

Council of the City of York, PA  
Session 2013  
Bill No. **24**  
Ordinance No.

INTRODUCED BY: **Henry Hay Nixon**

DATE: **December 3, 2013**

**AN ORDINANCE**

Establishing Article 332 "Mobile Food Carts" of the York City Codified Ordinances.

BE IT ORDAINED by the City Council of the City of York, Pennsylvania, that the Article 332 "Mobile Food Carts" of the York City Codified Ordinances is hereby established as follows:

**332.01 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 vendors 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 carts and encourage the safe and convenient use of the city's public right-of-way.

**332.02 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 or a license renewal under the provisions of this article.

"**Food Service Worker**" means a person who works for or under the direction of, on behalf of, or as an agent of a food cart Permittee and/or owner.

"**Food Cart District**" is an area bounded by Duke Street to the East, King Street to the South, Pershing Avenue and the lands due West to the Codorus Creek and Philadelphia Street to the North in the City of York. There shall be no more than six (6) mobile food carts located within said District.

"**License**" is an approval that enables the holder to vend food items at authorized locations and times, for a specified period of time.

"**Licensee**" means the holder of a mobile food vendor business license.

"**Mobile Food Cart**" means a mobile, hand-operated food dispenser which can be hand-propelled by the operator, is manufactured specifically for the purpose of dispensing the product sold by the vendor, and is properly licensed and listed by the **National Sanitation Foundation/American National Standards Institute as complying with NSF/ANSI Standard 59 – Mobile Food Carts**. Motor-vehicle type mobile food carts may not operate in the Central Business District.

"**Operator**" is the entity that is legally responsible for the operation of the mobile food cart such as the owner, the owner's agent, or other PERSON; and possesses a valid permit to operate a mobile food cart.

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

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

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

“**Permit**” means a written authorization, or permission to engage in or participate in some regulated or otherwise controlled activity. 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 City of York to operate mobile food carts upon the streets of the city.

“**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.

“**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.

“**Vendor**” means a person or agency that sells.

“**Vending**” means the act of selling. Mobile food vendors shall be permitted to sell, consistent with other subsections of this ordinance, candies, such as ice cream, chocolates, mints and gum, food, such as, hot dogs, bratwurst, sausage, sandwiches, peanuts, potato chips, fruit, salads, and beverages, such as soda, lemonade, juices, bottled water, coffee, tea, hot chocolate, and periodicals, such as newspapers and magazines, but shall be strictly prohibited from selling apparel, jewelry, movies, compact discs, video cassettes or video discs, cigarettes, cigars, pipes, pornography, prophylactics, **sundries, knick-knacks, trinkets, and related items.**

### **332.03 Mobile Food Vendors Committee.**

There shall be within the City of York a Mobile Food Vendors Committee consisting of a member of the York Business Improvement District Authority (d/b/a Downtown Inc), the York City Health Inspector, a member of the York City Traffic Safety Committee, the Director of Community and Economic Development or designee, a representative from the York City Police Department and the Director of Public Works or designee, established for the purpose of reviewing applications for mobile food vending permits, awarding mobile food vending applications, approval of the locations for operation of mobile food carts, and establishing rules and regulations, as appropriate, which shall be approved by Council.

### **332.04 Permit and License Required for Yearly Operation; Restrictions.**

a) All mobile food vendors must submit an application for a permit annually from the Bureau of Permits, Planning and Zoning. The application will then be forwarded to the Mobile Food Vendors Committee for review during the open application period. The application must receive approval from the **Mobile Food Cart Committee prior to its final approval and the issuance of a permit.**

b) The grant of a permit may be terminated for violations to any local, state or federal laws, rules and regulations.

c) The Permittee must engage in its vending within the Food Cart Vendor District in the area pre-determined by the Mobile Food Vendors Committee.

d) Location of vendors will be made available through assignment only by the Mobile Food Vendor Committee. No application will be accepted for a permit to operate at a location where a current permit has been issued or a complete application is pending.

e) Applicant shall notify the Bureau of Permits, Planning and Zoning within fifteen (15) days of any changes to the initial application.

f) Each owner and food service worker shall be required to apply for a mobile food vendor permit that includes a current photo of the owner and/or food service worker.

