

CHAPTER 9-52. - FOOD ESTABLISHMENTS

Sections:

ARTICLE 1. - GENERAL PROVISIONS

Sec. 9-52-1. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

Approved means acceptable to the health officer based on his or her determination as to conformance with appropriate standards and good public health practice, as hereinafter set forth.

Bakery means a plant where bread, rolls, cakes, doughnuts, pies and similar products are processed, mixed, baked, packaged or stored for sale and distribution to retailers.

Commissary means any state licensed stationary food establishment that serves mobile food dispensers, mobile food facilities, vending machines or other food dispensing operations where (i) food, containers or supplies are stored; (ii) food is prepared or prepackaged for sale or service at other locations; (iii) utensils are cleaned; or (iv) liquid and solid wastes are disposed of or potable water is obtained.

Food commissary means an establishment with an eating and drinking classification, which prepares food for distribution to an approved retail food establishment owned or operated by the same person who has ownership of the commissary. Adequate equipment must be provided to maintain good sanitation in the preparation and transportation of such food.

Environmentalist is the term designated to include inspectors, sample collectors or any other person employed by the health department and assigned to food control.

Frozen dessert is any clean frozen or partially frozen combination of two or more of the following: Grade A milk products, manufactured milk or manufactured milk products, eggs or egg products, sugars, water, fruit or fruit juices, candy, nut meats, or other harmless and wholesome food products, flavors, color, or harmless stabilizers, and shall be deemed to include ice cream, ice milk, sherbet, imitation ice cream, novelties, and other similar products.

Grocery store or retail market means a place of business where food and food products are stored, displayed and offered for sale to retail customers to be prepared or cooked elsewhere. Another type of business such as a meat market, restaurant, or bakery may be incorporated into the grocery store area but will not be included in this definition. A grocery store or retail market routinely sells fruits, vegetables or other produce and/or has a meat market. See also, retail market.

Health officer means the county health officer and/or director of the county health department, or his or her designated representative.

Historical district means a specific area included on the state register of historical places, as defined by state laws or the state historical commission.

Labeling means the marking, designation, or descriptive device on food containers and/or articles of food denoting the name of the product, ingredients thereof; name and address of manufacturer and/or distributor (if name and address of distributor is utilized then the permit number and the permitting agency shall appear on the product); and any other information required by the state department of agriculture, USDA or FDA, as found in the Tennessee Food, Drug, and Cosmetic Act Food Labeling Requirements, T.C.A. § 53-1-105 et seq. 10/2/23, 2:06 PM Memphis, TN Code of Ordinances

Meat market means a place of business or an area in a grocery store which meat, or meat products, are stored, processed, displayed or offered for sale.

Menu change means a modification of a food establishment's menu that requires a change in the food establishment's food preparation equipment, storage equipment or storage capacity previously approved by the health department. The term "menu change" shall include, but is not limited to, the addition of potentially hazardous food to a menu, installation of new food preparation or storage equipment, or increasing storage capacity.

Misbranded means the presence of any written, printed or graphic matter upon or accompanying food or containers of food, which is false or misleading, or which violates any applicable state or local labeling requirements.

Mobile food units means:

1. Mobile food truck means a truck that dispenses pre-packaged food and drinks.
 - a. Mobile food market means a truck that dispenses pre-packaged food and drinks or sells pre-packaged frozen or refrigerated meat, poultry, or dairy products, fresh fruits and vegetables and other perishable and/or nonperishable packaged products from approved locations in Memphis and Shelby County in accordance with Tennessee Department of Agriculture Rules Chapter 0080-4-9, 0080-03-01 and 0080-04-01.
 - b. Mobile food market with deli as defined above, with the addition of the preparation of potentially hazardous food, including cold or hot sandwiches, hot dogs, ready-to-eat meats, pizza, chili, dip ice cream and soft serve machines.
 - c. Industrial caterer dispenses pre-packaged food products and drinks to one or more locations on commercial or industrial property, private or public, with the permission/authorization of the owner or occupant.
2. Mobile food preparation vehicle is a mobile food preparation vehicle that is any motorized vehicle that includes a self-contained or attached trailer kitchen in which food is prepared, processed or stored and used to sell and dispense food to the ultimate consumer. Mobile

units must be mobile at all times during operation. The unit must be on wheels (excluding boats) at all times. Any mobile food unit that removes such wheels or becomes stationary while operating for a period exceeding one (1) day is no longer a “mobile food preparation vehicle” under the terms of this Chapter and must meet the Tennessee Department of Health Regulations Chapter 1200-23-1 et seq. in their entirety and all applicable provisions of the Memphis and Shelby County Unified Development Code. This definition does not include pushcarts as regulated by city codes and prohibited from selling potentially hazardous foods by the state department of health, nor vehicles from which only ice cream and other frozen non-hazardous food products are sold, nor vehicles operating under special event permit.

