

Council of the City of York, PA
Session 2015
Bill No.
Ordinance No.

INTRODUCED BY: **David Satterlee**

DATE: **March 3, 2015**

AN ORDINANCE

Establishing Article 334 "Mobile Food Vehicles" of the York City Codified Ordinances.

WHEREAS, the general purpose of these regulations is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of the City of York by requiring that new and existing mobile food vehicles provide residents and customers with a level of cleanliness, quality, and safety; and

WHEREAS, it is also the intent of these regulations to establish reasonable guidelines and restrictions for mobile food vehicles and encourage the safe and convenient use of the city's public rights-of-way;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of York, Pennsylvania, that Article 334 "Mobile Food Vehicles" of the York City Codified Ordinances is hereby established as incorporated herein and made a part hereof.

PASSED FINALLY:

BY THE FOLLOWING VOTE:

YEAS: _____, _____, _____, _____, _____

NAYS: _____, _____, _____, _____, _____

Carol Hill-Evans, President of Council

ATTEST:

Dianna L. Thompson-Mitchell, City Clerk

Presented to the Mayor for approval this _____ day of _____.

Approved: _____
Mayor Date

Vetoed: _____
Mayor Date

AN ORDINANCE

Establishing Article 334 “Mobile Food Vehicles” of the City of York Codified Ordinances.

BE IT ORDAINED by the City Council of the City of York, Pennsylvania, that Article 334 “Mobile Food Vehicles” of the City of York Codified Ordinances is hereby established as follows:

334.01 Purpose.

The general purpose of these regulations is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of the City of York by requiring that new and existing mobile food vehicles provide residents and customers with a level of cleanliness, quality, and safety. It is also the intent of these regulations to establish reasonable guidelines and restrictions for mobile food vehicles and encourage the safe and convenient use of the City’s public right-of-way.

334.02 Definitions.

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

"Applicant" means any person or business who applies for a license/license renewal and/or permit/permit renewal under the provisions of this article.

"Commissary" is a licensed or permitted food service establishment that provides required services to a Mobile Food Vehicle (MFV). A commissary may provide anything from a source for obtaining potable water and disposing of wastewater; storage for food and supplies; or cooking facilities to prepare the food for sale and consumption. A commissary provides the necessary support for the MFV to operate in a safe and sanitary manner.

"Food Service Worker" means a person who works for or under the direction of, on behalf of, or as an agent of a Mobile Food Vehicle permittee and/or owner.

"License" is an approval from the York/Adams Tax Bureau that enables the holder to conduct business within the City of York.

"Licensee" is the holder of a mercantile license from York/Adams Tax Bureau.

"Mobile Food Vehicle" means any vehicle from which hot and cold food, and/or hot and cold drinks, served for immediate consumption, are offered for sale or delivery to buyers, consumers, or other persons on the public streets, highways and/or construction sites, and is properly licensed and permitted, and meets the minimum standards set forth by the National Sanitation Foundation.

"Operator" is the entity that is legally responsible for the operation of the mobile food vehicle such as the owner, the owner's agent, or other person; and possesses a valid permit to operate a Mobile Food Vehicle.

"Operating Hours" is the designated time frame mobile food vehicle are authorized to operate within the City right-of-way.

"Owner" is an individual or business entity who owns and/or operates the mobile food vehicle used in business for the purpose of earning income.

"Park-and-Vend" refers to a Mobile Food Vehicle that parks and remains in a location for a period of time no less than twenty minutes with the intent to serve customers in a take-out method of delivery.

“Pedestrian” is a person who is walking or otherwise traveling in the public right-of way.

"Permit" means a written authorization, or permission from the Mobile Food Vending Committee to vend food items via park-and-vend or roving delivery. Under the provisions of this Code section, a "permit" is not equivalent to a "license," and vice-versa.

“Permittee” is the entity, person, company or corporation which has been granted a permit by the Mobile Food Vending Committee to operate a mobile food vehicle within the City of York.

“Restaurant” a brick and mortar establishment where meals are generally served and eaten on premises; prepares and serves food and drink to customers in return for money, either paid before the meal, after the meal, or with a running tab.

“Roving Vendor” refers to a mobile food vehicle that roams and stops in one spot for no longer than thirty minutes for the purpose of preparing food and serving customers from the vehicle.

“Person” means any natural individual, firm, partnership, association, or corporation. Whenever the word “person” is used in any section in this article prescribing a penalty or fine as applied to a partnership or association, the word shall include the partners or members thereof; such word as applied to corporations shall include the officers, agents, or employees thereof who are responsible for any violation of such section.

