

# CITY of ALBUQUERQUE

## TWENTY-FIFTH COUNCIL

COUNCIL BILL NO. O-22-37 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Tammy Fiebelkorn

1 ORDINANCE

2 ADDING A NEW PART TO CHAPTER 9, ARTICLE 6 ROA 1994, FOOD AND  
3 BEVERAGES, TO BE KNOWN AS THE "ALBUQUERQUE MARKET FOOD  
4 VENDOR ORDINANCE", AND ESTABLISHING A PERMITTING FEE.

5 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
6 ALBUQUERQUE:

7 SECTION 1. A new Part 7 is hereby added to Chapter 9, Article 6 of the Revised  
8 Ordinances of Albuquerque, 1994, as follows:

9 "[§ 9-6-7-1 SHORT TITLE.

10 This part shall be known and may be cited as the "Albuquerque Market Food  
11 Vendor Ordinance."

12 § 9-6-7-2 APPLICABILITY. This Article applies to any person registered with  
13 the New Mexico Secretary of State to do business as a food or produce vendor  
14 in the State of New Mexico and who vends food at a market or operates a market  
15 food establishment, unless such operation is otherwise covered by any other  
16 applicable food permit, including a mobile food unit permit (§ 9-6-1-3),  
17 Temporary Food Service Establishment permit (§ 9-6-1-4), Temporary Food  
18 Establishment (§ 9-6-2) or Raw Produce Vendor permit (§ 9-6-3-2). No permit is  
19 required by this Ordinance for a person to vend homemade food items  
20 produced and labeled in compliance with the Homemade Food Act.

21 § 9-6-7-3 INTENT AND PURPOSES. The intent of Article 9-6-7 et seq. is to  
22 provide market food vendors participating in markets a permit system that has  
23 the efficiency and economic benefit of a single permit and that may be  
24 accepted at markets across the City. Residents of Albuquerque and the  
25 surrounding communities benefit from the products sold at local markets.

26 § 9-6-7-4 DEFINITIONS

[Bracketed/Underscored Material] - New  
[Bracketed/Strikethrough Material] - Deletion

1 For the purpose of §§ 9-6-7-1 et seq., the following definitions shall apply  
2 unless the context clearly indicates or requires a different meaning.

3 2009 FOOD CODE. The Food Code, 2009 Recommendations of the United  
4 States Public Health Service/Food and Drug Administration as published by the  
5 U.S. Department of Health and Human Services, Public Health Service, Food and  
6 Drug Administration.

7 APPLICANT. A person submitting an application for a market food  
8 establishment permit.

9 APPROVED. Acceptable to the enforcement authority based on its  
10 determination as to conformance with the 2009 Food Code, appropriate  
11 standards, and good public health practice.

12 CITY. The City of Albuquerque.

13 COMMISSARY. A permanent food establishment with a valid permit which is  
14 used by a market food establishment to prepare food for sale at a market or a  
15 place in possession of a permit in which food, containers or supplies are kept  
16 or stored for use by a market food vendor.

17 ENFORCEMENT AUTHORITY. The Mayor or any designated agent(s) of the  
18 Mayor.

19 FOOD. Any raw, cooked, or processed edible substance, ice, beverage or  
20 ingredient used or intended for use or for sale in whole or in part for human  
21 consumption.

22 MARKET. Any temporary gathering of vendors, whether a single or recurring  
23 event, organized by a market coordinator and operating at a single location,  
24 whose primary purpose is the selling of goods.

