

City Council Meeting

Agenda Item

Data Sheet

Meeting Date: July 6, 2026

Topic:

Second Reading: Consideration of and Action on Ordinance No. 2026-16. An Ordinance of the City Council of the City of Tomball, Texas, amending Chapter 32 (Peddlers and Solicitors) of the Tomball Code of Ordinances to comply with State preemption of local mobile food vendor regulations; providing a savings clause; providing a severability clause; and providing for an effective date.

Background:

The proposed ordinance amends Chapter 32 of the Tomball Code of Ordinances to bring the City into compliance with new state laws governing mobile food vendors. The 89th Texas Legislature enacted Senate Bill 1008 in 2025, which significantly limits municipal authority to impose permits, fees, and operational regulations on food service establishments and mobile food units. As noted in the ordinance, SB 1008 also expanded civil enforcement remedies under Chapter 102A of the Texas Civil Practice and Remedies Code, allowing individuals and trade associations to seek injunctive relief and attorneys' fees against cities whose ordinances conflict with state food-service.

In addition, House Bill 2844, effective July 1, 2026, created Texas Health and Safety Code Chapter 437B, establishing a statewide licensing and inspection program for mobile food vendors administered by the Texas Department of State Health Services. Chapter 437B expressly preempts local regulation of mobile food vendors except in limited areas such as fire codes, zoning, and lawful location restrictions. The ordinance reflects this shift, noting that municipalities may not adopt or enforce requirements that conflict with Chapter 437B.

To comply with these state mandates, the ordinance repeals local definitions, exceptions, and regulatory provisions related to mobile food vendors, including the full repeal and replacement of Section 32-11. The revised section now requires only that mobile food vendors present a valid state-issued license upon request, aligning the City's process with the new statewide system. The ordinance also removes outdated approval and appeal procedures that previously applied to mobile food vendor permitting.

Finally, the ordinance includes standard savings and severability clauses to ensure continuity of other Chapter 32 provisions and to prevent enforcement of any repealed or preempted requirements. It establishes an effective date of July 1, 2026, coinciding with the implementation of HB 2844. Overall, the amendments reduce the City's exposure to civil liability while preserving its authority over zoning, fire safety, and waste disposal for mobile food vendors.

Origination: City Secretary's Office/Olson & Olson

Recommendation:

Approve second reading of Ordinance No. 2016-16.

Party(ies) responsible for placing this item on agenda: Thomas Harris III, City Secretary

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____ If yes, specify Account Number: # _____

If no, funds will be transferred from account # _____ To account # _____

Signed _____ Approved by _____
Staff Member Date City Manager Date