

**ARTICLE V
FOOD AND FOOD ESTABLISHMENTS¹**

§ 14-231. Adoption of Texas Food Establishment Rules. (Ord. No. CSO#453-06-2016, § 1, 6-6-2016; Ord. No. CSO#1290-02-2020, § 1, 3-2-2020)

The city adopts by reference the provisions of the current rules or rules as amended by the executive commissioner of the health and human services commission found in 25 Texas Administrative Code, Chapter 228, regarding the regulation of food establishments in the city.

§ 14-232. Definitions. (Ord. No. CSO#453-06-2016, § 1, 6-6-2016; Ord. No. CSO#1066-07-2019, § 1, 8-5-2019; Ord. No. CSO#1290-02-2020, § 1, 3-2-2020)

AUTHORIZED AGENT OR EMPLOYEE — The employees of the regulatory authority.

COMMISSARY (ALSO KNOWN AS CENTRAL PREPARATION FACILITY) — A permitted fixed location food establishment in which food, containers, or supplies are kept, handled, prepared, packaged, or stored for transportation by mobile food units, and that serves as an operating base where a mobile food unit may be stored, parked, serviced, cleaned, supplied, and maintained.

FOOD ESTABLISHMENT — A food services establishment a retail food store, a temporary food establishment, a mobile food unit, and/or a roadside vendor.

FOOD TRUCK (ALSO KNOWN AS MOBILE FOOD UNIT) — A vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily movable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A mobile food unit does not include a stand or a booth. A roadside food vendor is classified as a mobile food unit. The terms food truck and mobile food unit shall be interchangeable.

FOOD TRUCK OPERATION SITE — The geographic area, not located within a food truck park, within which a food truck will park, prepare, and sell food and/or beverages. This also includes areas where the food truck's customers go to consume food and/or beverages sold from the food truck.

FOOD TRUCK PARK — A property used or developed to accommodate two or more mobile food units that offer food and/or beverages for sale to the public as the primary use of the property while possibly accommodating areas on the property for entertainment or recreational opportunities.

MUNICIPALITY OF BURLESON — Shall be understood to refer to the City of Burleson.

REGULATORY AUTHORITY — The city manager or his or her duly appointed representative.

1. Editor's Note—Ord. No. CSO#453-06-2016, Adopted June 6, 2016, Repealed Former Art. V, Which Pertained To Similar Subject Matter And Derived From Ord. No. B-585, Adopted Nov. 20, 1997.

STATE RULES — The state rules found at 25 Texas Administrative Code, Chapter 228, also known as the Texas Food Establishment Rules (TFER).

§ 14-233. Permits and exemptions. (Ord. No. CSO#453-06-2016, § 1, 6-6-2016; Ord. No. CSO#1290-02-2020, § 1, 3-2-2020)

- (a) A person may not operate a food establishment without a permit issued by the regulatory authority. Permits are not transferrable from one person to another or from one location to another location, except as otherwise permitted by this ordinance. A valid permit must be posted in or on every food establishment regulated by this article.
- (b) A food establishment operated solely by a nonprofit organization is exempt from the permitting requirements of this article, but is not exempt from compliance with state rules. The regulatory authority may require any information necessary to determine whether an organization is nonprofit for the purposes of this exemption.

§ 14-234. Application for permit and fees. (Ord. No. CSO#453-06-2016, § 1, 6-6-2016; Ord. No. CSO#1290-02-2020, § 1, 3-2-2020)

- (a) Any person desiring to operate a food establishment must make a written application for a permit on forms provided by the regulatory authority. The application must contain the name and address of each applicant, the location and type of the proposed food establishment, and the applicable fee. An incomplete application will not be accepted. Failure to provide all required information, or falsifying information required may result in denial or revocation of the permit. Renewals of permits are required on an annual basis and the same information is required for a renewal permit as for the initial permit.
- (b) Prior to the approval of an initial permit or renewal of an existing permit, the regulatory authority shall inspect the proposed food establishment to determine compliance with state laws and rules. A food establishment that does not comply with state laws and rules will be denied a permit or renewal of a permit.
- (c) Fees for permits issued under this ordinance shall be listed in the fee schedule.