g) The Mobile Food Vendors Committee shall not approve a location wherein a mobile food cart would substantially obstruct a public right-of-way, impair the movement of pedestrians or vehicles, or pose a hazard to public safety.

h) The Mobile Food Vendors Committee shall not approve any location which is:

1. On any sidewalk less than six (6') feet in width.
2. Within fifty (50') feet of the pedestrian crosswalk at any intersection, or designated pedestrian crossing point.
3. Within fifteen (15') feet of a bus stop.
4. Within five (5') feet of any handicapped parking space or access ramp.
5. Within any private property without a notarized written approval of the property owner responsible for the maintenance of the sidewalk and/or right-of-way area to be obstructed.

i) The applicant must obtain a valid and current business license prior to submitting an application for a mobile food vendor license.

### **332.05 Application for Permit.**

a) A single permit application shall be accepted and deemed complete on a first-come, first-served basis. Each application shall indicate on its face, in addition to other requirements as may be determined, that the following materials must be submitted:

1) Each owner of a mobile food cart shall be required to provide a valid copy of all necessary licenses, permits or other written proof of compliance with the regulations of the City of York for each mobile food cart.

2) The applicant's 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 their addresses.

A. The applicant must list the names of all food service workers that will operate the mobile food cart(s).

B. Provide the business address.

C. A photograph of the **Permittee** and/or food service worker applicant, e.g. driver's license, passport or similar.

3) A photograph or accurate description of the mobile food cart, including the following data: **The make, model and type of body; the cart 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.)*

4) A statement as to whether the application is for a new permit, renewal of an existing permit, a change in hours of operation, or the request for addition of a mobile food cart location.

5) A statement that the applicant 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.

6) A statement that the applicant 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.

7) A signed statement that the applicant shall hold harmless the City and its officers and employees, and shall indemnify the City, its officers, its employees, **and any affiliated designees** 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. 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 Three Hundred Thousand dollars (\$300,000.00) 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 statement that the Permittee shall hold harmless the 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.

9) Provide such other additional information required by law, rule, ordinance, or that any **Department of the City**, Mobile Food Vendors 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 **initial and recurring** applications.

### **332.06 Application, license and permit fees.**

a) Upon the filing of a completed application, the non-refundable application fee for all applicants seeking a mobile food cart permit shall be \$100.00. This application fee shall be submitted with the application and shall apply to the cost of the permit only.

b) Upon approval of an application for a permit, the annual permit fee shall be \$500.00 for the owner/operator of the mobile food cart and \$25.00 for each food service worker.

c) Any applicant that wishes to operate within Continental Square shall pay an additional yearly fee of \$300.00 per location but does not give the Permittee express permission to operate their cart during City special events.

d) The annual fees set forth in this section shall be prorated starting with the date the permit is issued to December 31 of the first year of operation as needed.

e) Any duplicate permit may be issued upon payment of a fee of \$20.00 should a permit be lost or destroyed.

f) Any renewal permit must be applied for not later than five working days following the expiration date of an existing operator's permit, and for any such permit applied for after such expiration date there shall be a late fee of \$5.00 in addition to the annual fees stated above.

g) Vendor must submit proof of payment of City of York mercantile tax and Pennsylvania sales tax, this information must be made available upon request by City of York.

### **332.07 General Rules and Regulations; Transfers.**

(a) The license shall be issued for a duration of one year and shall be renewable in one year increments thereafter. The licenses are not transferable. In the event that the holder of a license is unable to use the license for any reason, the license must be returned to the City with no refund of any licensing or permit fees paid.

(b) One individual or corporate entity shall hold no more than two licenses concurrently.

(c) Mobile food vendors are permitted to operate a mobile, hand-operated food cart which can be hand-propelled by the operator, **is manufactured specifically for the purpose of dispensing the product sold by the vendor, and listed by the National Sanitation Foundation/American National Standards Institute as complying with NSF/ANSI Standard 59 – Mobile Food Carts.** Motor-vehicle type mobile food dispenser may not operate in the Central Business District.

