed, installed, stored, and secured on the unit in a manner that allows for thorough cleaning and sanitizing around the equipment and prevents movement of the equipment when the vehicle is in motion. Counter-mounted equipment shall be sealed directly to the countertop or securely installed to provide a four (4) inch clearance under the equipment. Floor-mounted equipment shall be sealed directly to the floor or securely installed to provide a six (6) inch clearance under the equipment.
- l) The unit shall be equipped with a stainless steel, (3) three-compartment sink, with each compartment measuring at least twelve (12) inches long, twelve (12) inches wide, and ten (10) inches deep, to be used for ware washing. The sink shall be equipped with:
 - 1) a mixing faucet with a swivel spigot capable of servicing all sink compartments; and
 - 2) an integral stainless steel drain board at least twelve (12) inches long, which shall be installed with a minimum one-half (1/2) inch lip or rim to prevent the draining liquid from spilling onto the floor.
- m) The unit shall be equipped with a stainless steel sink measuring at least nine (9) inches long, nine (9) inches wide, and four (4) inches deep to be used for handwashing. The sink shall be:
 - 1) located in an area that is fully accessible and at counter level;
 - 2) separated from the ware washing sink by a metal splashguard at least six (6) inches high; and
 - 3) with a soap dispenser and paper towel dispenser.

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- n) The unit shall contain at least twenty (20) inches of linear counter space for each piece of food equipment. Additional counter space shall be provided that is sufficient to allow for safe food preparation.
- o) The unit shall contain at least fifteen (15) cubic feet of storage space for dry food and utensil storage. No food or utensil storage is allowed in any plumbing compartment.
- p) The unit shall be equipped with mechanical refrigeration equipment, if food that is stored, prepared, or served on the unit has a time/temperature control for safety. The mechanical refrigeration equipment shall have at least fifteen (15) cubic feet of usable storage space and be capable of ensuring proper food temperature control during transportation and operation.
- q) Outer openings of the unit, including but not limited to service windows, doors, pop-up vents, and sunroofs, shall be insect and rodent proof, and meet the following requirements:
 - 1) Screens shall be tightly fitted and in good repair, with a maximum of sixteen (16) mesh per square inch.
 - 2) Entrance doors and service windows to the food preparation area shall be self-closing and shall be kept closed when not in use.
- r) The unit shall be equipped with a power source that is capable of handling the power demands of the unit and equipment while the vehicle is stopped or in motion. The power source shall be permanently installed in an area that is completely separated from food preparation and food storage areas and shall be accessible for proper cleaning and maintenance.
- s) Light bulbs and tubes shall be covered and completely enclosed in plastic safety shields or the equivalent.
- t) The general mobile and full service mobile food units shall have a potable water system under pressure that:
 - 1) is equipped with a permanently installed water supply tank of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and handwashing;
 - 2) the water supply tank shall have a minimum capacity of:
 - A) five (5) gallons for a general mobile food pushcart; and
 - B) thirty (30) gallons for a general mobile truck and full service mobile truck;
 - 3) is equipped with a water inlet that is:
 - A) located where it will not be contaminated by waste discharge, road dust, oil, or grease; and
 - B) provided with a connection of a size or type that will prevent its use for any other service;

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- 4) is constructed and installed in accordance with the Rules on Food Service Sanitation, as adopted and amended by the Texas Department of State Health Services, which include National Sanitation Foundation standards, Underwriter Laboratory standards, and equivalent standards;
 - 5) is equipped with a propane tank installed in accordance with applicable fire department regulations pursuant to a valid liquid propane gas (LPG) permit issued by the fire department;
 - 6) is equipped with a water heater, if the vehicle is a mobile food vehicle; the water heater shall be capable of heating water to at least one hundred ten (110) degrees Fahrenheit, and any tank of the water heater shall have a minimum capacity of three (3) gallons; and
 - 7) provide a minimum water pressure of one (1) gallon per minute.
- u) In lieu of the potable water system under pressure required in Section 50-42(t), a general service mobile food units may have a potable water system that is gravity fed with a mixing faucet if the water tanks:
- 1) are vented for escape or intake of air of sufficient volume to allow for water flow, and the vent openings are protected;
 - 2) have a smooth interior with no recesses and crevices; and
 - 3) have a combined water capacity of not less than five (5) gallons.
- v) If liquid waste results from the operation of a general mobile or a full service mobile food unit, the unit shall have a liquid waste retention system that is:
- 1) equipped with a permanently installed retention tank of at least forty (40) percent larger capacity than the potable water supply tank;
 - 2) equipped with servicing connections that are:
 - A) located lower than the water inlet to prevent contamination of the potable water system; and
 - B) of a different size or type than the connection used for supplying potable water to the unit; and
 - 3) properly sloped to drain and collect all potential liquid waste;
 - 4) shall be drained and thoroughly flushed during servicing operations;
 - 5) all liquid waste shall be discharged to an approved sanitary sewage disposal system;
 - 6) liquid waste shall not be discharged from the retention tank when the mobile food unit is at an operational location.
 - 7) connection to a sewage system at an operation location is prohibited;