3. Mobile frozen meat truck means a truck that sells pre-packaged frozen meat or poultry to retail customers from approved locations in Memphis and Shelby County in accordance with Tennessee Department of Agriculture Rules and Regulations Chapter 0080-4-9 et seq.
4. Mobile seafood truck means a truck that sells pre-packaged frozen or refrigerated seafood as well as seafood packaged on site to retail customers from approved locations in Memphis and Shelby County in accordance with Tennessee Department of Agriculture Rules and Regulations Chapter 0080-04-10-.01 and 0080-04-10-.02.
5. Produce truck means person who sells or peddles from a vehicle on the streets of the city only fruits, vegetables, melons, berries, chestnuts and packaged nuts. Such products may be produced by him/her or they may be purchased from others for resale.
6. Push cart means a mobile unit which dispenses non-potentially hazardous food on a daily basis from a nonmotorized mobile vehicle which operates within the confines of a public or private pedestrian mall, shopping center, commercial business, city park or commercially zoned historical district, in accordance with Tennessee Department of Health Rules and Regulations for mobile units, Chapter 1200-23-1-.02(12).
7. Pedestrian vendor means a person engaged in the business of dispensing non-potentially hazardous or non-perishable packaged food on a daily basis from a non-motorized mobile vehicle which operates within the confines of a public or private pedestrian mall, shopping center, commercial business, city park or commercially zoned historical district.
8. Ice cream vendor means any person who offers for sale or sells to another any frozen desserts while operating from an ice cream cart or truck on the streets of the city.

Packaged-goods store means a retail food establishment in which non-perishable food is stored, displayed and/or offered for sale in the packaged form and is intended for consumption off the premises. No meat market is included in the establishment, nor are fruits, vegetables and other produce routinely offered for sale.

Pedestrian mall means an open or covered passageway or concourse which provides access to rows of stores and is closed permanently to private motor vehicles, and dedicated or otherwise appropriated to the public for public use, which is under the authority of a mall agent or manager.

Perishable food means any food of such type or in such condition as may spoil.

Person in charge means the individual present in a food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

Potentially hazardous food are those foods which consist of meat, poultry, liquid eggs and partially cooked egg products, fish, milk and milk products, shellfish, partially cooked bakery products and/or other ingredients capable of supporting rapid and progressive growth of infectious or toxigenic micro-organisms when stored at temperatures in excess of 41 degrees Fahrenheit, if a cold food, or 135 degrees Fahrenheit or below, if a hot food.

Also included as potentially hazardous foods are foods with a Ph greater than 4.2 and a water activity greater than .88, such as low acid canned foods (vegetables, fish, meat, etc.) and acidified foods (pickled vegetables, fish, meat, eggs, etc.).

Retail bakery means a place of business where bread, rolls, cakes, doughnuts, pies and similar products are processed, mixed, raked, packaged and sold to consumers primarily for consumption off the premises.

Retail market or grocery store means a place of business where food and food products are stored, displayed and offered for sale to retail customers to be prepared or cooked elsewhere. Another type of business such as a meat market, restaurant, or bakery may be incorporated into the grocery store area but will not be included in this definition. A grocery store or retail market routinely sells fruits, vegetables or other produce and/or has a meat market. See also, "grocery store."

Servicing area means a mobile food unit servicing area shall be provided and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and drainage of liquid wastes separate from the location provided for water servicing and for the loading and unloading of food and related supplies.

Shopping center means a group of two or more commercial establishments that occupies at least 30,000 square feet of gross leasable area, located in a building or buildings that are planned, developed, owned and managed as a unit.

Wholesome, when applied to food for human consumption, means in sound condition, clean and free from adulteration.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-2. - Approval of plans for construction and alteration of food service establishment.

Whenever a non-temporary food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, at least one set of properly prepared plans and specifications for such construction, remodeling, or conversion

shall be submitted to the health department for review and approval at least 15 days before construction, remodeling, or conversion is begun. The plans and specifications shall indicate the proposed menu, layout, arrangement, mechanical plans, and construction materials of work areas, as well as the type and model of proposed fixed equipment and facilities.

After the plans and specifications have been approved by the health department, the food service establishment shall not start operations until a preoperational inspection has determined compliance with the approved plans and specifications and the requirements of this article and the TDH/TDA Rules and Regulations as referenced below.

Reference: Tennessee Department of Health Rules and Regulations Chapter 1200-23-1.02 et seq, and Tennessee Department of Agriculture Rules and Regulations Chapter 0080-4-9 et seq. (Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-3. - Permit to manufacture, sell, or distribute food generally—Required.