§ 14-235. Review of plans. (Ord. No. CSO#453-06-2016, § 1, 6-6-2016; Ord. No. CSO#1290-02-2020, § 1, 3-2-2020)

- (a) Whenever a food establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food establishment, properly prepared plans and specifications for such construction, remodeling, or conversion shall be submitted to the regulatory authority for review before work is begun. Extensive remodeling means that 20 percent or greater of the area of the food establishment is to be remodeled. The plans and specifications shall indicate the proposed layout, equipment arrangement, mechanical plans and construction of materials of work areas, and the type and model of proposed fixed equipment and facilities. The plans and specifications will be approved by the regulatory authority if they meet the requirements of the rules adopted by this article. The approved

plans and specifications must be followed in construction, remodeling or conversion.

- (b) Failure to follow the approved plans and specifications will result in a permit denial, suspension, or revocation.

§ 14-236. Suspension of permit. (Ord. No. CSO#453-06-2016, § 1, 6-6-2016; Ord. No. CSO#1290-02-2020, § 1, 3-2-2020)

- (a) The regulatory authority may, without advance warning, notice, or hearing suspend any permit to operate a food establishment if the operation of the food establishment constitutes an imminent hazard to public health. Suspension is effective upon service of the notice required by subsection (b) of this section. When a permit is suspended, food operations shall immediately cease. Whenever a permit is suspended, the holder of the permit shall be afforded an opportunity for a hearing within 20 days of receipt of a request for a hearing.
- (b) 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 regulatory authority by the holder of the permit within ten days. If no written request for hearing is filed within ten days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

§ 14-237. Revocation of permit. (Ord. No. CSO#453-06-2016, § 1, 6-6-2016; Ord. No. CSO#1290-02-2020, § 1, 3-2-2020)

- (a) The regulatory authority may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the requirements of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit within such ten-day period.
- (b) If no request for hearing is filed within the ten-day period, the revocation of the permit becomes final.

§ 14-238. Administrative process. (Ord. No. CSO#453-06-2016, § 1, 6-6-2016; Ord. No. CSO#1290-02-2020, § 1, 3-2-2020)

- (a) A notice as required in these rules 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. A copy of the notice shall be filed in the records of the regulatory authority.

- (b) The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make final findings, 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 by the regulatory authority.

§ 14-239. Dogs permitted in outdoor dining areas. (Ord. No. CSO#876-08-2018, § 1, 8-20-2018; Ord. No. CSO#1290-02-2020, § 1, 3-2-2020)

- (a) A food establishment may permit a customer to be accompanied by a dog in an outdoor dining area if:
- (1) The food establishment posts a sign in a conspicuous location stating that dogs are allowed in the outdoor dining area;
 - (2) The customer and the dog access the outdoor dining area directly from the exterior of the food establishment;
 - (3) The dog does not enter the interior of the food establishment;
 - (4) The customer keeps the dog on a leash and controls the dog;
 - (5) The customer does not allow the dog on a seat, table, countertop, or similar surface; and
 - (6) In the outdoor dining area, the food establishment does not:
 - a. Prepare food; or
 - b. Permit open food, except for food that is being served to a customer.
- (b) Where differences occur between provisions of this section and the "Texas Food Establishment Rules" found in the Texas Administrative Code and adopted by section 14-231 of this Code, the provisions of this section shall apply.