“Vehicle” means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks. The term does not include a self-propelled wheelchair or an electrical mobility device operated by and designed for the exclusive use of a person with a mobility-related disability. (75 Pa. C.S. § 102)

“Vendor” means a person or agency that sells.

“Vending” means the act of selling.

334.03 Mobile Food Vendor Committee.

There shall be within the City of York a Mobile Food Vendor Committee consisting of a member of the York Business Improvement District Authority, the York City Health Inspector, a member of the York City Traffic Safety Committee, the Director of Economic and Community Development or designee, a representative from the York City Police Department, a representative from the Bureau of Permits, Planning & Zoning, the Fire Chief or his designee, and the Director of Public Works or designee, established for the purpose of reviewing and approving applications for mobile food vehicle vending permits, and establishing or amending rules and regulations, as appropriate, which shall be approved by Council.

334.04 License Requirements.

Licenses are required to operate a business in the City of York.

a) A non-refundable application fee as determined by the City of York must accompany all Mobile Food Vehicle applications.

b) A non-refundable license fee of \$25.00 will be required of all mobile food vehicle applicants to obtain a mercantile license from the York/Adams Tax Bureau. (*will note on application if a license is already held by proprietor – must be presented with application).

334.05 Permit Applications and Fees.

- a) Applications for mobile food vehicle vending permits will be accepted at City of York Bureau of Permits, Planning and Zoning no later than June 30 of the calendar year.
- b) Upon approval of an application for a permit, the annual permit fee shall be \$300.00.
- c) Any duplicate permit may be issued upon payment of a fee of \$20.00 should a permit be lost or destroyed.
- d) Applicant shall notify the Bureau of Permits, Planning and Zoning within fifteen (15) days of any changes to application information. Failure to report any changes to the information on the application will result in immediate loss of permit
- e) A single permit application shall be accepted and deemed complete if received no later than close of business on June 30 and accompanied by:
 - 1) A copy of all necessary licenses, permits and/or other written proof of compliance with the regulations of the City of York for each mobile food vehicle including if applicable, a notarized letter from the property owner if the mobile food vehicle is to operate on private property.
 - 2) The full name; signature; address; and whether the applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners; together with the addresses of all principals including the owner, licensee, and permittee.
 - 3) A list of the names of all food service workers that will operate the mobile food vehicle.
 - 4) The physical street address of the business. Post office boxes and other mail services will not be accepted.
 - 5) A photograph of the permittee and/or any operator of the mobile food vehicle, e.g. **driver's license**, passport or similar.
 - 6) A copy of a valid PA driver's license for each permittee and/or operator of the mobile food vehicle.
 - 7) Proof of insurance covering the Mobile Food Vehicle. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect vendor, property owners, and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than one million dollars per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice served upon the City of York Bureau of Permits, Planning and Zoning. A permit issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the Bureau of Permits, Planning and Zoning.

8) A color photograph and accurate description of the mobile food vehicle including the following data: The make, model and type of body; the number of cylinders; the vehicle identification number or any other identifying number as may be required by the Mobile Food Vendors Committee. *(If this information is not known at the time of permit application, this requirement can be satisfied as a condition of obtaining a final effective permit.)*

9) A statement that the applicant and/or owner, or any of its food service workers has not been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business.

10) A statement that the applicant and/or owner, or any of its food service workers has not been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten years.

11) A signed Hold Harmless and waiver of subrogation (sample attached) that the permittee shall hold harmless the City and its officers and employees, and shall indemnify the City, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit.

12) A statement that the permittee shall hold harmless any adjacent property owner(s) for any claims for damage to property or injury to persons which may be the direct result of any activity of the permit holder.

13) A statement that the permittee shall hold harmless any and all members and member organizations represented on the Mobile Food Vendor committee.

14) If Mobile Food Vehicle is to occupy private property, a notarized statement from said property owner holding harmless the City of York, all its applicable officers and assigns.

[A sample document has been attached hereto: Insurance Requirements, Hold Harmless and Waiver of Subrogation for Mobile Food Vehicles]

15) Any such additional information required by law, rule, ordinance, or that any department of the City, Mobile Food Vendor Committee, City Council, or information reasonably deemed appropriate to assist the City in determining whether the permit should be granted. The applicant shall be provided reasonable time to supplement the application.

334.06 General Rules, Regulations, and Requirements

Under this article, permits shall be issued based on the same standards that the City Health Inspector would use to license Mobile Food Facilities under the Pennsylvania Food Code.

Permits shall only be issued upon the City Health Inspector's passing grade of the Commissary.

