

Fort Worth, TX Code of Ordinances

DIVISION 2. - PUSHCARTS ^[96]

⁽⁹⁶⁾ **Cross reference**— Health and sanitation, Ch. 16.

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Sec. 20-161. - Definitions.

For the purposes of this division, the following words and phrases shall have the meanings respectively assigned to them by this section unless their use in this text clearly demonstrates a different meaning.

Abandoned slot shall mean a slot for which the user has failed to meet the requirements for minimum operating hours under section 20-163(c).

Attention-getting devices shall mean any mechanical or electronic sound producing device or lighting device employed to attract patrons to any pushcart.

Available slot shall mean one of the permissible slots available for use.

Beverage means soft drinks, water, citric acid beverages, or other acceptable non-alcoholic potable beverages.

City manager shall mean the City Manager for the City of Fort Worth or his designated representative.

Commissary shall mean a fixed food service establishment permitted and regularly inspected by a regulatory health agency.

Director shall mean Director of the Fort Worth Code Compliance Department or his designee.

Downtown area shall mean the area lying within the boundaries of the Fort Worth Improvement District No. 1 as established by the findings of the Fort Worth City Council in Resolution 3756-06-2009 or by future resolution adopted in accordance with state law.

Employee means any person selling, offering for sale, vending or serving any edible or potable substance from a pushcart.

Food shall mean any edible or potable substance prepared in accordance with the requirements of this division and the regulatory authority.

Nonpotentially hazardous food shall mean food that has little or no potential for spoilage or contamination. The following list is exemplary of such food and shall not be construed to be exclusive of any other nonpotentially hazardous food:

Popcorn

Peanuts

Pretzels

Person shall mean any individual, group of individuals, firm or corporation.

Potentially hazardous food shall mean such food items which have the potential to spoil or become contaminated either through preparation or improper handling and storage. Potentially hazardous foods shall include the following:

Prepackaged sandwiches

Hot dogs

Tamales

Nachos

Ice cream

This list is exemplary and shall not be construed to be exclusive of any other potentially hazardous food items.

Public property means any building, grounds or place (i) owned by the city, a unit of county, state, or federal government or any other political subdivision of the State of Texas or (ii) used or occupied by or/on behalf of the city, a unit of county, state, or federal government, or any other political subdivision of the State of Texas. The term public property includes, but is not limited to, parks, sidewalks, and government buildings.

Pushcart shall mean a non-self-propelled vehicle from which food and beverages or fresh cut flowers may be sold.

Regulatory authority means the Department of Code Compliance of the City of Fort Worth.

Regulatory health agency means a government entity, department, or agent (including a contractor) having responsibility for enforcing public health laws and regulations in the jurisdiction where a commissary is located. For commissaries located in the corporate limits of the City of Fort Worth, this term includes the code compliance department.

Sanitizer shall mean any approved chlorine or ammonia compound or disinfectant used for the sterilization of utensils.

Servicing area shall mean a designated area provided for the supplying, cleaning or servicing of pushcarts.

Single service articles shall mean dishes, utensils, and other similar items designed or intended for one-time use by servers and/or consumers for the purpose of serving or eating food or beverages. Examples of single service articles include paper plates, paper cups, plastic forks,

etc. This list is exemplary and shall not be construed to be exclusive of any other single service articles not mentioned herein.

Slot shall mean a designated general location, as approved by the city council, for the placement of a pushcart in the downtown area. Only the city council may create or alter slot designations in the downtown area.

(Ord. No. 9880, § 2, 6-4-87; Ord. No. 16721, § 1, 12-6-05; Ord. No. 19803-07-2011, § 1, 7-26-11)

Sec. 20-162. - Requirements.

All pushcarts operating within the corporate city limits of the City of Fort Worth shall comply with the requirements of this ordinance except as otherwise provided in this division and in Article IV of Chapter 16 of the Code of the City of Fort Worth. The regulatory authority may impose additional requirements to protect against health hazards related to the pushcart operation, may prohibit the sale of some or all potentially hazardous food, and when no health hazard will result, may waive or modify requirements of this division relating to physical facilities.