- A. No person shall engage in the manufacture, sale or distribution of any food without a permit from the department of health.
- B. The health officer shall determine which type of permit each establishment must obtain. If an establishment does not fit into any type of business listed, the health officer shall have the authority to assign it to one of those listed which is in his or her judgment most reasonable.
- C. All food permits are issued for the period July 1 to June 30 of each year. A late penalty equal to 50 percent of the permit fee will be assessed on all permit fees received 30 days past the expiration date. Permit fees received on or after January 1 will be prorated. In addition, the county health department shall assess a fee equal to ½ of the permit fee for non-sufficient funds or returned checks. Returned checks will be considered as non-payment of permit fees.
- D. State and local permit fee schedules for food service and retail food establishments shall be posted on-line at www.shelbycountyttn.gov/health and are available upon request through the county health department environmental sanitation office.
- E. These fees shall be reviewed and modified on a bi-annual schedule.
- F. Fees for retail and food service establishments not listed above can be found in either the state department of health or department of agriculture rules and regulations. The county health department will provide additional information upon request.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-4. - Permit—Application.

Any person desiring a permit required by Section 9-52-3 shall make written application to the department of health on forms approved by the department. The applicable fee must be paid at the time the permit application is completed. No permit shall be issued until the applicable fee is paid.

Local permittees shall be billed, collected and retained by the county health department to maintain sufficient staffing, inspection equipment and training to effectively enforce all applicable laws,

ordinances, regulations and rules. Contracts between the county health department and the state department of health and the state department of agriculture will dictate the terms of reimbursement or compensation to the county health department for services provided under those agreements, including billing for state permits.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-5. - Permit—Issuance.

A permit required by section 9-52-3 shall be granted only after inspection and approval by the health department and the payment of applicable fees.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-6. – Permit—Display—Not transferable.

Every permit issued under section 9-52-5 shall be conspicuously displayed in the location where food is manufactured, sold or distributed. No such permit shall be transferable from one location to another or from one person to another, or from one mobile food unit to another. Any change of location or ownership shall require issuance of a new permit.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-7. - Permit—Revocation or suspension.

- A. The health officer shall have the power, and it shall be his or her duty, to suspend or revoke any permit issued under TDH Rules and Regulations Chapter 1200-23-.03 and/or TDA Rules and Regulations Chapter 0080-4-9, where it is made to appear that the provisions of TDH and TDA Rules and Regulations and this chapter have been violated by the person or persons engaging in the manufacture, sale or distribution of food; provided, however, that the person holding such permit shall be given reasonable notice and an opportunity to be heard as to why such permit should not be revoked or suspended. Such notice may be given by the environmentalist/inspector on his or her regular inspection form or may be in the form of a letter from the health department.

The health officer shall develop uniform policies and procedures for the suspension and/or revocation of permits. In the event of a foodborne illness outbreak or the existence of an imminent health hazard in a food service establishment, the health officer may suspend the food permit pending an administrative hearing if the owner/manager agrees to voluntarily close. If the owner/manager refuses to close voluntarily, the health officer shall convene an administrative hearing immediately and rule on the need for permit suspension or permit revocation.

- B. On each occasion, where a permit is suspended or revoked, the holder of the permit may appeal the health officer's decision to the TDH or TDA whose decision on the matter shall be binding.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-8. - Periodic inspections.

- A. Each food service establishment in the city shall be inspected routinely in accordance with TDH Rules and Regulations Chapter 1200-23-1 et seq. and TDA Rules and Regulations 0080-4-9 et seq. At the time of each inspection, an inspection form will be used by the environmentalist or inspector to indicate the specific deficiencies, which may exist. The form will contain items of weighted value as regulated by TDH or TDA. Upon completion of the inspection, the environmentalist or inspector shall note deficiencies on such form and shall review his or her findings with the person in charge. A copy shall be acknowledged or signed by the person in charge, and the same shall be left with the person in charge.
- B. The inspection sheet must be prominently displayed for public view it. It must be located where it is clearly visible to customers upon entering the establishment. Placement of the inspection sheet behind posters, calendars or other items that would obscure visibility is prohibited.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-9. - Sale of food or drinks on streets from vehicles, vacant lots or temporary stands prohibited, except as authorized.

It is unlawful for any person to sell or offer for sale on any street in the city, or from any vehicle thereon, or from any vacant lot or temporary or improvised stand or structure in the city, any fruits, vegetables, ice cream, or other food or drinks, except as provided for in sections 9-52-11, 9-52-19, 9-52-78, 9-52-81, 9-52-83, 9-52-86, 9-52-87 and 9-52-93.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-10. - Reserved.

Sec. 9-52-11. - Temporary food service establishment.

