

CHAPTER 19
WAITING LIST RULES FOR
TEMPORARY MOBILE FOOD UNIT PERMITS

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§19-01 Definitions.

- (a) Words and terms used in these rules shall have the meanings specified in Section 17-306 of the Administrative Code.
- (b) "**Establishment**", "**establish**" or "**established**" refers to the initial creation of the waiting list for temporary mobile food unit permits as well as all subsequent supplementations and re-establishments of any such list as necessary for filling both vacancies from the lists and waiting list positions for these permits.

§19-02 Direction to Establish Waiting List.

The Department will establish a waiting list for temporary mobile food unit permits. The waiting list will consist of the names of natural persons, corporations, partnerships or limited liability companies authorized to hold a permit, who are selected for placement on these waiting lists in accordance with these rules. Any listing purporting to be a waiting list for mobile food unit permits, except for a listing authorized by Local Law 34 of 1993, in existence prior to the effective date of this rule is deemed void and of no force or effect.

§19-03 Eligibility for Place on Waiting List.

To be eligible for a position on the waiting list established pursuant to these rules, a person (or in the case of a corporation, partnership or limited liability company, an officer, member, manager or partner thereof authorized to act for such person) must hold a valid mobile food vendor license at least ten days prior to the date that the Department establishes such waiting list.

§19-04 Notice of the Establishment of Waiting Lists.

At least 45 days prior to the establishment of a waiting list, notice of the opportunity to apply to be on the waiting list will be published in the City Record. Such notice will also be mailed or, for persons who have opted into receiving notices by electronic means, sent by electronic means to persons holding mobile food vendor licenses at the time of such publication. Such Notice will advise that only those persons in possession of valid mobile food vendor licenses at least ten days prior to the establishment of such waiting list are eligible for inclusion on such waiting list.

§19-05 Procedure for Requesting a Place on Any of the Waiting Lists.

The Division of Permits will use a mail-in or electronic communications procedure for establishing all waiting lists. Such procedure will allow persons requesting a place on the waiting list to submit a waiting list application, which shall contain their license number, by mail postmarked during a period of time to be determined by the Division of Permits, which will be specified in the Notice published pursuant to §19-04 of this chapter. A person's eligibility for inclusion on the waiting list authorized to be created pursuant to these rules is limited. Pursuant to §17-307(b)(2)(c) a person will be issued no more than one permit.

§19-06 Procedure for Establishment of Permit Waiting Lists.

Not less than 45 days after the Notice required by §19-04 is published in the City Record, the Department will create a temporary permit waiting list pursuant to a random selection procedure. Persons holding valid mobile food vendor licenses, or in the case of a corporation, limited liability company or partnership, persons on whose behalf such licenses are held on the date such lists are created and who have mailed in an application pursuant to §19-05 of these rules will be included in this random selection. Persons who, as a result of this random selection procedure, hold position numbers greater than the maximum number specified in §19-07 for the list, are not eligible for a place on the waiting list. The Department will notify persons assigned a position on the waiting list by mailing or, for persons who have opted into receiving notices by electronic means, sending by electronic means a notice to the address or electronic contact information provided by the applicant in such applicant's waiting list application.

§19-07 Number of Positions on the Waiting Lists.

The maximum number of positions on the temporary permit waiting list will be determined by the Department's Permits Division so as to provide a reasonable number of potential applicants to fill vacancies as they arise, but such number will not exceed one thousand (1,000) positions. When the number of potential applicants on the temporary permit waiting list falls below two hundred (200), the Permits Division will supplement such waiting list with additional names pursuant to the procedure specified in §§19-03 through 19-05 of these rules.

§19-08 Responsibility of Those on Waiting Lists to Notify the Department of Change of Address.

The names of persons selected for the waiting list created pursuant to these rules will be entered on such list with their address and, if a person chooses to be contacted by electronic means, electronic contact information, of record as known to the Department through mobile food vendor license records, in the case of a corporation, partnership or limited liability company, the address of such corporation, partnership or limited liability company and the residence and

business address of the officer, partner, manager, or member holding a mobile food vendor license who is authorized to act on behalf of such corporation, partnership, or limited liability company will be entered. Thereafter each person placed on the waiting list must provide written notification to the Department of any change of address or, for persons who have opted into receiving notices by electronic means, electronic contact information. The Department will provide written confirmation of its receipt of such address or electronic contact information change notification. The failure to provide change of address or electronic contact information may result in the loss of a person's waiting list position. Any person who does not respond to any notice of the Department mailed or sent by electronic means to his or her address or electronic contact information of record as known to the Department through mobile food vendor license records because change of address or electronic contact information was not provided to the Department in a timely manner is deemed to have abandoned his or her place on a waiting list and will not be reinstated to any list unless such person participates in a process of list establishment pursuant to §§19-03 through 19-06. The Department's written confirmation of its receipt of a change of address or electronic contact information notification constitutes proof that such notification was provided to the Department.