(Ord. No. 9880, § 2, 6-4-87; Ord. No. 19803-07-2011, § 2, 7-26-11)

Sec. 20-163. - Permits.

(a) It shall be unlawful to sell, offer for sale, vend, operate, maintain or serve any item from a pushcart in the downtown area without a valid slot permit issued in accordance with this division. This slot permit shall be required in addition to any other license, permit, or certification that may be required by law, including, but not limited to, food handler certification required under Chapter 16 of this Code.

(1) Application for a vending permit shall be made in written form to the director.

(2) Slot permits for pushcarts shall only be available under the terms of this division. No encroachment agreement shall be granted for any pushcart unless such pushcart complies with all applicable requirements of this division and Chapter 16 in addition to requirements relating to encroachment.

(3) All pushcarts and required attendant facilities shall be inspected by the regulatory authority prior to the issuance of a vending permit.

(4) In the interest of public health and safety, all vending permits shall be issued for a specific location. Vendors shall locate in compliance with the noted location so that the regulatory authority may conduct inspections in compliance with city ordinances and investigate reports of unsanitary conditions or food borne illnesses.

(5) Acceptance of a vending permit is an express acknowledgment and consent to the terms and restrictions set by the regulatory authority. The use of a permit is a privilege, not a right, subject to reasonable restrictions as set out herein or as may be promulgated by the regulatory authority.

(6) As an express condition of the acceptance of a slot permit hereunder for an available slot on public property in the downtown area, recipient agrees to police for trash and debris, an area within a twenty-five-foot radius of the pushcart location.

(7) In connection with issuing a slot permit, the director shall, following consultation with the director of the parks and community services department, assign an exact location within the designated slot and shall indicate such location on the slot permit documentation. The director may periodically adjust the exact location within the council-designated slot to allow for construction or other changed circumstances; any such adjustment shall be documented in writing and attached as an addendum to the slot permit documentation.

(b) *Insurance and indemnification.*

(1) No permit shall be issued to an applicant vending on public property in the downtown area or on a residential sidewalk unless verification of insurance is confirmed by a representative from the risk management division of finance. The applicant shall have filed with the city's risk manager a certificate showing that the applicant has secured and agrees to keep in force during the term of the permit a policy providing for bodily injury and property damage in the amounts as follow:

Property damage, per accident\$100,000.00

Personal injury or death, per person\$100,000.00

Personal injury or death, per accident\$300,000.00

Product liability\$300,000.00

Such insurance policy shall provide that it cannot be cancelled or amended without at least thirty (30) days' notice in writing to the director and the city's risk manager.

(2) As an express condition of the acceptance of such permit, the permit holder thereby agrees to indemnify and save harmless the city, its officers, agents, servants and employees against any loss or liability or damage, including expenses and costs for bodily or personal injury, and for property damage sustained by any person as a result of the operation, use or maintenance of a pushcart, within the City of Fort Worth.

(3) As a further condition, permit holder by acceptance of the permit expressly agrees to indemnify and hold harmless and defend the city, its officers, agents, servants and employees, from and against any and all claims or suits for personal injury, including death, of whatsoever

kind or character, whether real or asserted, arising out of or in connection with the consumption of food products sold on any public property herein described.

(c) Any pushcart which rests in whole or in part upon any public property in the downtown area shall comply with all of the following standards:

(1) Pushcart must be commercially manufactured. For purposes of this section, "commercially manufactured" means a pushcart that was originally manufactured for use as a non-self-propelled mobile food vending vehicle by a person regularly in the business of manufacturing food preparation vehicles for sale and does not include any vehicle that is converted or retrofitted as a non-self-propelled mobile food vending vehicle.

(2) Pushcart body shall not exceed four (4) feet in height, three (3) feet in width, or six (6) feet in length, exclusive of allowed attachments and allowed accessories.

(3) Allowed attachments shall be limited to:

- a. Coolers; and
- b. Counters.

(4) To provide a uniform appearance, allowed attachments must be constructed of or surrounded by the same type of material as the pushcart body.

(5) Allowed attachments must fold out from or be clipped on to the pushcart body. allowed attachments must be readily removable or retractable so as not to cause pushcart body to exceed the size limitations of subsection (c)(2).