A temporary food service establishment permit may be issued for an event lasting from two to 14 days and shall comply with all provisions of this chapter and TDH Rules and Regulations Chapter 1200-23-1 et seq., as well as its policies which are applicable to its operation; provided that, the health officer may augment such requirements when needed to assure the service of safe food; may prohibit the sale of certain potentially hazardous food; and may relax specific requirements for physical facilities when, in his or her opinion, no imminent health hazard will result and where close supervision of the operation can be provided by the health department.

(Ord. No. 5542, § 1, 12-17-2013)

Secs. 9-52-12—9-52-18. - Reserved.

Sec. 9-52-19. - Frozen desserts—Mobile vendors.

- A. No person shall sell, offer for sale, or give away any frozen desserts on city streets, vacant lots or premises without a permit issued by the health department; provided that, a mobile ice cream truck or cart vendor may sell novelties which have been manufactured and packaged at a frozen desserts plant.
- B. A mobile frozen desserts vendor's permit shall not be issued to a person unless the following conditions are met:
 - 1. The vending vehicle or cart must be specially designed as a vending vehicle or cart and be approved by the health department.

Automobile or passenger conveyance vehicles shall not be used to transport or dispense frozen desserts.

- 2. The vending vehicle or cart must be constructed so as to be easily cleaned and shall be kept clean.
- 3. The vending vehicle or cart must be constructed so as to protect the frozen desserts from contamination.
- 4. The vending vehicle or cart shall have a separate compartment or containers for the storage of boxes and paper.
- 5. The vending vehicle or cart shall be labeled with the name and address of the distributor on both sides of the vehicle in three-inch letters or numbers as designated by the health department.
- 6. Only frozen desserts novelties shall be sold, offered for sale, or given away in a mobile frozen desserts vendor's vehicle or cart. Thermometers must be visible in each freezer compartment to monitor the temperature of the frozen desserts.
- 7. Vehicles or carts shall be loaded and operated only from an establishment which meets the requirements of the state law and local ordinances of the city and which has a permit from the health department.
- 8. Vehicles or carts shall be parked only in a location, which coincides with the zoning ordinances of the county or city.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-20. - Right of entry into food establishment—Interfering with health department personnel.

The health officer, all agents, environmentalists or inspectors of the department of health shall have the right to enter any lot, premises, building, factory or place where food is manufactured, processed, distributed, stored, sold, or offered for sale, and it is unlawful for any person to deny to such officers, agents and employees access to any such place, or to interfere with such officers in the performance of their duties under the provisions of this chapter.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-21. - Interpretation of article—Policies and standards of health officer.

The interpretation of the provisions of this article shall be made by the health officer, and he or she shall adopt written policies and standards consistent with state law in carrying out the provisions of this article.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-22. - Enforcement of article—Rules and regulations of health department.

It shall be the duty of the department of health to enforce this chapter and to adopt and enforce TDH and TDA state law rules and regulations and such other written rules and regulations as may be recommended by the health officer.

(Ord. No. 5542, § 1, 12-17-2013)

Secs. 9-52-23—9-52-25. - Reserved.

ARTICLE 2. - GENERAL SANITARY REQUIREMENTS

Sec. 9-52-26. - Application.

The provisions of this article shall be the state and local laws, rules and regulations governing the sanitary conditions of food service establishments and retail food establishments, including mobile food units. Reference: Tennessee Retail Food Safety Act, TDH Rules and Regulations Chapter 1200-23-1 et seq., and TDA Rules and Regulations Chapter 0080-4-9 et seq.

(Ord. No. 5542, § 1, 12-17-2013)

Secs. 9-52-27—9-52-47. - Reserved.

Sec. 9-52-48. - Birds and animals prohibited—Exception.

No live birds or animals shall be allowed in any area used for the conduct of food service establishment operations; provided that, guide dogs and service animals accompanying blind patrons or other physically disabled persons may be permitted; and, further, provided that, trained

mallard ducks and caged birds are excluded from that classification of live birds and animals prohibited by this section.

(Ord. No. 5542, § 1, 12-17-2013)

Secs. 9-52-49—9-52-70. - Reserved.

ARTICLE 3. - REQUIREMENTS FOR SPECIFIC TYPES OF ESTABLISHMENTS AND MOBILE FOOD UNITS

Sec. 9-52-71. - Application of article.

The provisions of this article shall apply to the below specific food establishments and mobile food units including all sections under the article.

(Ord. No. 5542, § 1, 12-17-2013)

Secs. 9-52-72—9-52-77. - Repealed.

Sec. 9-52-78. - Mobile food trucks and industrial caterers.

