

## **AN ORDINANCE**

Establishing Article 332 “Mobile Cart Vendors” of the City of York Codified Ordinances.

BE IT ORDAINED by the City Council of the City of York, Pennsylvania, that Article 332 “Mobile Cart Vendors” of the City of York 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 cart 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 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/license renewal and/or permit/permit 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 mobile cart vending 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 Cart Vendor"** means a mobile, hand-operated food dispenser which can be hand-propelled by the operator, is built specifically for the purpose of dispensing the product sold by the vendor, and is properly licensed 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 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 cart vendors are authorized to operate within the city right-of-way.

**"Owner"** is an individual or business entity who owns and/or operates the mobile 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 vend food items at authorized locations and times, for a specified period of time. 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 within 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.

### **332.03 Mobile Cart Vendors Committee.**

There shall be within the City of York a Mobile Cart Vendors 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, and the Director of Public Works or designee, established for the purpose of reviewing applications for mobile cart vending permits, and establishing rules and regulations, as appropriate, which shall be approved by Council.

### **332.04 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 cart vendor applications.
- b) A non-refundable license fee of \$25.00 will be required of all mobile cart vendor applicants to obtain a mercantile license from the York/Adams Tax Bureau.

### **332.05 Permit Applications and Fees.**

- a) Applications for mobile cart 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.

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) The applicant's first choice for location: CBD License locations are as follows and as notated on accompanying [map](#):

- i. Northeast corner of Continental Square
- ii. Southwest corner of Continental Square
- iii. Mid-Unit Block of East Market Street (north side of the street)
- iv. 100 Block of South George Street (east side of the street)
- v. Corner of North George and Philadelphia Streets
- vi. Mid-100 block of West Market Street (north side of the street)
- vii. Bus Station between Mason Avenue and King Street
- viii. Rail Trail at West Market Street (south side of the street)
- ix. Rail Trail and north side W Market Street (north side of the street)
- x. Mid-100 Block of West Philadelphia Street (north side of the street)
- xi. Mid-unit block of South George, west side of street\*

(\*xi: location at discretion of Council)

\*\*Interest by more than one vendor in a particular location will institute a bidding process provided all applications are submitted on or before June 30. License will be awarded to the highest bidder.

2) 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 cart.

3) 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 cart vendor(s).

5) The physical street address of the business. Post office boxes and other mail services will not be accepted.

6) A photograph of the permittee and/or food service worker applicant, e.g. driver's license, passport or similar.

7) A color photograph and accurate description of the mobile cart including the following data: The make, model and type of body; the vehicle identification number or any other identifying number as may be required by the Mobile Cart 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.)*

8) 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.

9) 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.

10) 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. 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 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.

11) 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.

12) A statement that the permittee shall hold harmless any and all members and member organizations represented on the food cart committee.

13) Provide such other additional information required by law, rule, ordinance, or that any department of the city, Mobile Cart 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 application.

### **332.06 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 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 dispenser.

The applicant must obtain a valid and current mercantile license prior to submitting an application for a mobile cart vendor permit.

Mobile cart vendors are permitted to operate a mobile, hand-operated food dispenser which can be hand-propelled by the operator, is built specifically for the purpose of dispensing the product sold by the vendor, and is properly licensed and permitted, and meets the minimum standards set forth by the National Sanitation Foundation.

Retention of a mobile cart vendor permit shall be contingent upon compliance with all requirements herein. A permit holder who fails to comply with all conditions shall have their license revoked. The permit fee shall be nonrefundable if revoked.

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

a) Process

All mobile cart vendors must submit an application for a permit annually from the Bureau of Permits, Planning and Zoning.

- 1) Six permits will be made available for ten locations in the Central Business District. Permits will be issued by location.
- 2) Twenty permits will be made available for locations outside the Central Business District.
- 3) No more than one CBD and one non-CBD permit shall be held by the same individual or entity at a time.
- 4) Application deadline: June 30 to be effective for the following calendar year. For current year (2014), application deadline will be November 30.
- 5) All mobile cart vendor permits are effective from January 1 to December 31 of each calendar year. Each year constitutes a new application and permitting cycle. Each permittee is guaranteed their location for two consecutive years.
- 6) 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.
- 7) Subletting of permits is strictly prohibited.

b) Design/size

1. With the exception of trash bin receptacles, no mobile cart vendor shall use external signage, seating, or any other equipment not contained within the vehicle on the public sidewalks.
2. No mobile food cart operating within the city designated locations shall exceed 34 square feet in expanse including the cart and any accessories. No additional items will be permitted outside of the cart itself.

c) Product

Mobile dispensers shall be strictly prohibited from selling apparel, jewelry, movies, music, tobacco products, pornography, prophylactics, and/or other sundries.

d) Location

1. The Mobile Cart Vendors Committee shall not approve a location wherein mobile cart vendor would substantially obstruct a public right-of-way, impair the movement of pedestrians or vehicles, or pose a hazard to public safety.
2. The Mobile Cart Vendors Committee shall not approve any location which is:
  - i. On any sidewalk less than six (6') feet in width.
  - ii. Within fifteen (15') feet of a bus stop.
  - iii. Within five (5') feet of any handicapped parking space or access ramp.
  - iv. On 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.
3. Licenses issued by location inside the CBD; vendor choice outside the CBD.
4. Mobile food dispensers shall not obstruct the passage of pedestrian travel, and a clear sight triangle, as referenced in the York City Zoning Ordinance, must be maintained.
5. Other than as permitted no mobile cart vendor and shall have any exclusive and/or perpetual right to any location upon the streets, alleys, or public grounds of the City.

e) Operation

1. Mobile food dispensers shall be attended by at least one operator over the age of 18 at all times.
2. No mobile cart 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 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.
4. 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 cart vendor and/or pushcart may use battery operated lights with appropriate protective shields for the purpose of illuminating merchandise.
5. The mobile food cart shall not have drive-through service.
6. Hours of Operation
  - i. Mobile food dispensers shall be removed from public property between 2:00 am and 7:00 am.
  - ii. 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.

f) Trash

1. Permittee shall contain all refuse, trash, and litter within the mobile food cart or a small moveable trash can maintained by the permittee 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.
2. Mobile dispensers shall be required to operate under a carry in/carry out policy with regard to litter and to clean all litter within twenty-five feet in all directions of the location of the mobile food cart throughout each business day. Dispensers 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) Special Events

Any existing permit owner shall be allowed the right of first refusal to operate in their permitted location for any and all special events occurring in the Central Business District. Vendors will be required to meet any special requirements of the event 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.

**332.07 Enforcement.**

Food Cart Committee shall develop procedures for control and monitoring of each permit. Food Cart 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.

**332.08 Denial, Revocation, Suspension.**

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 mobile 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 mobile 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 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 of the mobile cart vendor; or

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 cart vendor.



### **332.09 Appeal to Council upon Denial, Revocation or Suspension.**

a) Upon any denial, revocation or suspension of a mobile cart vendor permit by the City of York or the Mobile Cart 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 Cart Vendors 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;
  - iv. 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 cart vendor.
- 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 Cart Vendors 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.

### **332.10 Service of notices.**

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

**332.11 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.

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

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