(6) Allowed accessories shall be limited to:

- a. Canopies;
- b. Umbrellas;
- c. Up to two (2) stools for use by employees; and
- d. A trash can for use by pushcart customers.

(7) Allowed accessories must be kept in close proximity to the pushcart body.

(8) When placed for operation, the pushcart body, allowed attachments, and allowed accessories shall be limited to a total combined area not to exceed ten (10) feet in height, six (6) feet in width, or ten (10) feet in length.

(9) *[Reserved.]*

(10) No pushcart shall be used to display information other than a valid permit, list of items served, the prices thereof and the name of the vendor, all of which must be contained on the body of the pushcart. No pushcart, allowed attachment, or allowed accessory shall be used to display or depict artwork or advertising materials of any kind, including, but not limited to, the name, logo, or mascot of any product or service.

(11) During the months of March through October, pushcarts must be open to the public for a minimum of two (2) hours per day on at least eight (8) days of each month, provided however, that the director may reduce or waive this requirement due to inclement weather, demonstrated viability issues related to a particular slot, or other extenuating circumstance.

(12) Each vendor operating in a slot in the downtown area shall maintain an operations log in a form prescribed by the director to show the days and times on which the vendor operated and/or document the specific reason that a vendor was unable to operate on a particular date. The operations log shall be made available to the code compliance department on request. Failure to maintain or produce an operations log shall give rise to a presumption that the permittee has failed to comply with the minimum operating hours requirement and that the slot has been abandoned.

(d) The number of slot permits available for vending on public property in the downtown area shall be determined by the city council after receiving comments and recommendations by the city manager, the director and the director of parks and community services. Only the city council may create or alter slot designations in the downtown area.

(e) Permits on public property in the downtown area shall be subject to the following conditions, limitations, and restrictions:

(1) Slot permits shall be issued for a period not to exceed twenty-four (24) months.

(2) On or about February 1 of every odd numbered year, all slots in the downtown area shall be put out for bid by the city. Slots shall be awarded to the highest bidder that is in compliance with all requirements of this subsection (e).

(3) If a slot becomes available outside of the typical bid cycle, it shall be put out for bid by the city for the remainder of the unexpired term and awarded to the highest bidder that is in compliance with all requirements of this subsection (e).

(4) No slot shall be awarded and no slot permit shall be issued unless the permit applicant can demonstrate that: (i) he or she has a pushcart available for dedicated and exclusive use in that slot and (ii) that such pushcart complies with all of the requirements of this division, including but not limited to, size and construction requirements outlined in subsection (c) of this section.

(5) No more than two (2) permits to operate pushcarts on public property in the downtown area shall be issued to an individual, a single business entity, or to two (2) or more affiliated entities. For purposes of this provision "affiliated entities" shall include (i) individuals

related within the third degree by consanguinity or within the second degree by affinity as defined by Chapter 573 of the Texas Government Code; (ii) business entities with at least ten (10) percent common ownership; and (iii) an individual and a business entity that the individual controls or in which the individual has at least a two (2) percent ownership interest.

(Ord. No. 9880, § 2, 6-4-87; Ord. No. 11541, § 1(c), 4-12-94; Ord. No. 14934, § 7, 1-22-02; Ord. No. 16721, § 1, 12-6-05; Ord. No. 19803-07-2011, § 3, 7-26-11)

Sec. 20-164. - Permit fees.

(a) After inspection and approval by the code compliance department of each pushcart, each pushcart shall be assessed a slot permit fee in the amount of the permittee's bid under section 20-163(e). Slot permits shall be valid from the date of issuance through December 31 of the even-numbered year immediately following the date of issuance, unless revoked pursuant to this division.

(b) Permits shall be issued in accordance with the application procedures and upon payment of the permit fees per pushcart in the amount established by city council.

(Ord. No. 9880, § 2, 6-4-87; Ord. No. 10818, § 1, 4-9-91; Ord. No. 19803-07-2011, § 4, 7-26-11)

Sec. 20-165. - Locations.