§ 14-240. Food trucks. (Ord. No. CSO#1066-07-2019, § 2, 8-5-2019; Ord. No. CSO#1290-02-2020, § 1, 3-2-2020; Ord. No. CSO#1940-12-2021, § 1, 12-13-2021)

(a) **General provisions—Required permits, plans, and inspections.**

(1) **Specific use permit required (food truck parks only).**

A specific use permit approved by the city council as outlined in section 130, "Specific use permits," of appendix B, "Zoning" of the Code of Ordinances, is required for the operation of a food truck park.

(2) **Certificate of occupancy required (food truck parks only).**

A certificate of occupancy as outlined in chapter 10 of this Code is required for the operation of a food truck park. A certificate of occupancy must be sought

after the approval of a specific use permit and corresponding commercial site plan.

(3) **Site plan required (food truck parks only).**

A site plan as outlined in section 131 of appendix B of this Code is required to be submitted and approved by the city council for the operation of a food truck park.

(4) **Commissary visits and log required.**

Each food truck shall report to its designated commissary at least once per day for food, supplies, cleaning, and servings. The operator of each food truck shall maintain a log that contains each date of servicing and the signature of the commissary operator certifying that servicing occurred at the commissary.

(5) **Food truck operation site permit required (for a food truck operation site only).**

- a. Except as part of a food truck park, the owner or the owner's authorized representative of a property containing a food truck operation site where a food truck may be located from time to time must apply for a food truck operation site permit from the neighborhood services department prior to allowing a food truck to operate on their property. The permit application shall include information that details where the food truck will be located on the property along with the location of any refuse receptacle(s), restroom(s), vehicle parking, dining area(s), and any other pertinent information regarding the operation of the food truck on and about the food truck operation site. As part of the permit application, authorization letters from adjacent property owners and business may be required. Authorization letters that limit the allowance of food trucks to a specific type or style of food will not be accepted. Additional information requested by the city, as may be deemed necessary by the city manager or his/her designee, to thoroughly review the application in unique circumstances shall also be submitted as part of the permit application.
- b. A food truck operation site permit for a food truck operation site shall only be valid for a maximum period of six months. The property owner or owner's authorized representative may make application for renewal of the food truck operation site permit at the end of the six-month permit period. Renewal application should be made prior to the expiration date in order to prevent gaps in operation, but should not be submitted any earlier than the start of the sixth month of the existing permit.
- c. A food truck operation site permit may accommodate any licensed food truck that the food truck operation site permit holder deems acceptable for the food truck operation site.
- d. The city manager or his/her designee, in approving or denying such

applications, shall consider the nature of the use; existing uses in surrounding areas; noise, dust, light, and traffic generated; health and sanitary conditions; and compliance with other regulations of this Code. The city manager or his/her designee shall have the right, upon finding that a hazard or nuisance shall exist by continuing such use, to revoke any food truck operation site permit at any time or to deny any extension. After such revocation, the use shall immediately cease and all temporary accessories, such as refuse receptacle(s), dining, parking barriers, etc., shall be removed within ten days of notification of such revocation.

- e. The required permit fee for food truck operation site will be collected in accordance to the fee schedule.

(6) **Other permits required.**

- a. Each food truck must have a valid vehicle registration, motor vehicle operator's license, proof of liability insurance, and a state sales tax permit.
- b. Each food truck must obtain all proper health permits, and must be constructed and operated in accordance with the Texas Food Establishment Rules as adopted in chapter 14 of this Code.
- c. The owner of each food truck shall be responsible for identifying and obtaining all other applicable permits and shall be responsible for conforming to all applicable city, county, state, and federal regulations.

(7) **Safety.**

The environmental health specialist, chief building official, fire marshal, or their designees shall have the authority to require additional safety measures be provided at the food truck park or individual mobile food unit to ensure the health, safety, and welfare of the general public. These additional safety measures may include but are not limited to limitations governing the provision of utilities (water, wastewater, electricity, gas, etc.) to the mobile food unit, providing fire extinguishers, and adding limitations to the use of deep fat fryers or flat top grills in specific instances.

