

**ORDINANCE NO. O-2023-008**

**AN ORDINANCE OF THE TOWN OF BROCK, TEXAS, PROVIDING A DEFINITION OF A FOOD TRUCK; ADOPTING REGULATIONS RELATED TO THE OPERATION OF A FOOD TRUCKS; ADOPTING A PERMIT REQUIREMENT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Comprehensive Zoning Ordinance for the Town of Brock, Texas ("Town") allows the use of mobile food vendors within certain areas of the Town; and

**WHEREAS**, the Town Commission finds it necessary to protect the health, sanitation, safety and welfare of the residents of the Town by requiring a permit and adopting regulations governing the operation of mobile food operations within the Town.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF BROCK, TEXAS:**

**SECTION 1.** That this Ordinance shall be entitled the "Food Truck Ordinance" for the Town of Brock, Texas.

**Sec. 1-1 Definitions.** As used in this ordinance the following words and phrases shall have the following meanings unless the context clearly indicates as different meaning:

- a. *Food truck park* means one or more lots or parcels of land where three or more mobile kitchens congregate to offer food or beverages for sale to the public as the principal use of the land.
- b. *Food truck site* means an existing, developed site where a mobile kitchen operates as an accessory use to the primary active business located on the same site.
- c. *Mobile construction site food vehicle* means a vehicle with no or limited kitchen facilities that carries prepackaged food or non-prepackaged foods prepared at an approved commissary that contains no potentially hazardous food and services only active construction sites.
- d. *Mobile food establishment* means a vehicle-mounted food establishment designed to be readily moveable that is equipped with food preparation equipment and includes vehicles in which food is prepared on site. Mobile food establishments include mobile kitchens, mobile construction site food vehicle, mobile ice-cream/frozen dessert vehicle and non-motorized food vending carts. Mobile food establishments do not include restaurant delivery and catering vehicles.
- e. *Mobile food trailer* means a mobile kitchen that serves food or beverages from an enclosed, self-contained, non-motorized vehicle that is normally pulled behind a motorized vehicle.
- f. *Mobile food truck* means a mobile kitchen that serves food or beverages from an enclosed, self-contained, motorized vehicle.

- g. *Mobile food vendor* means the owner and/or operator of a mobile kitchen.
- h. *Mobile ice cream/frozen dessert vehicle* means a motorized vehicle that normally contains a commercial freezer in which all products for sale are prepackaged and frozen.
- i. *Mobile kitchen* means a motorized vehicle or tow-behind trailer equipped with kitchen facilities such as plumbing, hot water supply, mechanical refrigeration, cooking equipment, and/or dry goods storage used for the preparation and sale or service of food and beverages. Customer service is provided at a counter or window in the vehicle. Mobile kitchens may include, but are not limited to, mobile food trucks and mobile food trailers. Mobile kitchens shall not include individual non-motorized vending carts, mobile construction site food vehicles or mobile ice cream/frozen dessert vehicles.
- j. *Non-motorized vending cart* means a non-motorized vehicle that is normally propelled by the operator, contains products for sale that are prepackaged and/or frozen, and operates independent of any fixed food establishment.
- k. *Town* means the Town of Brock, Texas. Except as otherwise provided in this ordinance, the Town Clerk shall be responsible for the administration of this ordinance on behalf of the Town. The Town's Mayor shall assume responsibility for the administration of this ordinance in the event the Town Clerk is unable to administer this ordinance for any reason.