The applicant must obtain a valid and current mercantile license prior to submitting an application for a Mobile Food Vehicle permit.

Mobile Food Vehicle permittees are permitted to operate vehicles from which hot and cold food, and/or hot and cold drinks, served for immediate consumption, are offered for sale or delivery to buyers, consumers, or other persons on the public streets, highways and/or construction sites, if

properly licensed and permitted, and meet the minimum standards set forth by the National Sanitation Foundation.

Retention of Mobile Food Vehicle permit shall be contingent upon compliance with all requirements herein. A permit holder who fails to comply with all conditions shall have their permit revoked. The permit fee shall be nonrefundable if permit is revoked.

Vendor must submit proof of payment of mercantile tax and Pennsylvania sales tax to the City of York upon request.

a) Process:

- 1) All Mobile Food Vehicle vendors must submit an application for a permit annually from the Bureau of Permits, Planning and Zoning no later than June 30 of the calendar year.
- 2) The application will then be forwarded to the Mobile Food Vendors Committee for review and approval during the open application period. The application must receive approval from each Department represented within the committee prior to issuance of a permit at the beginning of each calendar year.
- 3) Application deadline: June 30 to be effective for the following calendar year.
- 4) All mobile food vehicle permits are effective from January 1 to December 31 of each calendar year. Each year constitutes a new application and permitting cycle.

b) Design/product:

- 1) With the exception of trash bin receptacles, no mobile food vehicle shall use external signage, seating, or any other equipment not contained within the vehicle on the public sidewalks.
- 2) Mobile Food Vehicles shall be strictly prohibited from selling apparel, jewelry, movies, music, compact discs, video cassettes or video discs, cigarettes, cigars, pipes, tobacco products, pornography, prophylactics, knick-knacks, trinkets, any other food/ non-food items and/or other sundries as determined by Mobile Food Vendors Committee.

c) Location:

- 1) Mobile Food Vehicles may occupy private property at the property owner's discretion during any time of day/night. Said property owner is wholly responsible for regulating the use of space, cleanup, damages, insurance, and indemnification of city, etc. Mobile food vehicle must obtain and produce upon request written permission from said property owner.
- 2) Mobile Food Vehicles may occupy the City of York public right of way between the hours of 7:00pm and 2:00am, Monday through Sunday.
- 3) Basic traffic rules and applicable parking meter regulations apply.
- 4) Mobile Food Vehicles shall not occupy a space within five (5') feet of any handicapped parking space or access ramp.

- 5) Mobile Food Vehicles shall not obstruct the passage of pedestrian travel, and a clear sight triangle, as referenced in the City of York Zoning Ordinance, must be maintained.
- 6) No Mobile Food Vehicles shall have any exclusive and/or perpetual right to any location upon the streets, alleys, or public grounds of the City.
- 7) Mobile Food Vehicles are prohibited from looping, trawling, or repeating the same route more than once in a one-hour period of time.

d) Operation:

- 1) Mobile Food Vehicles shall be attended by at least one operator over the age of 18 at all times.
- 2) No Mobile Food Vehicles vendor shall make or solicit any sales to occupants of vehicles or engage in any activities which impede vehicular traffic.
- 3) Any power required for the Mobile Food Vehicle shall be self-contained and shall not draw its power from the public right of way. No power cable or equipment shall be extended at grade or overhead across any public street, alley or sidewalk.
- 4) No Mobile Food Vehicles excluding traditional "ice cream" trucks, shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles or similar devices to attract customers unless otherwise approved by the Mobile Food Vendor committee. A Mobile Food Vehicle may use battery operated lights with appropriate protective shields for the purpose of illuminating merchandise.
- 5) The Mobile Food Vehicle shall not have drive-through service.
- 6) Hours of Operation: All Mobile Food Vehicles operating under this article shall adhere to the designated time and day requirements:
 - i. On private property as owner permits and regulates in writing.
 - ii. In the public right of way not before 7:00pm or after 2:00am Monday through Sunday.

e) Safety:

- 1) All mobile food vehicles shall be equipped with a 2A10BC rated fire extinguisher mounted in a conspicuous location within the kitchen area.
- 2) Any mobile food vehicle equipped with a portable generator shall have a 3A40BC rated fire extinguisher in addition to any other required extinguishers.
- 3) All mobile food vehicles required to have a hood suppression system shall be equipped with a Class K fire extinguisher.
- 4) All required fire extinguishers shall be serviced and inspected annually in accordance with the requirements of the latest edition of NFPA 10.