(a) No sale or offering to sell shall be made from any pushcart of any edible or potable substance on any property which is used or zoned for residential purposes, within five hundred (500) feet of any public or private school property; nor on any municipal recreation facility, except as specifically provided herein.

(1) Pushcarts operating from private property not in the public right-of-way may be located in front of commercially or industrially zoned property located outside of the downtown area with the advance approval of the owners or duly authorized representatives of said property. Pushcarts shall not, however, be permitted on private property in the downtown area.

(2) Pushcarts using flammable substances, including, but not limited to, liquefied petroleum gas shall not be permitted inside of buildings.

(b) It shall be permissible for pushcarts to operate within the following designated areas:

(1) Designated slots on public property in the downtown area in accordance with the terms of a valid slot permit issued by the director.

(2) At temporary special events with a special event permit.

(3) Pushcarts may operate in front of commercially or industrially zoned property located outside of the downtown area with the advance approval of the owners or duly authorized representatives of said property.

(c) *Slot permits nontransferable.* Use of a slot as approved by city council on public property in the downtown area is a privilege, not a property right. Such a designated slot shall not be transferable; it shall be available only to the person designated by slot permit.

It shall be unlawful to attempt to sell, lease, or otherwise transfer the use of such a designated slot from the original permittee to any other person natural or unnatural. Such action shall result in automatic revocation of the permits of the parties involved, and those parties shall be banned from operating within the city limits for one (1) year from the date of revocation. Such revocation shall not preclude any other legal action.

(Ord. No. 9880, § 2, 6-4-87; Ord. No. 11541, § 1(c), 4-12-94; Ord. No. 16721, § 1, 12-6-05; Ord. No. 19803-07-2011, § 5, 7-26-11)

Sec. 20-166. - Hours of operation.

(a) No sale or offering to sell shall be made from any pushcart at any time between 9:00 p.m. and 7:00 a.m.

(b) During special events, pushcarts with special event permits may operate during the prescribed hours of the special event.

(Ord. No. 9880, § 2, 6-4-87)

Sec. 20-167. - Attention-getting devices.

(a) No mechanical or electronic sound producing device shall be employed by a pushcart.

(b) Hawking and solicitation are strictly forbidden.

(c) Lights of sufficient illumination for vendors to operate during nighttime or darkness shall be permissible in addition to safety reflectors and lights required by traffic ordinances. Lights shall not be used as attention getting devices.

(Ord. No. 9880, § 2, 6-4-87)

Sec. 20-168. - Employees.

No person shall sell or offer to sell any edible or potable substance from a pushcart unless such person be in compliance with the applicable portions of Article IV of Chapter 16 of the City Code.

(Ord. No. 9880, § 2, 6-4-87; Ord. No. 19803-07-2011, § 6, 7-26-11)

Sec. 20-169. - Single service articles.

Pushcarts shall provide only single service articles for use to the consumers.

(Ord. No. 9880, § 2, 6-4-87)

Sec. 20-170. - Pushcart specifications.

All pushcarts shall meet minimum health and safety standards as prescribed by the regulatory authority. In particular, pushcarts shall comply with the following requirements:

- (a) Each pushcart shall have a supply of paper towels, soap and detergent which shall be conveniently accessible.
- (b) Separate space shall be set aside from areas where food is served or prepared, for nonfood related items which are displayed on pushcarts.
- (c) Each pushcart shall have a stainless steel hand sink with a minimum of two (2) compartments with adequate amounts of hot and cold water under pressure. Each pushcart shall also have adequate drainboard space.
- (d) Each pushcart shall provide and have available for the public, a fly-proof, lidded trash container for the disposal of refuse. Such trash container may be either on the pushcart or located conveniently nearby.
- (e) Each pushcart employing butane or propane tanks shall comply with any and all applicable fire department regulations. Ground fault interrupters may be required by the fire department as a safety feature to prevent electrical shock. Each pushcart shall be equipped with an approved fire extinguisher with a 2A 10BC rating.

(Ord. No. 9880, § 2, 6-4-87)

Sec. 20-171. - Nonpotentially hazardous foods.