(8) **Inspections.**

Food truck parks, food truck operation sites, and food trucks may be inspected from time to time by appropriate city personnel or health authority to ensure compliance with applicable regulations. Food truck parks, food truck operation sites, and food trucks shall immediately be made available for inspection upon request of such city or health authority personnel.

(b) **Acceptable location—Permitted land use.**

(1) **Food truck parks.**

- a. Food truck parks shall only be permitted on a private platted property.
- b. Food truck parks shall be a permitted land use with the city council's discretionary approval of a specific use permit on property that is not located within 100 feet of any property used for single family and two-family (duplex) residential purposes measured at the property line of the food truck park to the zoning district boundary line in the following zoning districts of the city:
 1. A, agricultural district;
 2. MF1, multi-family dwelling district;
 3. MF2, multi-family dwelling district;
 4. NS, neighborhood service district;
 5. GR, general retail district;
 6. CC, central commercial district;
 7. C, commercial district;
 8. I, industrial district;
 9. PD, planned development district.
- c. A specific use permit for a food truck park may be revoked by the city council if it finds that any condition imposed at the time of granting the permit is not met, or thereafter ceases to exist. The city council may deny a special use permit for a food truck park if the development of said use would be detrimental or offensive to the surrounding area or otherwise be contrary to the health, safety, or general welfare of the city and its inhabitants. In addition to the factors set forth in section 130 of appendix B of this Code, in approving or denying a specific use permit for a food truck park, the city council shall consider the following:
 1. The nature of the proposed use;
 2. Proximity to other food truck parks;
 3. Proximity to existing "brick and mortar" restaurants;
 4. The number of food trucks allowed within the food truck park at a single time;
 5. Existing uses in surrounding areas;
 6. Health and sanitary concerns;
 7. Parking/accessibility requirements.

(2) **Food truck operation sites.**

Subsequent to all permits being issued, food truck operation sites may be located within any nonresidential zoned district assuming all applicable location criteria and the following requirements are satisfied:

- a. One acre lot minimum;
- b. 100-foot minimum from a food truck to an existing "brick and mortar" food establishment property line;
- c. 100-foot minimum from a food truck to a residential zoned property;
- d. One vehicle per parcel;
- e. Shall not operate from a vacant lot.
- f. Shall not be located in a right-of-way, easement, fire lane or located in such a manner to obstruct a sidewalk or alley or other public place that may cause safety hazard.

(3) **Food truck operating at construction sites.**

Subsequent to all permits being issued, food trucks may be located at certain construction sites assuming all applicable location criteria and the following requirements are satisfied:

- a. The food truck may be located on a public street adjacent to the construction site for the sole purpose of providing food to workers.
- b. The adjacent construction site possesses an active building permit and on-going construction activity.
- c. The food truck is not located in any fire lane, entrance/exit or any required parking space.
- d. The food truck is not located in an area that impedes or interferes with access to another business, obstructs lawful signage of another business, or obstructs emergency access or response.

(4) **Food trucks operating at manufacturing business sites.**

- a. Except as otherwise provided herein, food trucks may operate at manufacturing business sites subject to the approval of the property and business owner. The operator of the food truck must submit proof of this permission from the business and property owner and such permission must include approved hours of operation of the food truck operation and the operating hours of the business.
- b. A food truck at a manufacturing site shall only be allowed to engage in sales or food service during the hours of operation of the business where

restroom access has been granted through a written agreement.

- c. Permitted food trucks shall only be permitted in conjunction with a manufacturing business that has been designated as such on the certificate of occupancy.
- d. Food trucks operating at manufacturing sites shall not be located in any fire lane, travel lane, entrance/exit or any required parking space. The food truck location shall not otherwise interfere in a significant way with the movement of motor vehicles.
- e. Food trucks operating at manufacturing sites shall not be located in areas that impede or interfere with access to another business, obstruct lawful signage, or obstructs emergency access or response.