Mobile food trucks and industrial caterers shall meet all the applicable requirements of this chapter and shall also meet the following special requirements:

1. Food shall be dispensed only from mobile food trucks on commercial/industrial sites with the permission of the property occupant or owner.
2. Prepackaged potentially hazardous food shall be transported stored and served only in containers and equipment, which is designed and thermostatically controlled to keep the food above 135 degrees Fahrenheit or 41 degrees Fahrenheit or below.
3. An industrial caterer shall dispense only food which has been processed at a food processing plant.
4. Industrial catering trucks shall be based at or operated from premises in an area other than residential where storage facilities are available for food processors and where cleaning facilities are available.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-79—9-52-80. - Reserved.

Sec. 9-52-81. - Produce truck.

A produce truck shall meet all of the applicable requirements of this chapter and shall also meet the following special requirements:

- A. No person shall engage in the business as a produce truck without a permit.
- B. If the pre-operational inspection is approved, a permit application will be issued to the operator upon payment of the permit fee.
- C. Produce truck permits shall be issued for fruits, vegetables, melons, berries, chestnuts and packaged nuts only.
- D. A produce truck permit may be suspended or revoked for violating the applicable provisions of this article as required in section 9-52-7.
- E. A produce truck vehicle shall be identified on both sides by the name and address of the person holding the permit and by the health department permit number.
- F. A produce truck shall be kept in motion except when making sales and its movement shall be timed and executed so as to cause a minimum interference with traffic.
- G. When not in use, a produce truck vehicle which contains fruits, vegetables, melons, chestnuts, packaged nuts and berries shall be stored in such a place and condition so as to prevent contamination of the food from dust, flies, insects, rodents and animals.
- H. Produce vehicles must carry waste containers and this waste must be properly disposed of as required in TDA Rules § 0080-4-9.
- I. Fruits and vegetables shall be sold whole and not cut or sliced while in the produce truck operator's possession. In addition, all fruits and vegetables must be sold from the truck or trailer not from tables or stands.
- J. Operation of produce trucks is prohibited between sundown and sunrise.
- K. Produce trucks shall carry the required permit at all times while in operations as required by this section.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-82. - Same—Operating on public property.

This section shall not apply wherever produce trucks are otherwise regulated in specific chapters or sections of this code.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-83. - Pedestrian vendors and push carts.

Pedestrian vendors and push cart vendors shall meet all the applicable requirements of this article and shall also meet the following special requirements. The health officer shall adopt written rules and regulations for pedestrian vendors and push cart vendors for the purpose of interpretation of this article.

- A. No person shall engage in the business as a pedestrian vendor or push cart vendor without a permit.
- B. If the pre-operational inspection is approved, a permit application will be issued to the vendor upon payment of the required permit fee.
- C. The permitted pedestrian vendor or push cart vendor shall secure the written permission of an agent, manager, superintendent, or director in charge of a mall, pedestrian mall, shopping center, commercial business, historical district or city park. Such agent, manager, superintendent or director shall be directly responsible for the operation or activities of such vendors.
- D. All food to be served and sold by a pedestrian vendor or push cart vendor shall be processed under proper and sanitary facilities as required by the health officer and state department of health and/or state department of agriculture rules and regulations.
- E. All push carts shall have a commissary licensed by the state department of health and/or the state department of agriculture where the food is prepared and/or stored when the cart is not in use, and cleaning facilities are available.
- F. Push carts shall have facilities where perishable food can be kept below 41 degrees Fahrenheit and/or above 135 degrees Fahrenheit in a controlled container.
- G. Push carts shall be especially designed for food distribution and shall be made from material that can be kept clean and well maintained.
- H. All push cart vendors must have a copy of their permit and most recent inspection available upon request.
- I. Pedestrian vendors and push cart vendors shall wash their hands as required by the state department of health and state department of agriculture rules and regulations.
- J. Vendors shall wear clean outer garments at all times.
- K. Toilet facilities shall be provided by the sponsoring organization and made available to the public and shall meet the requirements of the county plumbing code.
- L. All pedestrian vendor carts and pushcarts shall be clearly identified with the name of the business and permit number posted and unobstructed on the exterior of the unit in letters at least three inches in height.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-84. - Farmer's market.

A farmer's market shall meet all of the applicable requirements of this chapter and shall also meet the following special requirements:

- A. The agent, manager, or director of the sponsoring organization of a farmer's market shall secure a farmer's market permit from the health department and shall pay the appropriate fee as required in section 9-52-3. This permit shall cover all sellers operating within the market, and the agent, manager or director thereof shall be directly responsible for the operation of each seller.
- B. The person requesting the permit must make a written application to the health department. No regular inspections will be conducted at farmer's markets, however all complaints will be investigated. Each applicant will be provided basic food safety training and materials describing the permitting requirements for selling different types of food at the farmer's market.
- C. A farmer's market permit shall be issued for fruits, vegetables, melons, berries or nuts only. All other types of food sold at farmer's markets shall require a separate permit.
- D. A farmer's market permit may be suspended or revoked for violating the applicable provisions of this chapter, as required in section 9-52-7.
- E. Fruits, including cantaloupe and watermelon, shall be sold whole and shall not be cut or sliced while on the premises of the market.
- F. Toilet facilities shall be provided by the sponsoring organization and made available to the public, and shall meet the requirements of the county plumbing code.
- G. A separate permit must be obtained for each farmer's market site. This permit shall not be transferable from site to site.
- H. The farmer's market must be completely contained on a paved surface.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-85. - Reserved.