**Sec. 1-2. Permit Required; Application**

- a. It shall be unlawful for a person to operate a mobile kitchen in the Town without a valid Town issued mobile food vendor permit.
- b. A permit application must be submitted on the Town's form and shall, at a minimum, include the following information:
  - 1. name of person submitting the application;
  - 2. the business name and legal name of the company or individual owner of the mobile kitchen;
  - 3. owner's contact information, including mailing address, phone number and email;
  - 4. the location(s) where the mobile kitchen will operate within the Town;
  - 5. a brief description of the types of food and services that will be offered;
  - 6. a copy of a valid mobile food unit permit issued by the State (or equivalent County health permit if no State permit required);
  - 7. a valid sales tax permit; and
  - 8. any other information reasonably requested by the Town.
- c. A permit will not be issued by the Town until the applicant has submitted a mobile food vendor permit fee in conformance with the Town's fee schedule.
- d. The permit shall be posted in a conspicuous location at all times when the mobile kitchen is in operation and serving food to customers.

- e. Permits (excluding temporary permits) will be valid on the date of issuance by the Town and shall expire on December 31<sup>st</sup> of each year.
- f. Permits may be renewed by submitting a new application and permit fee in conformance with this section. An application for renewal of a permit may, in the Town's discretion, be denied if the prior permit was suspended or revoked in conformance with this Ordinance.
- g. Permits are not transferrable from one person to another.

**Sec. 1-3      Approved Operating Locations**

- a. No person may serve food to the public from a mobile kitchen within the Town except at the following locations:
  - 1. at a food truck site approved in accordance with this Ordinance;
  - 2. at a food truck park approved in accordance with this Ordinance;
  - 3. on private property with written consent from the property owner or property manager (must provide written proof thereof upon demand of the Town);
  - 4. at an event hosted or sponsored by the Town pursuant to a written agreement with the Town; and
  - 5. on public rights-of-way or any other publicly owned property with written permission of the Town.
- b. No person may serve food to the public from a mobile construction site food vehicle except at the following locations:
  - 1. A construction site for which an active building permit has been issued by the Town; or
  - 2. Property owned or leased by the United States, State of Texas, or Parker County on which active construction is occurring.
- c. Any person providing food to the public from a mobile ice cream/frozen dessert vehicle must operate in compliance with this Ordinance and as amended.
- d. A non-motorized vending cart may be operated only at a temporary event in accordance with a temporary permit issued pursuant to this Ordinance.
- e. All mobile kitchens shall be operated in conformance with all applicable state and local laws, including, the regulations, rules and policies of the local health authority and the Texas Food Establishment Rules (TFER) regarding mobile food units.

**Sec. 1-4      Food Truck Sites**

- a. The operator of a mobile kitchen may operate a food truck site upon receipt of a permit in accordance with Section 1-2 of this Ordinance, and in accordance with the requirements of this section.

- b. Food truck sites may be established within:
  - 1. The within any Town owned park or Town property pursuant to a written agreement with the Town; and
  - 2. In accordance with the Town's Comprehensive Zoning Ordinance.
- b. A food truck site must be located on private property on which is located a permanent structure in which a business is operating in accordance with a certificate of occupancy. The operator of the food truck site must obtain and maintain written consent from the property owner or property manager and provide written proof thereof upon demand of the Town.
- c. Except for a mobile kitchen for which written consent has been granted by the owner or authorized representative of the restaurant or food establishment, no mobile food establishment shall sell or serve food to the public within 300 feet of any door, window or outdoor dining area of any existing restaurant or food service establishment, provided however, a food truck may locate on any private property in the downtown district subject to 100 foot distance from an existing restaurant or food service establishment.
- d. Mobile kitchens and their customers shall not sell or consume food within any public street, public alley, driveway, or fire lane unless closed to through traffic pursuant to permit issued by the Town authorizing such use
- e. Mobile kitchens may operate only during the business hours of the primary business on the property where the food truck site is located.
- f. Access to restrooms available for use by operators, employees, and customers of a food truck site shall be provided no farther than 1,000 feet from the location of the mobile food establishment, except in the downtown district
- g. A mobile kitchen shall not be left unattended. Mobile kitchens shall not be stored at any location visible to the public when not in operation.
- h. A mobile food establishment must be operated in compliance with the site plan and other conditions set forth in the approved temporary food vendor permit issued to the owner or operator of the mobile kitchen

**Sec. 1-4      Food truck parks**

Food truck parks may be located in the various zoning districts within the Town in accordance with the Town's Comprehensive Zoning Ordinance and the following:

- a. A site plan shall be approved prior to locating any mobile kitchen on the property.
- b. Permanent restroom facilities available to owners, operators, and customers of the mobile kitchens operating in the food truck park must be located within 1,000 feet of each location where a mobile kitchen may be parked.
- c. All vehicles, including mobile kitchens, shall be parked on an improved surface.