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- 8) Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion;
 - 9) All used fats, oil, or grease shall be discharged to an approved grease interceptor. Used fats, oils, or grease shall not be discharged to any unauthorized food unit grease interceptor or discharged with the unit is in motion.
 - 10) The use of liquid waste transport vehicles (otherwise known as vacuum trucks), licensed by the Texas Commission Environmental Quality for the removal and disposal of liquid waste resulting from mobile food unit operations is permitted.
- w) The general mobile and full service mobile food unit shall comply with the National Fire Protection Association (NFPA) requirements regarding Food Truck safety.
- x) The general mobile and full service mobile food unit shall protect all LPG/Propane cylinders from damage and shall not be located:
- A) directly on roofs or ahead of the front axle or beyond the rear bumper of the unit;
 - B) below the lowest part of the vehicle frame;
 - C) inside improperly vented or unvented trunks or beds of vehicles;
 - D) inside passenger compartments of vehicles;
- 1) compartments used for the storage of propane shall be gastight with respect to the passenger compartment and properly vented.
 - 2) Cylinders shall be properly secured by one (1) or more restraints
 - 3) Minimum of 10 foot clearance from any trash or combustible materials
 - 4) Cylinders shall be kept away from open flames, generators or other sources of ignition.
- y) The relief valve discharge from the propane cylinder shall not be less than three (3) feet measured horizontally along the surface of the vehicle to:
- 1) openings in the vehicle;
 - 2) propane burning appliance intake/exhaust vents;
 - 3) all internal combustion engine exhaust terminations.
- z) Propane equipment regulations;
- 1) All cooking appliances shall be listed and labeled for the intended use.
 - 2) All appliances shall be properly modified for use with propane.
 - 3) Appliances modified for use with propane shall be modified only by a licensed master plumber.
 - 4) Piping systems, including fittings and valves shall comply with NFPA 58.

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- 5) The propane system is required to be installed only by a licensed master plumber.
- 6) Documentation of proper conversion by a licensed master plumber shall be provided at the time of inspection. A letter shall include the Name, License #, and signature from the company that installed the propane piping and any appliance modifications, along with confirmation of a pressure test that was completed and passed.
- 7) System and all piping shall be installed in accordance with NFPA 58 and shall be protected against physical damage.
- 8) Piping shall be tested annually. Documentation of test shall be provided at the time of inspection.
- 9) Manual shutoff valves on gas lines are required at the point of use (the appliance) and at the supply. Shutoff valves shall be accessible.
- 10) *All LPG requirements follow the requirements as provided for by the Texas Railroad Commission, NFPA 58, and the International Fire Code.*

Section 50-43. - Mobile Food Unit Exterior Surfaces.

Exterior surfaces of mobile food units shall be of weather resistant materials and shall comply with all applicable laws.

Section 50-44. - Utility connections.

Utility connections shall be limited to only electrical service and shall be in full compliance with the National Electrical Code. All electrical extension cords shall be of industrial grade quality and shall be utilized in a safe manner as not to be a nuisance or a trip hazard. Mobile food unit shall not be connected to any potable water service, sanitary sewer service, or fuel gas service while in the operation of preparing or vending food.

Section 50-45. - Damage report.

Any accident or fire involving a mobile food unit shall be reported to Development Services within twenty-four (24) hours of the time the incident occurred. Reports shall be made by the holder of the mobile food unit permit. Reports shall include any damage to the water system, waste retention tank, food service equipment, or any facility that may result in the contamination of the food or any damage that results in a violation of this article.

Section 50-46. - Overhead protection.

Overhead protection shall be provided at all service windows and areas where food is not covered at all times. The overhead protection may be canopies, awnings or umbrellas solely attached to the unit with no part touching the ground. The overhead protection shall be retractable, easily cleanable and in good condition.

Section 50-47 – Appeals.

Should an applicant be denied a permit, or have a permit revoked, they may appeal that action to the City Manager by submitting a letter to the City Manager's office within ten (10) days of

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the effective date of the denial or revocation stating the basis for the appeal. A meeting on the denial or revocation will then be scheduled for the City Manager to render a decision on the appeal within ten (10) days of the meeting. The decision of the City Manager shall be final.