Sec. 9-52-86. - Mobile food preparation vehicles.

Mobile food preparation vehicles shall meet all applicable requirements of this article in addition to the requirements outlined as follows:

- A. No person shall engage in the business of a mobile food preparation vehicle within the municipal limits without first having obtained a permit required by section 9-52-3 of the city Code and the State of Tennessee.
- B. A mobile food preparation vehicle license, as authorized by the state and local ordinances, will not be issued to a person unless the following conditions are met:
 - 1. The vehicle must be specially designed as defined as a mobile food preparation vehicle and be approved by the health officer in addition to meeting the standards as set forth in section 16-208 of the city Code.
 - 2. No person shall engage in the business of a mobile food preparation vehicle without first having obtained a commissary license or having a written commissary agreement, if required by the health officer.
 - 3. Each mobile food preparation vehicle must display its business name and state and local permit numbers, with letters and numbers at least three inches in height, in a prominent and visible location on the vehicle.
 - 4. The driver of the truck must have a current Tennessee driver's license, current auto insurance (including liability insurance) and current vehicle registration as required by state law and enforced by law enforcement authorities.
 - 5. The vehicle can only operate in locations where the operation of motorized vehicles is permitted under local zoning ordinances and enforced by local code enforcement authorities
 - 6. All current permits must be posted in a conspicuous manner, in compliance with T.C.A., 68-14-305.
- C. The health officer shall adopt written rules and regulations for mobile food preparation vehicles for the purpose of interpretation of this article.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-87. - Operational requirements.

- A. When legally parked on a city street, alley and other public thoroughfares in an allowed zoning district, mobile food preparation vehicles shall park for no less than 30 minutes and shall not exceed a total of six hours in any one block, with food service available for no more than four hours of that time. The mobile food vendor must then provide a minimum break from that location of one hour.
- B. When parked on private property with the permission of the property owner, a mobile food preparation vehicle may operate at the times and for the duration provided in its permission by the property owner.

- C. No mobile food preparation vehicle shall be equipped with any external electronic sound-amplifying device.
- D. No operator of such vehicle shall park or stand such vehicle within 300 feet of a school or school playground in a residential district while school is in session, unless an agreement is established with such school.
- E. When legally parked on a city street, alley and other public thoroughfare in an allowed zoning district, no such vehicle shall park or stand within 300 feet of any principal customer entrance to a restaurant during its posted hours of operation, unless a signed waiver, with a stated duration, has been obtained from all restaurants which are within a 300-foot radius of that parking location. Restaurant, for purposes of this section, means any public place at a fixed location kept, used, maintained, advertised and held out to the public as a place where food and drink are prepared and served to the public for consumption on or off the premises pursuant to the required licenses. Such establishments include, but are not limited to, restaurants, bars, lounges, coffee shops, cafeterias, dining rooms, eating houses, short order cafes, luncheonettes, grills, tearooms and sandwich shops. All measured distances and distance requirements addressed in this regulation shall be distances measured in a straight line from the nearest edge of the mobile vehicle or trailer to the nearest edge of the object from which the mobile vehicle or trailer is to be distant.

When legally parked on private property in an allowed zoning district, the distance requirements established above shall still be applicable if a restaurant is present on adjacent or abutting property, unless a signed waiver, with a stated duration, has been obtained from all restaurants on adjacent or abutting property which are within a 300-foot radius of that parking location on private property.

- F. When legally parked on a city street, alley and other public thoroughfares in an allowed zoning district, no sale shall be made from such vehicle except from the curb side.
- G. Cooking must not be conducted while the vehicle is in motion.
- H. Mobile food preparation vehicle shall be parked only at its commissary or any other location approved by the health department that does not violate an applicable city ordinance.
- I. No detached signs are permitted. All signs used must be permanently affixed to, or painted on, the mobile food preparation vehicle and shall extend no more than six inches from the vehicle. No sign shall flash, cause interference with radio, telephone, television or other communication transmissions; produce or reflect motion pictures; emit visible smoke, vapor, particles, or odor; be animated or produce any rotation, motion or movement. A sign on which the message is changed electronically not more than one time per eight seconds shall not be considered to be an animated sign or a sign with movement, but is classified as a changeable copy sign. Changeable copy signs shall be permitted, but the total area of such signs on the vehicle, when parked and the vehicle is set up to operate, must not exceed

30 square feet. Any message on a changeable copy sign shall have an instantaneous change of message with no fading, fly-in, dissolve or other feature used. The change of message rate on digital signs shall be limited to no more than once every eight seconds. No sign shall utilize any exposed incandescent lamp with a wattage of more than 40 watts, any revolving beacon light; or a luminance in excess of 350-foot lamberts measured at the sign face.

