

ORDINANCE NO. 3815

AN ORDINANCE OF THE CITY OF NORTH RICHLAND HILLS, TEXAS, AMENDING AND RESTATING CHAPTER 18, ARTICLE IV, DIVISION 6, OF THE NORTH RICHLAND HILLS CODE OF ORDINANCES, FOOD AND FOOD ESTABLISHMENTS, MOBILE FOOD UNITS; PROVIDING A PENALTY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES AND REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of North Richland Hills (“City”) is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, On April 26, 2021, the City Council enacted a temporary ordinance to address changes affecting the mobile food vendor industry due to partial closures and/or limited capacity for occupancy caused by the COVID-19 Pandemic; and

WHEREAS, On May 17, 2023, to assist local businesses and to ensure compliance with the rules and regulations of the Texas Department of State Health Services, the City Council enacted Ordinance No. 3792 amending and restating Division 6 of Chapter 18, Article IV, of the North Richland Hills, Texas Code of Ordinances, to include permanent administrative and enforcement requirements for mobile food unit operations; and

WHEREAS, On June 13, 2023, the Governor of the State of Texas signed House Bill 2878, creating chapter 437A of the Texas Health and Safety Code which requires mobile food service establishments in a county with a population of more than 2.1 million in which is located partially or wholly: an airport operating under Subchapter D, Chapter 22, Transportation Code, and an airport owned by the principal municipality in the county that does not offer commercial air service to obtain a permit from the county; and

WHEREAS, House Bill 2878 states that such permit issued by a county must authorize a mobile food service establishment to operate in any municipality located in the county; and

WHEREAS, Tarrant County is a county with a population of more than 2.1 million in which is located partially or wholly: an airport operating under Subchapter D, Chapter 22, Transportation Code, and an airport owned by the principal municipality in the county that does not offer commercial air service; and

WHEREAS, To remove any conflict between state law and North Richland Hills, Texas Code of Ordinances, the City Council wishes to amend and Division 6 of Chapter 18, Article IV to remove those provisions which are in conflict with state law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH RICHLAND HILLS, TEXAS:

SECTION 1: That Chapter 18, Article IV, Division 6, Mobile Food Units, of the North Richland Hills Code of Ordinances, shall be amended and restated in its entirety to read as follows:

DIVISION 6. - MOBILE FOOD UNITS.

Sec. 18-279. Definitions.

When specifically used in this article, the following words and terms, unless the context indicates a different meaning, shall have the meaning assigned to them below. If there is any conflict between Divisions 1- 5, and this Division 6, the definition specifically set forth in this Division 6 shall control during the time this ordinance is in effect.

Mobile food unit (MFU) means a vehicle-mounted food service establishment or a food service establishment pulled behind a vehicle to be readily moveable.

Person means an operator or registered owner of a vehicle that qualifies as a mobile food unit, whether permitted or unpermitted.

Property Owner means the owner or tenant of the property where the mobile food unit, whether permitted or unpermitted, is operating.

Sec. 18-280. - Permit required.

No person, company, or corporation shall operate, maintain, or park a Mobile Food Unit (MFU) within the City of North Richland Hills without a permit issued by Tarrant County in compliance with chapter 437A of the Texas Health and Safety Code.

Section 18-281. Approved Locations; Operations.

(a) *Public or private property.* Mobile Food Units may operate upon properties with the permission of the Property Owner or an authorized agent for the Property Owner. It shall be unlawful for a mobile food unit to vend:

(1) From a vacant property, stand or other temporary structure;

- (2) Upon an area not paved by an asphalt or concrete surface;
 - (3) Within a visibility triangle as defined by Section 118-714, and illustrated in Article IX, Illustration Figure I.9, of the North Richland Hills Code of Ordinances;
 - (4) Within fifty (50) feet of an intersection;
 - (5) Within an area within which the standing or parking of vehicles is prohibited;
 - (6) From a public street, right-of-way, sidewalk or other adjacent public or private property, unless such street, right-of-way, sidewalk or other property is designated by the City of North Richland Hills as an approved MFU location and for the timeframes specified by the city for such location;
 - (7) From an area other than the side of the MFU;
 - (8) Upon a premise holding a Texas Alcohol and Beverage Commission license in which alcoholic beverage consumption is prohibited.
- (b) *Special event permit.* Mobile food units that have obtained the permit required by section 18-280 of this code may operate in conjunction with a Special Event Permit as issued by Neighborhood Services Department of the City of North Richland Hills.
- (1) *Commercial or industrial property.* Mobile food units may operate on private commercial or industrial property, properly zoned and with the written notarized permission of the Property Owner and/or landlord if the mobile food unit has access to approved flush type toilet facilities, connected to an approved type sewage system on the private commercial or industrial property and within one hundred and fifty feet from the MFU. Mobile food units must be parked on a paved surface and are not allowed to discharge wastewater or grey water on site.
 - (2) *Residential property.* Mobile food units may operate on residential private property up to two times per year with written notarized permission from the Property Owner and with a Special Event Permit, if required by the City of North Richland Hills. They must be parked on a paved surface and are not allowed to discharge wastewater or grey water on site.

