

ORDINANCE NO. 623

AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT CODE OF THE CITY OF KENNEDALE, TEXAS BY AMENDING THE SCHEDULE OF USES IN ARTICLE 3 "AGRICULTURAL AND RESIDENTIAL DISTRICTS," ARTICLE 4 "OLD TOWN DISTRICTS," ARTICLE 5 "VILLAGE DISTRICTS," ARTICLE 6 "COMMERCIAL AND INDUSTRIAL DISTRICTS," AND ARTICLE 7 "EMPLOYMENT CENTER DISTRICTS" TO ALLOW MOBILE FOOD ESTABLISHMENTS; AMENDING ARTICLE 32 "GENERAL DEFINITIONS," TO PROVIDE NEW DEFINITIONS FOR VARIOUS MOBILE FOOD ESTABLISHMENTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Kennedale 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 Council has adopted a Unified Development Code that regulates the location and use of buildings, other structures and land for business, industrial, residential or other purposes, for the purpose of promoting the public health, safety, morals and general welfare, all in accordance with a comprehensive plan and that otherwise regulates the development and use of properties within the city limits of the City of Kennedale; and

WHEREAS, in order to promote the public health, safety and general welfare the City Council desires to amend the Unified Development Code to provide for regulation of mobile food establishments; and

WHEREAS, the City Council finds that such regulations are designed to lessen and mitigate traffic, waste, noise levels, and other considerations that may be associated with mobile food establishments; and

WHEREAS, the Planning and Zoning Commission of the City of Kennedale, Texas held a public hearing on April 20, 2017, and the City Council of the City of Kennedale, Texas held a public hearing on May 15, 2017, with respect to the amendments described herein; and

WHEREAS, the City has complied with all requirements of Chapter 211 of the Local Government Code, Article 22 of the Unified Development Code, and all other laws dealing with notice, publication, and procedural requirements for amending the Unified Development Code.

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

SECTION 1.

Table 3.2 "Schedule of Uses" of Article 3, "Agricultural and Residential Districts," of the Unified Development Code of the City of Kennedale, Texas, as amended, is amended to read as shown on the attached Exhibit A.

SECTION 2.

Table 4.2 "Schedule of Uses" of Article 4, "Old Town Districts," of the Unified Development Code of the City of Kennedale, Texas, as amended, is amended to read as shown on the attached Exhibit B

SECTION 3.

Section 5.2.H.7 "Restaurant/Bar, Retail Sales" of Article 5, "Village Districts," of the Unified Development Code of the City of Kennedale, Texas, as amended, is amended by adding a new sub-section 5.2.H.7.g., to read as follows:

g. Mobile food establishments. Mobile food establishments shall be subject to the requirements of Section 11.38. Ice cream trucks and catering trucks shall be permitted in any Village District sub-area. Lunch trucks, produce trucks, and mobile food preparation trucks shall be permitted in Center and General sub-areas only.

SECTION 4.

Table 6.2 "Schedule of Uses" of Article 6, "Commercial and Industrial Districts," of the Unified Development Code of the City of Kennedale, Texas, as amended, is amended to read as shown on the attached Exhibit C.

SECTION 5.

Table 7.2 "Schedule of Uses" of Article 7, "Employment Center Districts," of the Unified Development Code of the City of Kennedale, Texas, as amended, is amended to read as shown on the attached Exhibit D.

SECTION 6.

Section 11.38 "Temporary Uses" of Article 11, "Specific Use Requirements" of the Unified Development Code of the City of Kennedale, Texas, as amended, is amended by adding a new sub-section 11.38.E. to read as follows:

- E. *Temporary Use – Mobile Food Establishments.* Mobile food establishments, as permitted by this Code, are also regulated by Chapter 10 of the Kennedale City Code, as amended.

SECTION 7.

Section 32.2 “General Definitions” of Article 32 of the Unified Development Code of the City of Kennedale, Texas, as amended, is amended to add the following definitions:

Mobile food establishment. A vehicle-mounted food establishment that is designed to be readily moveable at all times and from which food is distributed, sold, or served to an ultimate consumer. The term does not include pushcarts, booths, or stands. Categories of mobile food establishments are catering truck, ice cream truck, lunch truck, mobile food preparation vehicle, and produce truck.

Catering truck. A mobile food establishment used to deliver food prepared offsite (not in the vehicle) to a catered operation.

Ice cream truck. A mobile food establishment that sells some or all of the following: pre-wrapped and sealed ice cream, frozen dairy products, ice confection products, canned soft drinks, packaged candy, chips, and pickles.

