

ORDINANCE NO. 16-020

AN ORDINANCE AMENDING ARTICLE IV, FOOD AND FOOD SERVICE ESTABLISHMENTS OF THE CODE OF ORDINANCES OF THE CITY OF GILMER; BY AMENDING SECTION 18-181 AND AMENDING SECTION 18-189, AND ADDING A NEW SECTION, SECTION 18-184a; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Gilmer is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City of Gilmer has a substantial interest in protecting the health, safety, welfare, convenience, and enjoyment of the general public from injury which may be caused by the unregulated placement, movement, and use of mobile food units.

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

Section 1- Section 18-181- Definitions is hereby amended to read:

“Mobile Food Unit” means a wheeled or vehicle mounted food service establishment designed to be readily moveable. In addition to the requirements of this article, mobile food units shall comply with additional ordinance requirements of the City. Mobile food vendors shall include mobile food trucks, and concession trailers (vending units which are pulled by a motorized unit and has no power to move its own).

Section 2 – Section 18-189 – Term and Renewal of Permit is hereby amended to read:

A permit required by this article, other than a permit for a mobile food unit, shall be valid for a period of one year from the date of issuance thereof, unless the same is sooner revoked or suspended as herein provided, or unless the holder of such permit shall change the location of his place of business or sells or otherwise disposes of such business or materially changes the character of such business. Upon the expiration of any such permit and within seven days thereafter, a person conducting such business or vehicle shall apply for and secure renewal thereof in the same manner as herein provided.

A permit required by this article for a mobile food unit shall be valid for a period of 30 days from the time of its issuance thereof, and said permit shall be site specific to a specific property located within the city limits of Gilmer, Texas. There shall be a limit of one mobile food unit permit issued per applicant for a period of six months.

Section 3 – Section 18-184a is hereby added to read:

Section 18-184a – Mobile Food Units

Mobile food units are subject to the following regulations:

a) Location:

1. All mobile food units must be located on an individual private parcel, which is appropriately zoned for commercial development.
2. Mobile food units shall be located on an individual private parcel, where an existing permanent business operates in a building with a certificate of occupancy.
3. Mobile food units shall provide the City with a copy of written permission from the property owner to allow the operation of a mobile food unit and to allow the mobile food unit and their customers access to a commercially plumbed public restroom on-site.
4. A mobile food unit shall submit a site plan in advance depicting the location of the mobile food unit on the property and shall secure a current mobile food unit permit.
5. Mobile food units shall be located within five hundred (500) feet of an entrance of a primary building that holds the certificate of occupancy.
6. No mobile food units shall be located on a vacant lot.
7. No mobile food units, their merchandise, advertising, or seating shall obscure traffic sight visibility.
8. No mobile food units operating under this regulation shall be allowed to sell or service food on any public street, sidewalk, or other public right-of-way unless possessing a valid permit issued by the City of Gilmer, Texas.
9. Mobile food units shall not operate in driveways or fire lanes.
10. No port-a-potty shall be permitted as a restroom facility for a mobile food unit.

Section 4. All rights and remedies of the City of Gilmer are expressly saved as to any and all violations of the provisions of any ordinances affecting the regulation and control of the use, occupancy, maintenance, repair, design, construction and quality of materials for buildings and structures within the City which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 5. SAVINGS CLAUSE. That the Code of Ordinances of the City of Gilmer, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Section 6. PENALTY FOR VIOLATION. Any person, firm, or corporation violating any of the terms and provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in accordance with Section 18-198, Gilmer Code of Ordinances. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder.

Section 7. SEVERABILITY CLAUSE. 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 invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph, or section.

Section 8. EFFECTIVE DATE. This ordinance shall be in full force and effect from the date of the adoption by the City Council of the City of Gilmer.

PASSED AND APPROVED this 28th day of June, 2016, by a vote of 7 ayes, 0 nays and 0 abstentions, at a regular meeting of the City Council of the City of Gilmer, Texas.

ATTEST

Kathy D. Hoover
Kathy D. Hoover, City Secretary

APPROVED AS TO FORM AND EFFECT:

Michael D. Martin
Michael D. Martin, City Attorney

