

ORDINANCE NO. 1193

AN ORDINANCE AMENDING PORTIONS OF CHAPTER 50 OF THE CITY OF KEMAH CODE OF ORDINANCES, BY REPEALING SECTIONS 50-61 AND 50-62 REGULATING MOBILE FOOD VEHICLES AND REPLACING THOSE SECTIONS WITH THE NEW CITY OF KEMAH CODE OF ORDINANCES SECTIONS 50-61 AND 50-62 PROVIDING DEFINITIONS AND REGULATIONS FOR MOBILE FOOD TRUCKS IN THE CITY OF KEMAH, TEXAS, PROVIDING FOR GENERAL OPERATIONS, PROVIDING FOR LOCATION RESTRICTIONS AND EXCEPTIONS, PROVIDING FOR HEALTH REQUIREMENTS, PROVIDING FOR SUBMITTAL REQUIREMENTS FOR PERMITS, PROVIDING FOR HOURS OF OPERATION, PROVIDING FOR VIOLATIONS AND PENALTIES, PROVIDING FEES, PROVIDING A REPEALING CLAUSE, PROVIDING FOR A SAVINGS CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The City Council for the City of Kemah has determined that regulations are needed to be updated to address regulations for Mobile Food Trucks.

WHEREAS, The City Council has determined that regulations are needed immediately to protect the public health, safety, morals and general welfare.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF KEMAH, TEXAS, THAT:

SECTION 1 That portions of Chapter 50 of the City of Kemah Code of Ordinances are hereby amended by repealing Sections 50-61 and 50-62 in their entirety and replacing it with new sections 50-61 Definitions and 50-62 Regulations for Mobile Food Trucks, which shall read as follows:

Sec. 50-61. - Definitions.

[The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Mobile food vehicle means a food service establishment that operates as a restaurant (or food vendor) from a vehicle of any kind (motorized or non-motorized including but not limited to a catering vehicle or a vehicle with attached trailer) that is readily mobile at all times. It also includes a temporary table, set of tables, cart or booth set up outside of a permanent building that can be easily transported. This type of establishment primarily prepares and/or sells food, drinks, snow cones and public concession type food for patrons.

Substantial construction site means a site or location under construction in a project of ten or more single-family residential homes or a commercial or multi-family project.

Sec. 50-62. - Mobile food vehicle regulations.

Intent: To provide a means of permitting mobile food vehicles while protecting the public interest and health of the patrons and residents of the City of Kemah.

(a) General Operations:

- (1) No Person shall act as a mobile food vendor in the City without a permit issued by the City.
- (2) All mobile food units will undergo an initial review to verify compliance with applicable state and local codes.
- (3) All mobile food units shall receive a passed Health and Fire Marshal inspection prior to any permit being issued.
- (4) Per the Texas Food Establishment Rules (TFER), a mobile food unit must remain readily movable, as defined in Sec. 228.221 (a) (3). Food Trucks and Trailer Units are not meant to be permanent fixtures, and must retain their ability to be readily moved at all times. Trailers units requiring a vehicle for transportation will require the vehicle to be available and present at the location where the unit is operating; and all appropriate transportation equipment should remain available and ready for use at all times.

(b) Location Restrictions:

- (1) Mobile food vehicles may not locate for the purpose of on-site sales at a particular fixed location within 200 feet of a property line of a property used for single-family residential purposes, townhomes, or multifamily purposes. However, temporary pauses (to complete a sale and then depart) by a vendor who does not utilize a fixed location, like an ice cream vehicle or bicycle making mobile neighborhood sales, are excluded from this prohibition, but must hold a valid permit issued by the City of Kemah. Private residences may allow mobile food vehicles on premises for up to a 24-hour period, but no longer than a 24-hour consecutive period.

Exceptions:

- a. Mobile food vehicles may be operated or located on a substantial construction site.
- b. Mobile food vendors shall not operate within a public park, public right-of-way, publicly owned property or site without the written authorization from City Administrator or the City Administrator's designee.
- c. Permanent locations, (at which a mobile food vehicle is at the same location for more than 24 consecutive hours), shall not be permitted and shall be removed from the premises each day, to include not on location between the times of 02:01 a.m. and 05:59 a.m. on any calendar day of the week.

(c) Health Requirements:

1. All mobile food vehicles shall satisfy all health and safety requirements as do all other restaurants within the City of Kemah.
2. During business hours permitted herein, adequate trash receptacles shall be provided and emptied by the permit holder on a regular basis so that the premises are clear of litter and food waste.

(d) Submittal Requirements for Permits:

1. Mobile food vehicle application and required fees. The one-time fee for the permit or license shall be \$350.00 for any part of a year. The permit expires on December 31 of each year. No person, firm or corporation shall operate such a mobile food vehicle without a current and valid City license, in plain sight and subject to the requirement that it be produced on demand to any City officer seeking such identification for the operator. Consent of a manager or business owner acting as a host site does not relieve the mobile food vehicle of its requirement for a separate permit; a mobile food vehicle may not operate as an extension of the host site's permit.
2. Required submittals for mobile food vehicle permit.
 - a. Plumbing, electrical and gas (if applicable) schematics shall be required to be approved and on file with the City of Kemah. All mobile food vehicles shall comply with all applicable City adopted building, plumbing, mechanical and electrical codes.
 - b. A list of locations where the mobile food vehicle will operate (updated as locations change).
 - c. Written consent from the property owner or legal representative allowing the mobile food vehicle, if to be at a location for an hour or more, and documentation of written consent as required by any other residence or business required to consent to its operation.
 - d. Written consent from a manager or business owner of a host site allowing patrons to use the restroom, if to be at a location for an hour or more, if food sold is to be consumed on site and seating arrangements are provided on site by the applicant.
 - e. Copy of sales tax permit indicating that Kemah, Texas, shall be reported as the point of sale for all sales by applicant in Kemah, Texas. This is to be furnished within five business days after the issuance of the permit.

(e) Hours of Operation:

1. Mobile food vehicles may not operate between the hours of 02:00 a.m. and 06:00 a.m. within the city limits of the City of Kemah. At which time may not be parked

or stored on location.


SECTION 2: that all provisions of the Ordinances for the City of Kemah in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3: That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision thereof other than the part so decided to be unconstitutional, illegal, or invalid, and shall not affect the validity of the Code of Ordinances as a whole.

SECTION 4; An offense committed before the effective date of this ordinance is governed by prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

Duly Passed and Approved on First Reading this the 6th day of October, 2021.

Duly Passed and Approved on Second and Final Reading this the 6th day of October, 2021.



CARL JOINER, Mayor

ATTEST:



Chandra Jobb, Interim City Secretary

APPROVED AS TO FORM AND CONTENT:



Dick H. Gregg, Jr., City Attorney