Pushcarts which stock and sell only nonpotentially hazardous food shall be governed by the following requirements:

- (a) A cleanable canopy shall extend over the pushcart and cover the top surface of the pushcart.
- (b) Food shall be stored, displayed and served in a fly- and rodent-proof manner. Foods shall be protected by a properly installed sneeze guard shield.
- (c) All food and condiments shall be dispensed in a sanitary manner.
- (d) Bulk food items shall be properly labeled and dispensed through sanitary devices or utensils.

Canned or bottled beverages where no ice is consumed by the purchaser, commercially packaged nonpotentially hazardous single portion snack items and commercially wrapped candy shall be excluded from the above requirements.

(Ord. No. 9880, § 2, 6-4-87)

Sec. 20-172. - Potentially hazardous foods.

Pushcarts which stock and sell potentially hazardous foods shall be governed by the following requirements:

- (a) A cleanable canopy shall extend over the pushcart and cover the top surface of the pushcart.
- (b) Potentially hazardous foods must be stored, displayed and served in a fly- and rodent-proof manner. Properly installed sneeze guard shields shall be used during food preparation. Scooped ice cream sellers shall have a running water dipper well.
- (c) All food and condiments shall be dispensed in a sanitary manner.
- (d) Pushcart operators and their staff shall not cook on or adjacent to a pushcart unless such activity is in conjunction with another facility permitted and inspected by the regulatory authority.
- (e) Each compartment or area used for storage, display or service of potentially hazardous food shall be maintained at proper temperatures for the food item stored therein. Hot foods shall be kept at one hundred forty (140) degrees Fahrenheit or above; cold foods shall be kept at forty-five (45) degrees Fahrenheit or below and frozen foods shall be kept at zero (0) degrees Fahrenheit or lower. Unbreakable thermometers shall be located conspicuously in each of the above applicable areas.
- (f) Bulk food items shall be properly labeled and dispensed through sanitary devices or utensils.

(Ord. No. 9880, § 2, 6-4-87)

Sec. 20-173. - Specialty pushcarts.

(a) *Flowers.* Pushcarts which stock and sell flowers shall be governed by the following requirements:

- (1) A cleanable canopy shall extend over the cart and cover the top surface of the cart.
- (2) Food and/or beverages shall not be sold from carts selling flowers nor shall flowers be sold from carts selling food and/or beverages.
- (3) Flower carts shall have a holding facility to retain water or fluids used to keep flowers fresh.
- (4) Flower carts shall be subject to the same operation, permitting, spacing and location requirements as other pushcarts, except that flower carts shall be exempt from those provisions with reference to equipment and facilities which by their very nature have no application.

(b) *Residential pushcarts.* Pushcarts which operate in residential areas shall be governed by the following requirements:

- (1) Except as specified herein, residential pushcarts shall be subject to all other applicable sections of this division. In no case shall a residential pushcart be exempt from operating from an approved commissary facility.
- (2) Residential pushcarts shall only be permitted to operate in specifically designated geographical locations within the residential districts of the city. They shall operate only between the hours of 11:00 a.m. and 6:00 p.m. and shall only operate from and on sidewalk areas.
- (3) No residential pushcart body shall exceed these dimensions: two (2) feet in height, two (2) feet in width and three (3) feet in length.
- (4) Residential pushcarts shall be constructed of a smooth and cleanable material and be constructed in a manner in which cleaning can be easily accomplished.
- (5) Products sold from residential pushcarts shall be limited to frozen ice cream and frozen popsicles which shall be properly packaged and labelled to show all ingredients.

(Ord. No. 9880, § 2, 6-4-87)

Sec. 20-174. - Commissary.

(a) All pushcarts shall operate from an authorized storage facility, commissary, or other fixed food service establishment permitted and regularly inspected by a regulatory health agency.

(b) The commissary or base of operations shall be constructed and operated in compliance with the requirements of the Texas Food Establishment Rules and regulations of pertinent regulatory departments.

(Ord. No. 9880, § 2, 6-4-87; Ord. No. 19803-07-2011, § 7, 7-26-11)

Sec. 20-175. - Servicing area.