- (c) All mobile food units shall comply with this Code as well as with state and federal law; Nothing in this article shall exempt a food vendor from zoning ordinances.

Section 18-282. Hours of operation.

The hours of operation of any mobile food unit are subject to the following restrictions, which such restrictions are in addition to all other restrictions included in the permitting process:

- (a) A mobile food unit may operate in a residential zoned area from 7:00 a.m. Central Standard Time (CST) until 9:00 p.m. CST.
 - (1) MFU may only operate at the location following the issuance of the MFU permit by the regulatory authority and with written permission of the Property Owner or authorized agent of the property.
 - (2) MFU must adhere to the noise level restrictions described in the City of North Richland Hills Code of Ordinances Chapter 34-33 (23) – Specific Nuisances.
 - (3) The MFU must leave the location at the end of the service and may not remain parked or stored at the location overnight even with the permission of the Property Owner.
- (b) A mobile food unit may operate in a commercially zoned area during the normal hours of operation for the business location on which it is permitted to be parked however, under no circumstances can the MFU operate earlier than 7:00 AM CST nor later than 11:00 PM CST.
 - (1) MFU may only operate at the location following the issuance of the MFU permit by the regulatory authority and with written permission of the Property Owner or landlord of the property.
 - (2) MFU may only operate in the area of the property designated in the application submitted by the Property Owner or landlord of the property.
 - (3) The MFU must leave the location each day and may not remain parked or stored at the location overnight even with the permission of the Property Owner.

- (4) MFU must adhere to the noise level restrictions described in the City of North Richland Hills Code of Ordinances Chapter 34-33 (23) – Specific Nuisances.
- (c) A mobile food unit may operate in a Mixed Use/Transit Oriented Zoned District during the normal hours of operation for the business location on which it is permitted to be parked however, under no circumstances can the MFU operate earlier than 6:00 a.m. CST or after 11:00 p.m. CST.
- (1) If parked on commercial property within the district it may only operate during the hours of operation for the business.
 - (2) If parked in a street parking spot approved for an MFU within the district it may operate for no more than three (3) consecutive hours.
 - (3) The MFU must leave the location at the end of the three (3) hour timeframe for operation and may not remain in the parking spot overnight.
 - (4) The total noise level of any mobile food unit shall comply with NRH Code of Ordinances Section 34-33 (23), Specific nuisances. The mobile food unit shall turn off all music and recorded messages while stationary, except when stopped at a controlled intersection.

Sec. 18-283. - Restricted operations.

- (a) Mobile food units shall not utilize any required business parking spaces or park in a designated or marked fire lane.
- (b) Mobile food units shall not park, stop or stand in areas designated or marked as “no parking areas” or park in violation of North Richland Hills Code of Ordinances, Ch. 54.
- (c) Mobile food units must comply with North Richland Hills Code of Ordinances, Ch. 34, as it relates to public nuisances.
- (d) Mobile food units may operate at locations where on premise alcohol consumption is allowed as permitted by Texas Alcohol Beverage Code.
- (e) Mobile food units may not erect a tent or supply tables or chairs to be used outside the vehicle or trailer.

- (f) At no time shall there be more than one mobile food unit per location or within 300 feet of another mobile food unit unless operating pursuant to a North Richland Hills Special Event permit, or as otherwise permitted by City ordinance.

SECTION 2: Any Person, firm, corporation, or Property Owner who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. provided, however, that a penalty for the violation of a rule, ordinance or police regulation that governs fire safety, zoning, or public health and sanitation, including dumping of refuse, shall be a fine not exceeding \$2,000.00. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 3: This Ordinance shall be cumulative of all provisions of the Code of Ordinances of the City of North Richland Hills, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such Code, the provisions in this Ordinance shall control.

SECTION 4: It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this Ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4: All rights and remedies of the City of North Richland Hills are expressly saved as to any and all violations of the provisions of any ordinances in the Code of Ordinances of the City of North Richland Hills that have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 6: The City Secretary is hereby authorized and directed to cause the publication of the descriptive caption and penalty of this ordinance one time in the official City newspaper.

SECTION 7: This ordinance shall become effective from and after its passage and publication as required by Section 6 herein.

AND IT IS SO ORDAINED.

PASSED AND APPROVED on the _____ day of _____, 2023.

CITY OF NORTH RICHLAND HILLS

By: _____
Oscar Trevino, Mayor

ATTEST:

By: _____
Alicia Richardson, City Secretary/
Chief Governance Officer

Approved as to Form and Legality:

By: _____
Maleshia B. McGinnis, City Attorney

Approval Recommended:

By: _____
Stefanie Martinez
Director of Neighborhood Services