Lunch truck. A lunch truck is a mobile food establishment which serves a construction work-site and from which only the following foods and beverages are served, sold, or distributed, in such a manner that the vendor does not have direct contact with the food or beverages being sold:

1. Food that is prewrapped, bottled, or otherwise packaged in individual servings and typically intended for immediate consumption.
2. Beverages that are not time/ temperature controlled for safety and are dispensed from covered urns or other protected equipment or are sold in bottles or cans.

Mobile food preparation vehicle. A mobile food establishment in which ready-to-eat food is cooked, wrapped, packaged, processed, or portioned for service, sale, or distribution.

Produce truck. A mobile food establishment from which only raw vegetables and fruits are served, sold, or distributed. The produce sold is in its original form and has not been altered or cooked in any other way

inconsistent with it coming fresh from the fields and/or gardens in which it was grown. Slicing, dicing, and chopping of vegetables, fruits, or other food items for sale is prohibited.

SECTION 8.

This Ordinance shall be cumulative of all provisions of ordinances and of the Unified Development Code of the City of Kennedale, Texas (2016), as amended, except when the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

SECTION 9.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clause, or phrase of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clause, and phrases of this Ordinance, since the same would have been enacted by the City Council without the incorporation in this Ordinance of any such unconstitutional section, paragraph, sentence, clause, or phrase.

SECTION 10.

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 not more than Two Thousand Dollars (\$2,000.00). Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 11.

All rights and remedies of the City of Kennedale are expressly saved as to any and all violations of the provisions of any ordinances governing zoning 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 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 12.

The City Secretary of the City of Kennedale is hereby directed to publish in the official newspaper of the City of Kennedale the caption, the penalty clause, the publication clause, and the effective date clause of this ordinance as provided by Section 3.10 of the Charter of the City of Kennedale.

SECTION 13.

This Ordinance shall be in full force and effect from and after the date of its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON THIS 15th DAY OF MAY, 2017.

Brian Johnson
MAYOR, BRIAN JOHNSON

ATTEST:

Leslie Galloway
CITY SECRETARY, LESLIE GALLOWAY

EFFECTIVE: 5-19-2017

APPROVED AS TO FORM AND LEGALITY:

W. O. A.
CITY ATTORNEY



Exhibit 'A'

Table 3.2 Schedule of Uses: Agricultural and								
Use	AG	R-1	R-2	R-3	D	MF	MH	Other
Other								
	P,S							
Sexually oriented business								11.36
Temporary construction office	S	S	S	S	S	S	S	11.38
Temporary sales office	S	S	S	S	S	S	S	11.38
Temporary use – mobile food establishment								
catering truck	P	P	P	P	P	P	P	11.38
ice cream truck	P	P	P	P	P	P	P	11.38
lunch truck								11.38
mobile food preparation truck	P	P	P	P	P	P	P	11.38
produce truck								11.38
Temporary use- special function	S	S	S	S				11.38

Exhibit 'B'

Table 4.2 Schedule of Uses: Old Town Districts					
Use	OT-1	OT-2	OT-3	OT-4	Other
Other					
Similar uses	P,S	P,S	P,S	P,S	
Sexually oriented business					11.36
Temporary construction office					11.38
Temporary sales office					11.38
Temporary use – mobile food establishment					11.38
catering truck	P	P	P	P	11.38
ice cream truck	P	P	P	P	11.38
lunch truck				P	11.38
mobile food preparation truck	P	P	P	P	11.38
produce truck			P		11.38
Temporary use- special function					11.38

EXHIBIT 'C'

Table 6.2 Schedule of Uses: Commercial and Industrial Districts					
Use	C-0	C-1	C-2	I	Other
Other					
	P, S,	P, S,	P, S,	P, S,	
Sexually oriented business			P	P	11.36
Temporary construction office		S	S	P	11.38
Temporary sales office	S	S	S	S	11.38
Temporary use – mobile food establishment					
catering truck	P	P	P	P	11.38
ice cream truck					11.38
lunch truck	P	P	P	P	11.38
mobile food preparation truck	P	P	P	P	11.38
produce truck	P	P	P	P	11.38
Temporary use- special function					11.38

EXHIBIT 'D'

Table 7.2 Schedule of Uses: Employment				
	EC	EC	EC	
Other				
	P,S	P,S	P,S	
Sexually oriented business				11.36
Temporary construction office	S	S	S	11.38
Temporary use – mobile food establishment				11.38
catering truck	P	P	P	11.38
ice cream truck	P	P	P	11.38
lunch truck	P	P		11.38
mobile food preparation truck	P	P	P	11.38
produce truck				11.38
Temporary sales office	S	S	S	11.38
Temporary use- special function				11.38