- d. Electricity shall be provided with permanent outlets by way of a portable cord that complies with section 3.09 (National Electrical Code), as amended.
- e. Any waste, liquid or solid, shall be disposed of safely and properly as per all associated local and state regulations. Trash service and receptacles shall be provided in accordance with Town requirements.
- f. A mobile kitchen cannot be left unattended or left on site overnight.

**Sec. 1-6 Additional requirements.**

Any person operating a mobile food establishment shall comply with the following:

- a. No person shall operate a mobile food establishment involving food products unless the vehicle used in the operation is constructed and operated in accordance with this Ordinance, as amended.
- b. Any person operating any mobile food establishment shall ensure that all food preparation, cooking, service, or other food service related activities take place within the confines of the vehicle used in such operation, unless expressly allowed otherwise by the Town.
- c. Signs advertising a mobile food establishment and/or the menu of food and beverages sold from the food truck shall be limited to:
  - 1. Signs permanently attached to the mobile food establishment; and
  - 2. One menu board sign with a sign face area of not greater than eight square feet, placed adjacent to the mobile food establishment on private property.
- d. On request of the Town, a mobile food establishment operator must be able to demonstrate that the mobile food establishment is moveable and operable;
- e. A mobile food establishment operator shall not alter or modify a mobile food establishment or the premises adjacent to the mobile food establishment in a manner that would prevent the operation or mobility of the mobile food establishment.
- f. The water supply for a mobile food establishment shall be from an internal water tank which must be filled from an external source when not in operation. Temporary connection of a mobile food establishment to a potable water source while in operation is prohibited.
- g. Electricity for a mobile food establishment shall be from an internal or portable generator or an electrical outlet by way of connected to a portable cord in compliance with section 3.09 (National Electrical Code), as amended.
- h. Service from a mobile food establishment through a drive through window is prohibited.
- i. Mobile food establishment must be parked, situated and operated in a manner that does not restrict orderly and/or safe vehicular and/or pedestrian movements.

- j. Loudspeakers or loud noises of any kind for the purpose of attracting attention to a mobile food establishment are prohibited.
- k. No mobile food establishment operator shall operate a generator and/or vehicle motor which generates visible smoke, excessive noise, or excessive gasoline/diesel fumes.
- l. Unless provided by the operator of a food truck park, a mobile food establishment operator shall provide solid waste containers for customers to dispose of trash and food waste when the mobile food establishment is parked and food is being sold and served. All such solid waste containers and the solid waste collected therein shall be removed from the site by the mobile food establishment operator when leaving the site; provided, however:
  - 1. If the operator of a food truck park is responsible for the disposal of waste generated from operation of the site and place in solid waste receptacle provided by said operator, the mobile food establishment operator shall be responsible for ensuring that all solid waste generated from the vendor's operations is placed in the provided receptacles before departing; or
  - 2. If there is a solid waste dumpster located on the food truck site or food truck park that is available for disposal of solid waste generated by the operation of a mobile food establishment, the mobile food establishment operator may dispose of the solid waste in said dumpster before departing the site.
- m. Mobile food establishments will not be allowed to touch, lean against or be affixed temporarily or permanently to any building structure, wall, tree, shrubbery or planting bed.
- n. Mobile food establishment operators shall not hang or display merchandise on trees, umbrellas, or walls, or sell from any other temporary structures located upon any public street, sidewalk, right-of-way or other public property.
- o. Where exigent circumstances exist and an authorized officer of the Town gives notice to a mobile food establishment operator to temporarily move from a location, such mobile food establishment operator will not operate from or otherwise remain at such location. For the purpose of this paragraph, exigent circumstances shall include, but shall not be limited to, unusually heavy pedestrian or vehicular traffic; the existence of any obstructions at or near such location; a major event, festival, program or park activity; a fire; a parade or demonstration; construction activity, or other such event or circumstance that causes the site to become unsafe or unusable.
- p. Mobile food establishment operators shall only engage in the sale and service of food and beverages. The sale of other products or services from a mobile food establishment is prohibited, including but not limited to, tobacco products, alcoholic beverages, sexually explicit and/or drug related paraphernalia, obscene material, sales real estate and vacation packages, marketing and advertising activities, sales of tickets for events, any nonfood vending, and other services or products not approved by the Town prior to issuance of the permit.