(a) All pushcarts shall have a servicing area which shall have overhead protection, location(s) for draining and flushing liquid wastes and location(s) for loading and unloading of food and related supplies.

(b) The surface of the service area shall be constructed of a smooth nonabsorbent material graded to drain, and shall be kept in good repair.

(Ord. No. 9880, § 2, 6-4-87)

Sec. 20-176. - Servicing operation.

(a) Potable water servicing equipment shall be installed and maintained in a manner that protects the water and equipment from contamination.

(b) Pushcart liquid waste containers shall be thoroughly flushed and drained during servicing operations.

(c) Flushing and draining activities shall be conducted in the required servicing areas. No flushing or draining of liquid waste shall be permitted on public streets or in any area other than the required servicing area.

(Ord. No. 9880, § 2, 6-4-87)

Sec. 20-177. - Waste retention.

(a) All liquid waste shall be stored in a retention tank that shall have a minimum capacity of seven and five-tenths (7.5) gallons or that is at least fifteen (15) percent larger in capacity than the fresh water supply tank, whichever is greater. Liquid waste shall only be discharged into a sanitary sewer disposal system. Waste connections shall be located lower than the water inlet connection in a manner to preclude contamination of the potable water system.

(b) Solid waste generated by permittees and employees shall be contained in an easily cleanable, self-closing, lidded trash receptacle which shall be kept on the pushcart at all times.

(Ord. No. 9880, § 2, 6-4-87; Ord. No. 19803-07-2011, § 8, 7-26-11)

Sec. 20-178. - Water system.

All pushcarts shall provide not less than five (5) gallons of water under pressure at all times for use in utensil cleaning, sterilization and hand-washing. One water inlet shall be located so as not to be contaminated by waste discharge. Such inlet shall be capped at all times except when being filled, and shall contain only potable water. Connection or direct hookup to water sources other than those on the pushcart shall be approved by the regulatory authority.

(Ord. No. 9880, § 2, 6-4-87)

Sec. 20-179. - Enforcement.

(a) The city's health department shall have the authority to enforce any and all provisions of this division.

(b) It shall be within the power and discretion of the health department to suspend or revoke any vendor permit issued hereunder for continued or repeated violation or infraction of any provision of this division or any rule, direction or regulation of the health department.

(Ord. No. 9880, § 2, 6-4-87)

Sec. 20-180. - Revocation of permit.

(a) The director may revoke a slot permit issued under this division if the holder or an employee:

- (1) Has abandoned the assigned slot;
- (2) Fails to comply with any requirement of this division;
- (3) Violates or fails to comply with any provision of City Code or other applicable law;
- (4) Is discovered to have provided false or inaccurate information on or in connection with the original permit application; or
- (5) Is discovered to have provided false or inaccurate information on or in connection with the operations log or any other documentation required under this division.

(b) The director shall notify the permittee in writing of the revocation.

(c) The revocation of a slot permit may be appealed in accordance with the process outlined in section 20-181

(Ord. No. 19803-07-2011, § 9, 7-26-11)

Sec. 20-181. - Appeal.

Any person or entity aggrieved by a finding, determination, notice or action taken under the provisions of the division may file an appeal in writing with the city manager or that individual's authorized representative. An appeal must be filed within five (5) days after receipt of notice of any protested decision or action by filing with the office of the city manager a letter of appeal briefly stating therein the basis for such appeal. A hearing shall be held on a date no more than fifteen (15) days after receipt of the letter of appeal unless extended by mutual agreement of the parties. Appellant shall be given at least five (5) days' notice of the time and place of the hearing. The city manager or authorized representative shall give the appellant, and any other affected party, a reasonable opportunity to be heard, in order to show cause why the determination of the regulatory authority should not be upheld. In all such cases the burden of proof shall be upon the appellant to show that there was no substantial evidence to support the action taken by the regulatory authority. The city manager or authorized representative shall make his determination and shall notify the appellant in writing of his determination. The decision of the city manager or authorized representative shall be final.

(Ord. No. 9880, § 2, 6-4-87; Ord. No. 19803-07-2011, § 10, 7-26-11)

Secs. 20-182—20-185. - Reserved.

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