- J. Vendor must provide for the sanitary collection of all refuse, litter and garbage generated by the patrons using that service and remove all such waste materials from the location before the vehicle departs. This includes physically inspecting the general area for such items prior to the vehicle's departure.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-88. - Food requirements.

- A. All food shall be protected from contamination and the elements while being stored, prepared, displayed or sold at a mobile food preparation vehicle and during transportation to or between such establishments or vending machine locations, and so shall all food equipment, containers, utensils, food-contact surfaces and devices and vehicles, in accordance with the provisions of this chapter and the rules and regulations of the health department.
- B. All foods to be used, prepared, cooked, displayed, sold, served, offered for sale or stored in a food establishment, or during transportation to or between locations shall be from sources approved by the health authorities of the point of origin and must be clean, wholesome, free from spoilage, adulteration, contamination or misbranding and safe for human consumption. The standards for judging wholesomeness for human food shall be those promulgated and amended from time to time by the United States Food and Drug Administration, United States Department of Agriculture, the state department of health and the state department of agriculture and published in the United States Code of Federal Regulations and the Tennessee Code Annotated or the Tennessee Rules and Regulations. Such laws will be adopted by reference when approved and deemed effective as of the date designated by the above government agencies or the appropriate legislative body approving such changes.
- C. The only milk or milk products which may be used as food ingredients shall be pasteurized Grade A milk or milk products from sources approved by the health department. All pasteurized milk and fluid milk products shall be sold in the individual original containers in which they were received from distributor and shall be stored at a temperature of 41 degrees Fahrenheit or less until sold.
- D. Raw shellfish, including oysters, clams and mussels, with the exception of properly prepared fish for sushi, shall not be sold or distributed, unless such item has received specific authorization from the state department of agriculture and the county health department.

- E. All meats, meat food products, poultry and poultry products used in cooking, offered for sale, sold or prepared shall be from sources inspected and approved by the United States Department of Agriculture, the state department of agriculture or the state or local department of health and shall be plainly marked, tagged or stamped to indicate the source, and the inspection and approval.
- F. All hermetically sealed foods shall have been processed in approved food- processing establishments. The use, preparation, display, sale or storage of home-canned foods is prohibited and no other foods which have been processed in a private home or other than in an approved food-processing establishment shall be stored, used, kept for sale or served in a food establishment or automatic food-vending machine.
- G. The use of newspaper or any unclean paper for the purpose of wrapping food is forbidden.
- H. The health officer may augment such requirements when needed to assure the service of safe food and may prohibit the sale of certain potentially hazardous food.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-89. - Food handler requirements.

All food handlers shall meet the standards as set forth in T.C.A.S 53-8-108, state department of health rules and regulations, and city Code Title 9, Chapter V, Article II, section 9-52-26.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-90. - Equipment standards.

All mobile food preparation vehicles shall meet the standards as set forth in state department of health rules and regulations, and city Code Title 9, Chapter V, Article II, section 9-52-26.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-91. - Maintenance of premises.

All mobile food preparation vehicles shall meet the standards as set forth in T.C.A. § 53-8-102, T.C.A. § 53-8-103, state department of health rules and regulations, and city Code, Title 9, Article V, Division II.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-92. - Vehicle sanitation requirements.

- A. Each vehicle shall be constructed so that the portions of the vehicle containing food shall be covered so that no dust or dirt will settle on the food; and such portions of the vehicles

which are designed to contain food shall be at least 18 inches above the surface of the public way while the vehicle is being used for the conveyance of food.

- B. The food storage areas of each vehicle shall be kept free from rats, mice, flies and other insects and vermin. No living animals, birds, fowl, reptiles or amphibians shall be permitted in any area where food is stored.
- C. Hazardous non-food items such as detergents, insecticides, rodenticides, plants, paint and paint products that are poisonous or toxic in nature shall not be stored in the food area of the vehicle.
- D. The vehicle shall be enclosed with tops and sides.
- E. The vehicle shall not be used for any purpose other than for the purpose described in this chapter.

(Ord. No. 5542, § 1, 12-17-2013)

Sec. 9-52-93. - Zoning districts.