§19-09 Multiple Waiting List Positions on Any Single List Prohibited.

A person may not, under any circumstances, occupy more than one waiting list position on the waiting list and no person is eligible to obtain more than one permit. Before the creation of the list through the random selection process, the Department will ensure that a mobile food vendor licensee is represented only once in the pool of licensees from which the random listing or selection to the list is made. For purposes of the waiting list only, officers, members, managers and partners who represent corporations, limited liability companies and partnerships that are current mobile food unit permit holders will not be excluded from the pool from which the randomized waiting list is to be created solely on the basis that such officer, member, manager or partner is a licensee acting on behalf of a corporation, limited liability company or partnership, provided each such individual possesses a valid mobile food vendor license in accordance with these rules. Such officers, members, managers and partners, will be deemed to be representing themselves as individuals, and not the corporation, limited liability company or partnership with which they are associated, when placed on the waiting list, and will be placed on the waiting list in their individual capacities. Where such individual is acting on behalf of a corporation, limited liability company or partnership, the name of the corporation, limited liability company or partnership will be placed on the waiting list with the name of the individual who is acting on its behalf. No partner, member or manager of a limited liability company or director, shareholder or officer of a corporation may appear on the same waiting list as the partnership, limited liability company or corporation which he or she represents and/or has an interest in unless he or she holds the waiting list position in his or her individual capacity. Should the Department receive more than one request for a waiting list position from any person, requests subsequent to the first will be deemed invalid. A person who submits more than one request for a position on the waiting list will be disqualified and denied a position on the list if such multiple requests are deemed, in the sole discretion of the Department, to adversely affect the fairness or orderly establishment of a list. Nothing in this chapter, which allows a person the right to hold a waiting list position in an individual capacity, gives such person the right to obtain a mobile food unit permit in violation of §17-307(b), (f) and (g) of the New York City Administrative Code.

§19-10 Selection of Applicants From a Waiting List.

When the number of temporary mobile food unit permits outstanding falls below the statutory maximum of one thousand (1,000) imposed by §17-307(f)(3)(a) of the Administrative Code, and at such time as the Department in its discretion may determine based upon a consideration of the number of vacancies, a sufficient number of persons on the waiting list equal to the number of vacancies will be notified by the Department, in waiting list order, of their eligibility to apply for a temporary mobile food unit permit and will form a pool of prospective applicants. Only one permit will be issued for each eligible waiting list position or applicant.

§19-11 Eligibility to Apply for a Mobile Food Vending Unit Permit.

Only those persons who have been notified that their waiting list number has been reached are eligible to submit an application for a mobile food unit permit. A person whose waiting list number is reached and who holds a full-term, temporary or full-term borough-specific mobile food unit permit including a person who is deemed to hold such a permit pursuant to subdivision g of §17-307 of the Administrative Code, is ineligible for a permit with respect to such waiting list position unless such previously-held permit is surrendered or expires before a permit with respect to such waiting list position is issued. Positions on a waiting list may not be transferred.

§19-12 Notification of Eligibility to Apply for Permit.

Within ninety (90) days of the date that notification of eligibility to apply for a permit authorized to be issued by §17-307 of the Administrative Code is mailed or, for persons who have opted into receiving notices by electronic means, transmitted by electronic means, a person desiring to obtain such permit must submit an application, completed in accordance with §5.05 of the New York City Health Code, together with the requisite fees therefor. The permit application must be postmarked or received by electronic means on or before the ninetieth day.

§19-13 Failure to Make Application for Permit.

The failure of any person on a waiting list who is notified of eligibility to apply for a permit, to complete the permit application process within ninety (90) days of being so notified, will result in the forfeiture of such person's waiting list position.

§19-14 Abandonment of Waiting List Position.

A person who does not respond within ninety (90) days to a Departmental inquiry concerning a waiting list position held by such person, mailed by ordinary mail to the address provided by such person or, for persons who have opted into receiving notices by electronic means, sent by electronic means to the electronic contact information of record, is deemed to have abandoned such waiting list position. A person who holds a waiting list position may withdraw their name at any time by providing written notice to the Division of Permits with verifying documentation satisfactory to the Division.