25 MARKET COORDINATOR. Any person responsible for the organization and  
26 supervision of a market.

27 MARKET FOOD ESTABLISHMENT. Any establishment at a market where  
28 food and food products are processed, prepared, packaged, stored, offered for  
29 sale, donated, or distributed for human consumption, or any place where food  
30 is prepared and intended for individual portion service and includes the site at  
31 which individual portions are provided, or both. The term includes any such  
32 place regardless of whether consumption is on or off the premises and  
33 regardless of whether there is a charge for the food. The term does not include

- 1 private homes where food is prepared or served for individual family  
2 consumption.
- 3 MARKET FOOD VENDOR. Any person, including their employees,  
4 representatives, and agents, operating a market food establishment.
- 5 PACKAGED. Bottled, canned, cartoned, or securely wrapped.
- 6 PERMIT. The document issued by the enforcement authority that authorizes  
7 a person to operate a food establishment.
- 8 PERMIT HOLDER. The person responsible for the operation of the food  
9 establishment required to possess a valid permit to operate a food  
10 establishment.
- 11 PERSON. Any person, agent, firm, partnership, association, corporation,  
12 company, organization, or entity of any kind.
- 13 PERSON IN CHARGE. The individual present in a market food establishment  
14 who is the apparent supervisor of the establishment at the time of inspection. If  
15 no individual is the apparent supervisor, then any employee present is the  
16 person in charge.
- 17 POTENTIALLY HAZARDOUS FOOD (TIME/TEMPERATURE CONTROL FOR  
18 SAFETY FOOD). A food that requires time/temperature control for safety (TCS)  
19 to limit pathogenic microorganism growth or toxin formation as provided for in  
20 the 2009 Food Code.
- 21 SAFE TEMPERATURES. Temperatures as provided in the 2009 Food Code.
- 22 SEALED. Free of cracks or other openings that permit the entry or passage  
23 of moisture.
- 24 SINGLE-SERVICE ARTICLES. Cups, containers, lids or closures, and  
25 packaging materials, including bags and all similar articles designed for one-  
26 time, one-person use and then discarded. The term does not include single use  
27 articles such as number 10 cans, aluminum pie pans, bread wrappers and  
28 similar articles into which food has been packaged by the manufacturer.
- 29 TABLEWARE. All multi-use eating and drinking utensils.
- 30 THIS ORDINANCE. The Albuquerque Market Food Vendor Ordinance.
- 31 UTENSIL. Any approved implement used in the preparation, storage,  
32 transportation or service of food.
- 33 VALID. Unexpired, financially compliant, not suspended, and not revoked.

1 VEND. The act of selling, trading, bartering or giving away.

2 § 9-6-7-5 GENERAL REQUIREMENTS; ADOPTION BY REFERENCE OF THE  
3 2009 FOOD CODE.

4 (A) Except to the extent that it is inconsistent with the Albuquerque Market  
5 Food Vendor Ordinance, the City of Albuquerque does hereby adopt by  
6 reference the Food Code, 2009 Recommendations of the United States  
7 Public Health Service/Food and Drug Administration as published by the  
8 U.S. Department of Health and Human Services, Public Health Service,  
9 Food and Drug Administration to regulate the conduct of all market food  
10 vendors and market food establishments.

11 § 9-6-7-6 GENERAL REQUIREMENTS.

12 (A) Before vending at a market, market food vendors shall have a valid  
13 annual market food establishment permit, or other approved food  
14 permits issued pursuant to the Food Sanitation Ordinance, ROA 1994  
15 Chapter 9, Article 6, Part 1; the Retailers, Meat Markets and Wholesalers  
16 Ordinance, ROA 1994 Chapter 9, Article 6, Part 2; the Raw Produce  
17 Stands Ordinance, ROA 1994 Chapter 9, Article 6, Part 3; or the Mobile  
18 Food Units Ordinance, ROA 1994 Chapter 9, Article 6, Part 5.

19 (B) Market food vendors shall be authorized by a market coordinator before  
20 vending at a market.

21 (C) If applicable, market food vendors shall be in possession of a valid City  
22 of Albuquerque business registration before vending at a market.

23 (D) Market food vendors shall comply with the requirements of §§ 9-6-7-1 et  
24 seq. and all other laws, regulations, and ordinances.

25 (E) Requirements.