- A. *Allowed zoning districts.* Mobile food preparation vehicles are only allowed to operate on private sites and city streets, alleys and other public thoroughfares within the Office General (OG); Commercial Mixed Use 1, 2 and 3 (CMU-1, CMU-2 and CMU-3); Central Business (CBD); Campus Master Plan -1 and -2 (CMP-1 and CMP-2); Employment (EMP); Warehouse and Distribution (WD) and Heavy Industrial (IH) zoning districts; the South Central Business Improvement Special Purpose District (SCBiD) and the Mixed Use (MU), Neighborhood Center Overlay (NC), Uptown Hospital (UH) and Uptown Light Industrial (ULI) districts of the Uptown Special Purpose District.

Operation outside of these allowed zoning districts without required zoning approval is prohibited.

- 1. Approval to operate at schools in allowed zoning districts.

In addition, mobile food preparation vehicles may operate on public and private school sites with written authorization from the school principal.

- B. *Special event operation restrictions.* Notwithstanding other requirements in this Chapter, mobile food preparation vehicles must operate at least 1,000 feet from permitted special events locations and permitted farmer's market locations and the mobile food preparation vehicle shall not operate within two hours before or after a scheduled, permitted event or farmer's market, unless the vendor has received specific authority to operate from the event or farmer's market officials. Mobile food preparation vehicles may not operate within 300 feet of FedEx Forum or Autozone Park when events are being conducted or within two hours before or after such event.

C. Restricted operations; residential zoning districts; schools.

Food preparation vehicles are generally prohibited from operating within all residential zoning districts unless they obtain the approval to operate at the enumerated locations from the authorities defined below.

1. Approval to operate at residential buildings.

Approval to operate a mobile food preparation vehicle within all residential zoning districts shall require approval of a special event permit from Division of Planning and Development. Any special event permit granted in a residential zoning district shall be associated with a valid residential address with written authorization from the property owner. No more than four (4) special event permits for mobile food preparation vehicle operations will be issued to a single address in any calendar year. Mobile food preparation vehicles shall not be allowed to operate in residential zoning districts outside of the hours of 8:00 AM and 8:00 PM. For the purposes of this section, residential zoning districts refer to the following districts defined by the Unified Development Code: R-W Residential Work; R-MP Manufactured Home Park; R-E Residential – Estate; R-15 Residential Single-Family – 15; R-10 Residential Single-Family – 10; R-8 Residential Single-Family – 8; R-6 Residential Single-Family – 6; R-3 Residential Single-Family – 3; RU-1 Residential Urban 1; RU-2 Residential Urban 2; RU-3 Residential Urban 3; RU-4 Residential Urban 4; and RU-5 Residential Urban 5.

2. Approval to operate at schools.

Mobile food preparation vehicles may operate on public and private school sites within residential zoning districts with written authorization from the school principal.

D. Restricted operations; parks.

1. Absent authorization obtained pursuant to the requirements of this section, mobile food preparation vehicles are prohibited from operating in parks or on private sites and city streets, alleys, and other public thoroughfares adjoining or abutting a park, regardless of the zoning district in which the park is located.
2. The Division of Memphis Parks is authorized to create rules and regulations to authorize operation of mobile food vehicles in a park or on private sites and city streets, alleys, and other public thoroughfares adjoining or abutting a park, regardless of the zoning district in which the park is located. Such rules and regulations shall govern the authorization of mobile food vendors in those areas.
3. Owners of other park properties are authorized to permit mobile food vehicles within city limits so long as their operation is consistent with all other terms of this Code of Ordinances.

Sec. 9-52-94. - Mobile food market.

A mobile food market shall meet all the applicable requirements of this chapter and shall also meet the following special requirements:

Pre-operational requirements:

Floor plans, equipment layouts, and equipment specifications for both the mobile food market and commissary or food storage facility must be submitted to the health department at least 15 days prior to construction.

- A. All floors, walls, and ceilings must be smooth and washable.
- B. All equipment must be movable or sealed to the floor, in compliance with TDH Rules 1200-23-1 et seq.
- C. Adequate mechanical refrigeration and freezing equipment must be provided to maintain potentially hazardous food at the proper temperature.
- D. All coolers and freezers must have visible, accurate, easily readable thermometers.
- E. All openings to the outside must be screened or self-closing.
- F. Solid waste/trash shall be contained in durable, easily cleanable, insect-proof containers.
- G. All potentially hazardous food (meat, poultry, dairy products, etc.) must be stored in an approved commissary. A separate food storage permit is required for that facility.

If the commissary is owned by another operator, a mobile unit/commissary agreement must be submitted to the county health department.

- H. All mobile units shall be clearly identified with the name of business and permit number posted and unobstructed on the exterior of the unit in letters at least three inches in height.

(Ord. No. 5542, § 1, 12-17-2013)