

ORDINANCE NO. 04122022A

AN ORDINANCE REGULATING MOBILE FOOD VENDORS IN THE CITY LIMITS OF KOSSE, REPEALING ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION AND; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Kosse, Texas (the "City") seeks to promote the health, safety and welfare of the citizens of the City; and

WHEREAS, it is recognized that certain types of business activities require special regulation by the City; and

WHEREAS, it is declared the policy of the City to allow Mobile Food Vendors to operate within the City limits as such activity provides both economic and quality of life benefits to our citizens; and

WHEREAS, it is considered an element of due diligence on the part of the City to provide general oversight of all food vendors operating within the City limits consistent with regulation of other businesses; and

WHEREAS, City staff have noted that current city ordinances do not adequately outline the regulation of Mobile Food Vendors; and

WHEREAS, it is in the legitimate interest of the City to protect the health, safety, and welfare of its citizens by setting reasonable standards for the operation of Mobile Food Vendors;

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

Section 1.

I. Mobile Food Vendor Definition

Mobile Food Vendor is defined as:

- (a) Any such vendor who operates in the City from a moveable facility for the purpose of providing items for consumption by persons; and
- (b) The facility operated by the Mobile Food Vendor is further defined as a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily moveable (including, but not limited to catering trucks, trailers, push carts, and roadside vendors) and used to store, prepare, display, serve or sell food. Mobile units must completely retain their mobility at all times. A stand or a booth is not considered a facility of this type; and
- (c) Such facility operates at a given location with the permission of the property owner or other legal authority with the right to grant permission for use.

II. Adoption of State and Federal Laws

All federal and state laws, rules and regulations applicable to Mobile Food Vendors (and their facilities-also known as Mobile Food Units), not specifically adopted elsewhere within this Ordinance, are hereby adopted and made a part of this ordinance as if fully set out herein.

III. Permit Required and Penalties

(a) No Mobile Food Vendor shall display, offer to sell or sell items from a mobile food unit without first procuring a permit from the City Secretary’s Office.

(b) The cost of the permit shall be set at One Hundred Twenty Dollars (\$120.00), pro-rated, per vendor and the permit shall be valid for a period ending December 31st of each calendar year. A one-time permit can be issued for Twenty Dollars (\$20.00). A one-time permit can only be issued once a year for a vendor.

(c) The permit shall be displayed upon request of any peace officer or the Code Enforcement Officer. Any vendor under this Section, who is found in violation, shall make themselves subject to a fine of up to Five Hundred Dollars (\$500.00) per occurrence. Any vendor under this section, who is found in violation, on two occasions in a five-year period, shall be fined for the second occasion and further, shall be debarred from operating as a Mobile Food Vendor in in the City Limits for a period of one calendar year from the date of issuance of the citation; unless such debarment is adjudicated in the Vendor's favor at a subsequent legal proceeding.

(d) The Mobile Food Vendor shall also be required to display upon request of any peace officer or the Code Enforcement Officer, any other permits or certifications required for operation pursuant to state and federal laws including, but not limited to, health inspection certificates and sales tax permits issued by the State of Texas. Failure to display these items upon demand will incur the same penalties as outlined in Section III (c) above.

(e) Exemptions.

(1) The fee or permit required in subsection (III) of this section shall not apply to bona fide charitable, religious, educational, civic or fraternal organizations.

(2) Exempt permits shall be issued by the City of Kosse after verification.

IV. Enforcement by injunction

In addition to other penalties prescribed for violation of any provision of laws or ordinances relating to the health, safety and welfare of the citizens of the city, any person violating the same may be enjoined from continuing any such violation.

Section 2.

That all Ordinances and parts of Ordinances in conflict with the terms of the ordinance are hereby repealed.

Section 3.

That all rights or remedies of the City of Kosse, Texas, are expressly saved as to any and all violations of the City Code, or any amendments thereto that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 4.

That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidance, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

Section 5.

That any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined in accordance with the penalties set forth in Section 1, III and IV.

Section 6.

That the City Secretary of the City of Kosse, Texas is hereby directed to publish the caption summarizing the purpose of this ordinance and the penalty for violating this ordinance in the official newspaper of the City of Kosse, Texas, as authorized by V.T.C.A. Local Government Code Subsection 52.013.

Section 7.

This Ordinance shall be effective immediately upon its passage, approval and publication.

PASSED, APPROVED AND EFFECTIVE this 12th day of April, 2022.

s/Brooks Valls
Mayor
City of Kosse, Texas

ATTEST:
s/Christina Lockhart
City Secretary