

**CHAPTER 20**  
**PREFERENCE AND/OR WAITING LIST RULE FOR FULL-TERM**  
**MOBILE FOOD UNIT PERMITS**

**§20-01 Definitions.**

- (a) Words and terms used in this rule shall have the meanings specified in §17-306 of the Administrative Code.
- (b) "**Establishment**", "**establish**" or "**established**" shall refer to the initial creation of the preference and/or waiting list required by §17-307(b)(3) as well as all subsequent supplementations and re-establishments of such list as necessary for filling both vacancies to the list and waiting list positions for these permits.

**§20-02 Direction to Establish Preference and/or Waiting Lists.**

The Department shall establish, as required, separate preference and/or waiting lists for full-term mobile food unit permits for the preference categories specified in §17-307(b)(3)(b) of the Administrative Code. With regard to the first preference category specified in §17-307(b)(3)(i), the Department may create an alternative waiting list based upon a random selection of one-hundred (100) candidates from the defined class of disabled veterans formerly holding general vendor licenses.

**§20-03 Eligibility for Place on Preference and/or Waiting Lists.**

To be eligible for inclusion on a preference and/or waiting list established pursuant to this rule an applicant must be a natural person holding a valid mobile food vendor license at least ten days prior to the date that the Department establishes such list. In addition, he or she must belong to a preference category established by §17-307(b)(3), must not already hold a full-term mobile food unit permit and/or have had such a permit previously revoked or suspended.

**§20-04 Notice of the Establishment of Preference and/or Waiting Lists.**

Notice of the Department's establishment of a preference and/or waiting list, shall be made by publication in the City Record specifying the preference category for which such list is being established, at least forty-five days prior to the establishment of the waiting list, and by mail, also at least forty-five days prior to the establishment of the list, to all eligible persons holding mobile food vendor licenses, as well as other interested parties known to the Department, including persons known to the Department who are in superior preference categories. Such notice shall advise that only those natural persons in possession of valid mobile food vendor licenses at least ten days prior to the establishment of a preference and/or waiting list shall be eligible for inclusion on such list.

**§20-05 Procedure for Requesting a Place on a Preference and/or Waiting List.**

The Division of Permits shall use a mail-in procedure for establishing preference and/or waiting lists. Such procedure shall allow persons requesting a place on a preference and/or waiting list to

submit a preference and/or waiting list application. Each such application shall contain the applicant's license number and preference category. The application shall be submitted by mail, postmarked during a period of time to be determined by the Division of Permits as specified in the notice published pursuant to §20-04 above.

**§20-06 Procedure for Establishment of Preference and/or Waiting List.**

Not less than forty-five days after the Notice required by §20-04 is published in the City Record, the Department shall create a preference and/or waiting list pursuant to a random selection procedure. Persons holding valid mobile food vendor licenses at least ten days prior to the date such preference and/or waiting list is created and who have mailed in an application pursuant to §20-05 of these rules shall be included in the random selection. Persons who, as a result of this random selection procedure, hold position numbers greater than the maximum number specified in §20-07 shall not be placed on the preference and/or waiting list. Each qualified applicant for a preference and/or waiting list position shall be eligible for one permit and one position on the preference and/or waiting list. The person's position on a preference and/or waiting list shall be determined by his or her preference category and the order in which his or her name is randomly selected within such preference category. The Department shall notify persons assigned a position on the preference and/or waiting list by mailing a notice to the address provided by the applicant in the applicant's preference and/or waiting list application.

**§20-07 Number of Positions on a Preference and/or Waiting List.**

The maximum number of positions on a preference and/or waiting list shall be determined by the Department's Permit Division so as to provide a reasonable number of potential applicants for the permits currently available as well as to fill future vacancies as they arise. In no event shall a preference and/or waiting list exceed one hundred (100) positions. After the initial issuance of the one hundred permits authorized by §17-307(b)(3), the Permits Division may supplement a preference and/or waiting list with additional names pursuant to the procedures specified in §20-04 through 20-06. Prior to supplementing a preference and/or waiting list by giving notice and an opportunity to apply for a waiting list position to a particular preference group, in accordance with the procedures outlined in §20-04 through 20-06, the Permits Division shall first notify and solicit applications for a preference and/or waiting list from all persons known to the Department who are in all superior preference categories. Those in a superior preference category will be given priority over those in a lower preference category in the filling of any vacancy.

**§20-08 Responsibility of Those on Preference and/or Waiting List to Notify the Department of Change of Address.**

The names of persons selected for a position on a preference and/or waiting list created pursuant to these rules shall be entered on this list with their address of record as known to the Department through mobile food vendor license records. Thereafter, it shall be the responsibility of each person placed on a preference and/or waiting list to provide written notification to the Department of any change of address. The Department shall provide written confirmation of its receipt of such address change notification. The failure to provide change of address information or, when requested, proof of the Department's confirmation of receipt of such written

notification, may result in the loss of a person's preference and/or waiting list position and such person's eligibility to apply for a mobile food unit permit issued pursuant to §17-307(b)(3) of the Administrative Code. Such person shall be deemed to have abandoned his or her place on the preference and/or waiting list and will not be reinstated to the list unless such person participates in the process of list establishment pursuant to §20-03 through 20-06. The Department's written confirmation of its receipt of a change of address notification shall constitute proof that such notification was provided to the Department.

**§20-09 Multiple Requests for Preference and/or Waiting List Position Prohibited.**

No more than one preference and/or waiting list position shall be granted to any person, who shall be eligible to obtain only one permit. Before the creation of the preference and/or waiting list through the random selection process, the Department shall ensure that a mobile food vendor licensee is represented only once in the pool of licensees from which the random listing and selection is to be made. Should the Department receive more than one request from any person, requests subsequent to the first shall be deemed invalid. A person who submits more than one request for a position on the preference and/or waiting list may 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.

**§20-10 Selection of Applicants From Preference and/or Waiting List.**

When the number of permits outstanding falls below the statutory maximum of one-hundred (100) and at such time as the Department in its discretion may determine based upon a consideration of the number of vacancies, a number of persons on the preference and/or waiting list equal to the number of vacancies shall be notified by the Department, in preference and waiting list order, of their eligibility to apply for a full-term mobile food unit permit and shall form a pool of prospective applicants. Vacancies shall be filled from the highest preference category for which an applicant exists either on a waiting list or who may be identified as the result of the published notice specified in §20-04.

**§20-11 Eligibility to Apply for a Mobile Food Unit Permit.**

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

**§20-12 Notification of Eligibility to Apply for Permit.**

Within ninety (90) days of mailing notification of eligibility to apply for a full-term mobile food unit permit issued pursuant to §17-307(b)(3) of the Administrative Code, a person desiring to obtain such permit shall 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 shall be submitted on or before the ninetieth day.

**§20-13 Failure to Make Application for Permit.**

The failure of any person on the preference and/or 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, shall result in the forfeiture of such person's eligibility to apply for a permit and such person's preference and/or waiting list position.

**§20-14 Abandonment of Preference and/or Waiting List Position.**

A person who does not respond within ninety (90) days to a Departmental inquiry concerning a preference and/or waiting list position held by such person, mailed by ordinary mail to the address provided by such person, shall be deemed to have abandoned such list position. A person who holds a preference and/or waiting list position may withdraw his or her name at any time by providing written notice to the Division of Permits with verifying documentation satisfactory to the Division.