(c) **Restrooms required.**

(1) **Food truck parks.**

Permanent restroom(s) located within a permitted building/structure must be provided on-site within the food truck park for the use of the owners, operators, and customers of the food trucks and food truck park. Such restroom(s) must remain open and available for use at all times during which the food truck park is being operated. No portable or temporary restroom(s) shall be allowed.

(2) **Food truck operation sites.**

Sanitary facilities shall be made available to the satisfaction of the city manager or his/her designee.

(d) **Utility services required.**

(1) **Food truck parks.**

Food truck parks are required to provide electricity access for the individual food trucks that operate at the site. Individual food trucks are not allowed to operate a generator at a food truck park unless emergency circumstances necessitate the use of a generator.

(2) **Food truck operation sites.**

Electrical, outlet access, temporary pole, or use of generator is permitted. Food truck must be self-contained and where the water and wastewater service provided by commissary.

(e) **On site management required.**

(1) **Food truck parks.**

There must be a designated manager of the food truck park that is responsible for the orderly organization of the food trucks, the cleanliness of the site, and the site's compliance with all rules and regulations during the house of operation. A certified food manager must also be designated for each food truck operating in a food truck park.

(2) **Food truck operation sites.**

Certified food manager for the food truck must be present during operation.

(f) **Parking.**

(1) **Food truck parks.**

a. **Parking surface.**

Food truck parks must provide an area of sufficient size that is made with compacted gravel base, concrete or asphaltic surface materials on which the food trucks may park and operate. Food trucks shall not be parked on an unimproved surface. Customer parking must be finished with concrete or asphaltic surface materials.

b. Two off-street vehicle parking spaces shall be required for each designated food truck operation area or for every 150 square feet of food truck operation area. The minimum number of required customer parking spaces may be reduced as part of the food truck operation site permitting process if it is found that the full provision of required parking may not be necessary.

c. Required off-street vehicle parking and maneuvering shall adhere to the requirements of section 134 of this Code, as may be amended from time to time, except as otherwise specified herein.

(2) **Food truck operation sites.**

Food trucks must park and operate on improved surface such as compacted gravel base, concrete or asphaltic surface. Food trucks shall not park on unimproved surface. Operation of the food truck shall not impede on the minimum existing parking use requirements of the associated underlying zoning of the business.

(g) **Hours of operation.**

(1) **Food truck parks.**

Food truck parks shall only be allowed to engage in sales operations between

the hours of 7:00 a.m. and 12:00 a.m.

(2) **Food truck operation sites.**

A food truck shall only be allowed to engage in sales or food service during the hours of operation of the business where restroom access has been granted through a written agreement.

(h) **Noise.**

(1) **Food truck parks.**

Food truck parks shall be subject to the noise requirements of chapter 34, article V of this Code, as may be amended from time to time.

(2) **Food truck operation sites.**

Food truck operation sites shall be subject to the noise requirements of chapter 34, article V of this Code, as may be amended from time to time.

(i) **Refuse, recycling, litter, liquid waste, and food preparation byproducts.**

(1) **Food truck parks.**

- a. Food truck parks shall provide containers of sufficient size and number for disposal of refuse and recyclables resulting from the operation and sales of the food truck park.
- b. Any refuse, recyclable, and/or litter on the ground at the food truck park shall be immediately picked up and discarded appropriately by the food truck operator or the food truck park's designated manager. Refuse and/or recyclables must be removed from the food truck park at least daily or more frequently as needed to remove excess refuse and/or recyclables for the property thereby avoiding the creation of unsanitary or unhealthy conditions or nuisances.
- c. Grease, oils, vapors and other similar food preparation byproducts shall be kept in the food trucks at all times. Dumping, or the improper disposal, of food preparation byproducts on to the ground, pavement or other surface or into a storm water collection system or other system not designed for the specific use is strictly prohibited and may result in the immediate revocation of all permits and licenses of the food truck or the food truck park in addition to the performance of any necessary remediation and the issuance of citations and fines.
- d. Sewage, liquid wastes and food preparation byproducts shall be removed from the food truck at an approved waste servicing area (commissary) in such a way that public health hazard or nuisances are not created.