26 (1) Market food establishments and their market food vendors shall  
27 comply with the regulations set forth in the 2009 Food Code as  
28 they pertain to temporary food establishments.

29 (2) The enforcement authority may impose additional requirements to  
30 protect against health hazards related to the conduct of the market  
31 food establishment, may prohibit the sale of some or all potentially  
32 hazardous foods, and when no health hazard will result, may waive  
33 or modify requirements of §§ 9-6-7-1 et seq.

1 (3) Food Safety.

2 (a) All market food establishments, with the exception of market  
3 food establishments vending only raw, uncut produce, shall  
4 operate out of a commissary and shall report at least each  
5 day of operation to such location for all supplies and for all  
6 cleaning and servicing operations. The preparation or  
7 service of potentially hazardous foods, including pastries  
8 filled with cream or synthetic cream, custards, and similar  
9 products, and salads or sandwiches containing meat,  
10 poultry, eggs or fish, at a market is limited to potentially  
11 hazardous food that has been prepared and packaged under  
12 conditions meeting the requirements of §§ 9-6-7-1 et seq.; is  
13 obtained in individual servings; is stored at a safe  
14 temperature in facilities that meet the requirements of §§ 9-  
15 6-7-1 et seq.; and is served directly in the unopened  
16 container in which it was packaged.

17 (b) All foods vended at a market must be from an approved  
18 source and free from spoilage, filth, or other contamination  
19 as to be safe for human consumption. During transportation  
20 of food to the point of sale or distribution at a market, food  
21 must be kept at appropriate temperatures and protected  
22 from contamination.

23 (c) Enough potable water shall be available in the market food  
24 establishment for food preparation, for cleaning and  
25 sanitizing utensils and equipment, and for handwashing. A  
26 heating facility located on the premises and capable of  
27 producing enough hot water for these purposes shall be  
28 provided where applicable.

29 (i) When a conventional handwashing sink is not  
30 available or in close proximity to the market food  
31 establishment, an approved temporary hand wash  
32 station shall be made available and consist of an  
33 insulated container that is equipped with a minimum 5

- 1 gallon capacity and a spigot to allow for the  
2 continuous flow of water; an adequate supply of  
3 potable water at a minimum temperature of 38°c  
4 (100°f); a wastewater container capable of properly  
5 retaining wastewater from the hand wash station; and  
6 an adequate supply of hand soap and paper towels.
- 7 (d) Ice that is consumed or that contacts food shall have been  
8 made under conditions meeting the requirements of §§ 9-6-  
9 7-1 et seq. The ice shall be obtained only in chipped, crushed  
10 or cubed form and in single-use safe plastic or wet strength  
11 paper bags filled and sealed at the point of manufacture. The  
12 ice shall be held in these bags, until it is dispensed, in a way  
13 that protects it from contamination. The bags shall be stored  
14 at least four inches off the ground.
- 15 (e) All market food establishments without effective facilities  
16 for cleaning and sanitizing tableware shall provide only  
17 single-service articles for use by the consumer.
- 18 (f) Food Display and Storage at a Market.
- 19 (i) All food displays and preparation areas shall be  
20 smooth, durable, and easily cleanable.
- 21 (ii) Food displays shall be confined to tables or to the bed  
22 of a vehicle. Food must be at least six inches above  
23 the ground.
- 24 (iii) Food contact surfaces of equipment shall be  
25 protected from contamination by consumers and  
26 other contaminating agents. Effective shields for  
27 such equipment shall be provided, as necessary, to  
28 prevent contamination. Servicing areas shall be  
29 provided with overhead protection.
- 30 (g) Raw Animal foods; additional restrictions.
- 31 (i) A market food vendor shall not remove, or allow to be  
32 removed, raw animal foods from the original

- 1 packaging in which the foods were placed at the food  
2 processing establishment from which they originated.  
3 (ii) A market food vendor shall not vend unpackaged raw  
4 animal food products.  
5 (iii) A market food vendor shall not vend raw animal food  
6 products in any condition other than frozen.  
7 (iv) A market food vendor shall not vend raw animal foods  
8 unless they have the Federal USDA mark of  
9 inspection.  
10 (h) Prohibited Sales. A market food vendor shall not vend live  
11 animals, seafood, shellfish, sushi, or sprouts.