(d) **Mobile food carts shall not be operated within two-hundred feet (200 ft.) of another mobile food cart.**

(e) Mobile carts shall be permitted to sell, consistent with other subsections of this ordinance, candies, such as ice cream, chocolates, mints and gum, food, such as, hot dogs, bratwurst, sausage, sandwiches, peanuts, potato chips, fruit, salads, and beverages such as soda, lemonade, juices, bottled water, coffee, hot chocolate and periodicals such as newspapers and magazines, but shall be strictly prohibited from selling apparel, jewelry, movies, compact discs, video cassettes or video discs, cigarettes, cigars, pipes, pornography, prophylactics, and related items

(f) Mobile food carts shall be attended by at least one operator at all times **over 18 years of age.**

(g) Mobile food carts shall be removed from public property between **8:00 p.m. and 7:00 a.m. between the months of October through March and 10:00 p.m. and 7:00 a.m. between the months of April through September, except as outlined in Section 333.16.**

(h) Mobile food carts shall not obstruct the passage of pedestrian travel, and a clear sight triangle, as referenced in the York City Zoning Ordinance, must be maintained.

(i) Operators shall be required to clean all litter within twenty-five feet in all directions of the location of the stand **throughout the business day and at the end of operating hours.** Operators shall properly remove all trash and litter from the site and at no time shall place said trash in any curbside receptacle.

(j) Under this article, licenses shall be issued based on the same standards that the City Health Inspector would use to license Temporary Food Facilities, under the Pennsylvania Food Code, and licenses shall only be issued upon the City Health Inspector's passing grade of the commissary or storage facility of the vendor cart.

(k) Retention of the Central Business District mobile food cart license shall be contingent upon compliance with all requirements herein. A license holder who fails to comply with all conditions shall have their license revoked. The license fee shall be nonrefundable if revoked.

(l) All mobile food carts operating under this article shall adhere to the designated time and day requirements and shall be allotted fifteen (15) minutes set-up and fifteen (15) minutes breakdown time before and after stated operating hours.

(m) The permit shall contain additional limitations on hours and days that the city determine are appropriate, including limitations to prevent conflict with special events.

(n) No mobile food cart shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles or similar devices to attract customers. **A mobile food cart may use battery operated lights with appropriate protective shields for the purpose of illuminating merchandise.**

(o) With the exception of trash bin receptacles, no mobile food vendor shall use external signage, seating, or any other equipment not contained within the cart on the public sidewalks.

(p) Other than as permitted within the **Food Cart District, no mobile food cart** shall have any exclusive and/or perpetual right to any location upon the streets, alleys, or public grounds of the City.

(q) No mobile food cart operating within the city designated locations shall be of a size as to interfere with the city or public's use of any public ways and must comply with the allowable dimensions set forth by the Food Vendors Committee containing all items to operate the cart. No additional items will be permitted outside of the cart itself.

(r) No mobile food vendor shall make or solicit any sales to occupants of vehicles or engage in any activities which impede vehicular traffic.

(s) Any power required for the mobile food cart located on a public way 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.

(t) Permittee and/or Licensee shall contain all refuse, trash, and litter within the mobile food cart or a small moveable trash can maintained by the Permittee and/or licensee, and located adjacent to the mobile food cart in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The owner/operator of the mobile food cart 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.

(u) The mobile food cart shall not have a drive-through or provide curb side service.

### **332.08 Enforcement.**

The Department of Community and Economic Development, Bureau of Permits, Planning and Zoning, shall be responsible for issuing the licenses and permits. The department shall develop procedures for control and monitoring of each permit. **The department 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.**

### **332.09 Denial, Revocation, Suspension of Permit.**

a. 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 motor food cart 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 motor food cart 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 Inspector**; 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 **Bureau** denies, revokes or suspends the license of the mobile food cart; or
- 15) There is a violation of any section of this Ordinance.

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 cart.

**332.10 Appeal to Council upon denial, revocation or suspension.**

A. Upon any denial, revocation or suspension of a mobile food cart 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:
  - a) The grounds upon which the city will seek denial, revocation or suspension of the permit and/or license;
  - b) 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;
  - c) That a hearing will be held before the York City Council;
  - d) 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 cart.

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 cart where the permit and/or license have been revoked until the expiration of the revocation period.

**332.11 Service of notices.**

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

**332.12 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.

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

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