(2) **Food truck operation sites.**

- a. Food truck operators shall provide a single trash container of sufficient size for disposal of refuse resulting from the operation and sales of the food truck.
- b. Refuse and/or recyclables must be removed at end of each operation day.
- c. Grease, oils, vapors and other similar food preparation byproducts shall be kept in the food truck at all times. Dumping, or the improper disposal, of food preparation byproducts on to the ground, pavement or other surface or into a storm water collection system or other system not designed for the specific use is strictly prohibited and may result in the immediate revocation of all permits and licenses of the food truck, in addition to the performance of any necessary remediation and the issuance of citations and fines.
- d. Sewage, liquid wastes and food preparation byproducts shall be removed from the food truck at an approved waste servicing area (commissary) in such a way that public health hazard or nuisances are not created.

(3) **Food trucks at construction sites.**

- a. The vicinity around the food truck shall be kept clean and free of debris.

(4) **Food trucks operating at manufacturing business sites.**

- a. Food truck operators shall provide a single trash container of sufficient size for disposal of refuse resulting from the operation and sales of the food truck.
- b. Refuse and/or recyclables must be removed at the end of each operation day.
- c. Grease, oils, vapors and other similar food preparation byproducts shall be kept in the food truck at all times. Dumping, or the improper disposal, of food preparation byproducts on to the ground, pavement or other surface or into a storm water collection system or other system not designed for the specific use is strictly prohibited and may result in the immediate revocation of all permits and licenses of the food truck, in addition to the performance of any necessary remediation and the issuance of citations and fines.
- d. Sewage, liquid wastes and food preparation byproducts shall be removed from the food truck at an approved waste servicing area (commissary) in such a way that public health hazards or nuisances are not created.

(j) **Signage.**

(1) **Food truck parks.**

a. **Food truck.**

All signage pertaining to or advertising a food truck and/or its menu shall be attached to the food truck. There shall be no limit to the amount of signage that is allowed on a food truck while the food truck is parked at a food truck park. The only temporary sign allowed is one sandwich board sign per food truck as defined in chapter 63 of this Code and shall be displayed within ten feet of the food truck.

b. **Food truck park signage.**

Signage for the food truck park shall be permitted as outlined in chapter 63 of this Code, as may be amended from time to time.

(2) **Food truck operation sites—Food truck signage.**

All signage pertaining to or advertising a food truck and/or its menu shall be attached to the food truck. There shall be no limit to the amount of signage that is allowed on a food truck. The only temporary sign allowed is one sandwich board sign per food truck as defined in chapter 63 of this Code, as may be amended from time to time, and shall be displayed within ten feet of the food truck.

(k) **Additional requirements of food trucks at construction sites.**

- (1) No more than one permitted food truck may operate at a construction site. No permitted food truck shall begin to operate at a construction site if a food truck is already present and operating at the construction site.
- (2) Food trucks at construction sites must provide current route and times of operations, and notify permitting authority of changes made in the route immediately.
- (3) A food truck shall not operate for more than one hour at the construction site.

(l) **Exceptions.**

- (1) These regulations shall not apply to food trucks that operate:
 - a. At a special event that is properly licensed pursuant to a special event permit issued by the city, provided that the food truck is identified in the special event permit application as a participating concessionaire or caterer; or
 - b. As a vendor at a properly permitted farmers' market for which the food truck has rented space from the farmers' market and/or its organizer(s); or
 - c. On public property including, but not limited to a public park, public library, recreation or aquatics center, at the request of the city; or.

- d. At an event that takes place on private property and is not open to the public.

§ 14-241. through § 14-310. (Reserved)