- 5) All mobile food vehicles that contain cooking equipment that is capable of creating grease laden vapors shall be equipped with Type 1 commercial hood in accordance with the requirements of the most recent edition of NFPA 96.
- 6) All Type 1 hood systems shall be equipped with an approved hood suppression system meeting the requirements of the latest edition of NFPA 96.
- 7) Hood suppression systems shall be serviced and inspected every six (6) months.
- 8) All appliances capable of producing grease laden vapors shall be located completely under the kitchen exhaust hood with no portion of the appliance extending beyond the outer edge of the hood.
- 9) All cooking appliances shall be listed by Underwriters Laboratories or NSF International for mobile applications, for the appropriate fuel and be clearly marked with the appropriate certification sticker(s).
- 10) All deep-fat fryers shall be equipped with a lid over the oil vat that can be secured to prevent spillage of cooking oil/fat during transit. This lid shall be secured at all times the vehicle is in motion.
- 11) All deep-fat fryers shall be equipped with an 8" high steel baffle between the fryer and surface flames of any adjacent appliances.
- 12) No more than two (2) 100lb LPG/LNG tanks shall be permitted on any mobile food vehicle unless a legitimate need can be demonstrated.
- 13) Generator and LPG/LNG storage compartments shall be located on the exterior of the vehicle and shall be vented to the exterior and shall not allow any venting to the interior of the vehicle.
- 14) LPG/LNG cylinders shall be mounted so that safety release valves are directed away from the vehicle.
- 15) If LPG/LNG cylinders and or compartments are located on the rear of the vehicle, the bumper shall extend beyond the cylinders or compartment to provide added impact protection.
- 16) The storage of LPG/LNG cylinders inside of the vehicle is expressly forbidden.
- 17) Any hose(s) used to pipe LPG/LNG shall be UL or FM listed specifically for LPG service and all couplings, fittings, and other devices shall meet the requirements for LPG/LNG service as outlined in the most current edition of the International Fuel Gas Code.
- 18) A conspicuous **NO SMOKING** sign shall be posted adjacent to LPG/LNG cylinders.

19) In addition to the required health inspection, all mobile food vehicles shall undergo an annual fire safety inspection by the Department of Fire/Rescue Services and shall upon successful completion of said inspection, display an annual inspection sticker provided by the department. The inspection sticker shall be displayed on the left-rear of the vehicle not less than 5' nor more than 6' from ground level.

f) Trash:

- 1) Permittee shall contain all refuse, trash, and litter within Mobile Food Vehicle or a small moveable trash can maintained by the permittee and located adjacent to the Mobile Food Vehicle in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The owner/operator of the Mobile Food Vehicle shall be responsible for properly disposing of such refuse, trash, and litter as would any business, and shall not place it in any public trash container or in any private container without proper permission.
- 2) Mobile Food Vehicle vendors shall be required to operate under a carry in/carry out policy with regard to litter and to clean all litter around the location of the Mobile Food Vehicle each day. Vendors shall properly remove all trash and litter from the site and at no time shall place said trash in any curbside receptacle.
- 3) Permittee is prohibited from disposing of any liquids including but not limited to oil, grease, soaps or cleansers into the, storm sewers, gutters, drainage pits, tree wells, planters or any other public right of way.

g) The permits are not transferable. In the event that the holder of a permit is unable to use the permit for any reason, the permit must be returned to the City with no refund of any licensing or permit fees paid.

g) Subletting of permits is strictly prohibited.

h) Special Events

Mobile Food Vehicle permit holders shall meet any special requirements, and/or applications of any and all special events including any additional fees and/or permits.

The permit shall contain additional limitations on hours and days that the City of York determines are appropriate, including limitations to prevent conflict with special events.

334.07 Procedures.

The Mobile Food Vendor Committee shall further develop procedures for control and monitoring of each mobile food vehicle vendor permit. The Mobile Food Vendor Committee shall file a copy of the procedures with the City Clerk. Applicants shall be in good standing with the City of York and the Commonwealth of Pennsylvania.