**Sec. 1-7      Suspension; Revocation of Permit**

- a. The Town may suspend any permit to operate a food truck if the operation of the mobile kitchen is in violation of any provision of this Ordinance. A suspension shall be effective and all food operations shall cease immediately upon service of written notice of suspension by the Town.
- b. Whenever a permit is suspended, the holder of the permit or the person in charge shall be entitled to a hearing before the Town Commission if a written request for a hearing is filed with the Town within ten (10) days from the date of service of the notice. The Town shall schedule the hearing within thirty (30) days of receipt of a timely submitted written request. If a written request for hearing is not timely filed the suspension shall be sustained.
- c. The Town may, in its sole discretion, end the suspension at any time if the Town has determined that the reason(s) for suspension no longer exist.
- d. Notwithstanding any other provision of this Ordinance, the Town may, without warning, notice, or hearing suspend any permit if the operation of the mobile kitchen constitutes an imminent hazard to public health.
- e. The Town may, after providing opportunity for a hearing, revoke a permit for serious or repeated violations of any of the provisions of this Ordinance or for interference with the Town in the performance of its duties. Prior to revocation, the Town shall notify the holder of the permit or the person in charge, in writing, of the reason for which the permit is subject to revocation and that the permit shall be revoked at the end of the ten (10) days following service of such notice unless a written request for a hearing is filed with the Town by the holder of the permit within such ten (10) day period. If a timely appeal is not filed the permit revocation becomes final.

**SECTION 2.** Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this ordinance or of the Comprehensive Zoning Ordinance of the Town of Brock, as amended hereby, be adjudged or held, in whole or in part, to be invalid, voided, or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinances, as amended hereby, which shall remain in full force and effect.

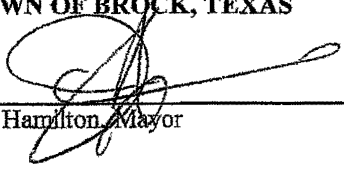
**SECTION 3.** All ordinances of the Town in conflict with the provisions of this ordinance be, and the same are hereby repealed and all other ordinances of the Town not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 4.** Any person, firm, or corporation violating any of the provisions or terms of this Ordinance shall be guilty of a misdemeanor and upon conviction, shall be fined a sum not to exceed \$500, unless the violation relates to fire safety or public health and sanitation, including dumping and refuse, in which the fine shall not exceed the sum of \$2,000.00. Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the Town from filing suit to enjoin a violation of this ordinance.

**SECTION 5.** This ordinance shall become effective from and after its passage and approval and after publication as may be required by law.

**PASSED AND APPROVED** by the Town Commission of the Town of Brock, Texas, on this the 20<sup>th</sup> day of November 2023.

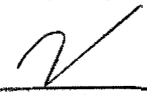
**TOWN OF BROCK, TEXAS**

  
\_\_\_\_\_  
Jay Hamilton, Mayor

**ATTEST:**

  
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Alyssa Vanesler, Town Secretary

**APPROVED AS TO FORM:**

  
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Whitt Wyatt, Town Attorney