334.08 Denial, Revocation, Suspension.

a) In addition to the penalties provided for in 334.12, an application or approved permit may be denied, revoked, suspended, or not renewed for any of the following reasons:

- 1) The permittee and/or licensee or any of its principals fails to satisfy any qualification or requirement imposed by this article, or other local, state or federal laws or regulations that pertain to the particular permit/license; or

- 2) The permittee and/or licensee or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license, permit or work card when such applicant or principal knew or reasonably should have known that one was required; or
- 3) The permittee and/or licensee or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, permit or work card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of the applicant or principal to conduct such a business; or
- 4) The permittee and/or licensee or any of its principals has been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business; or
- 5) The permittee and/or licensee or any of its principals has been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten years; or
- 6) The Mobile Food Vehicle on which the business is proposed to be conducted does not satisfy all local, state or federal laws or regulations which relate to the activity that is to be licensed; or
- 7) The licensee or any of its principals is in default on any payments owed to the City; or
- 8) The application contains material omissions or false, fraudulent, or deceptive statements; or
- 9) The Mobile Food Vehicle is operated in such a manner as constituting a public nuisance per the City of York codes or state statutes; or
- 10) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this Ordinance pertaining to food, fire prevention, public health or safety; or
- 11) The licensee or his agents or employees interfere with an inspection of the food establishment by a Health Department; or
- 12) There are repeated or serious violations of the applicable portions of this article; or
- 13) There are repeated or serious violations of federal or state food laws or laws regulating food establishments as defined in this article; or
- 14) The City of York Health Inspector or Health Department denies, revokes or suspends the license or permit of the Mobile Food Vehicle.
- 15) There is a violation of any section of this Ordinance, or
- 16) There are more than three infractions relating to noise, nuisance, sanitation, civil, or criminal complaints.

b) The provisions of this section are not exclusive. This section shall not preclude the enforcement of any other provisions of this Ordinance or state and federal laws and regulations. The City of York may impose additional requirements to protect against health hazards related to the operation of a Mobile Food Vehicle.

334.09 Appeal to Council upon Denial, Revocation or Suspension.

a) Upon any denial, revocation or suspension of a Mobile Food Vehicle permit by the City of York or the Mobile Food Vendors Committee, the applicant or permittee and/or licensee may appeal the denial to Council by filing a written statement of appeal with the City Clerk within 10 days following the denial, revocation or suspension and a hearing shall be held thereon by the Council. The applicant or permittee, during the appeal, may be represented by counsel.

- 1) Prior to revocation, the Mobile Food Vendor Committee shall give written notice to the permittee and/or licensee or person in charge. The notice shall set forth:
 - i. The grounds upon which the City will seek denial, revocation or suspension of the permit and/or license;
 - ii. The specific violations of this article or of federal or state law upon which the City will rely in seeking denial, revocation or suspension of the permit and/or license;
 - iii. That a hearing will be held before the York City Council; that the permittee and/or licensee may appear in person and/or be represented by counsel and may present testimony.

2) The hearing shall be held in accordance with this section. If the permit and/or license holder fails to appear at the hearing at the time, place and date specified, the City shall present sufficient evidence to establish a prima facie case showing that an act or acts have been committed or omitted that constitutes grounds for denial, revocation or suspension of a permit.

3) After completion of the hearing, the City Council shall make written findings as to whether or not grounds exist for denial, revocation or suspension of the permit. If the City Council finds that grounds do exist for denial, revocation or suspension, it shall deny, revoke or suspend the permit and/or license temporarily or permanently.

4) A copy of the written findings and determination shall be sent by certified mail, return receipt requested, to the permittee and/or licensee. If the address of the permittee and/or licensee is unknown, or if the findings are returned undelivered, the findings shall be served on the person in charge of the commissary or Mobile Food Vehicle.

5) Upon service of a written notice that the permit has been revoked as provided herein, all food operations shall cease immediately.

6) Whenever a permit is revoked, the Mobile Food Vendor Committee, the City Health Inspector and the Bureau of Permits, Planning and Zoning shall be notified.

8) In the event a permit and/or license is revoked, the City shall not be liable to the permittee and/or licensee for any refund of any part of the permit and/or license fee. Reinstatement of a permittee and/or licensee that has been revoked shall require application and payment of a permit and/or license fee as if it were an initial application. No new permit and/or license application shall be considered for a Mobile Food Vehicle where the permit and/or license have been revoked until the expiration of the revocation period.

334.10 Service of notices.

Any notice provided for in this article may be served by personal delivery, regular mail or certified mail, return receipt requested.

334.11 Severability.

If any provision of this article is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

334.12 Enforcement.

The Director of Economic and Community Development and/or his designee(s) shall have the authority to institute summary criminal proceedings as a means of enforcement of this article and shall, when acting within the scope of employment hereunder, have the powers of a police officer of the City, provided, however, that under no circumstances shall they have the power of arrest.

333.99 PENALTY.

Whoever violates any provisions of this article shall, upon conviction thereof in a summary proceeding be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) and costs of prosecution and, in default thereof, shall be imprisoned for not more than ninety-days (90 days). Each day that any such violation continues shall constitute a separate offense hereunder and shall be punishable as such.

This Ordinance shall become effective twenty days after approval by the Mayor.