12 § 9-6-7-7 MARKET FOOD VENDOR APPLICATION; FEES.

13 (A) An applicant seeking an annual market food establishment permit shall  
14 submit a signed application and a copy of the market food  
15 establishment's business registration (if applicable) to the enforcement  
16 authority, on a form provided by the enforcement authority, by March 15  
17 of each year. In the event that an applicant submits an application after  
18 March 15<sup>th</sup> of each year, the permit application shall be submitted to the  
19 enforcement authority at least five working days prior to the  
20 commencement of operations.

21 (B) The application shall include the following:

- 22 (1) The name, mailing address, telephone number, e-mail address, and  
23 signature of the applicant;  
24 (2) The name, title, mailing address, telephone number, and e-mail  
25 address of the person in charge;  
26 (3) A list of any valid permit held by the applicant, or a disclosure of a  
27 previous market food establishment permit held by the applicant  
28 for the same market food establishment within the last three years;  
29 (4) When a commissary is required, the name, title, mailing address,  
30 telephone number, and e-mail address of the applicant's  
31 commissary;

- 1 (a) When the commissary is not owned and operated by the  
2 applicant, a copy of the commissary agreement that includes  
3 the following:
- 4 (i) A list of all services provided to the applicant by the  
5 commissary;
- 6 (ii) The name, title, mailing address, telephone number,  
7 and e-mail address of the commissary;
- 8 (iii) The name, title, mailing address, telephone number,  
9 and e-mail address of the applicant;
- 10 (iv) A statement signed by the applicant and commissary  
11 owner that:
- 12 (1) Attests to the accuracy of the information  
13 provided;
- 14 (2) Affirms that the applicant will:
- 15 (a) Visit the commissary for services on  
16 every day of market operations;
- 17 (b) Provide a copy of the current  
18 commissary agreement annually to the  
19 enforcement authority; and
- 20 (c) Comply with the requirements of §§ 9-6-  
21 7-1 et seq. and all other applicable laws  
22 and regulations.
- 23 (3) Affirms that the commissary owner will allow  
24 the enforcement authority access to the  
25 establishment and its records for the purpose  
26 of enforcing the Albuquerque Market Food  
27 Vendor Ordinance.
- 28 (5) A list of all food items to be prepared or sold;
- 29 (6) The method for which any item will be prepared and the location at  
30 which it will be prepared;
- 31 (7) A statement signed by the applicant that:
- 32 (a) Attests to the accuracy of the information provided in the  
33 application.



(b) Certifies that the applicant is not subject to the Homemade Food Act, and

(c) Affirms that the applicant shall:

(i) Notify the enforcement authority of any changes to the information provided,

(ii) Comply with all requirements set forth by §§ 9-6-7-1 et seq., and

(iii) Allow the enforcement authority access to the establishment and its records for the purpose of enforcing this ordinance.

(C) Corrections. In the event that the enforcement authority finds that an applicant needs to correct, amend, or supplement an application, the enforcement authority shall notify the applicant as soon as practicable. The enforcement authority's determination that an application requires a correction does not constitute a denial of the application.

(D) Fees.

(1) Temporary Fees. The enforcement authority is authorized to collect the fees in §9-6-7-7(D)(1) until such time as they are adjusted by rules adopted by the enforcement authority.

(a) Each market food establishment shall pay an annual permit fee of \$50. Annual permit fees are due on or before the first working day of April of each year; provided, however, that no person shall engage in the operations of a market food establishment without first paying the permit fee. See also Section 9-6-7-8(C) Term and Scope of Permit.

(b) In the event that an applicant submits an application after the annual deadline, the enforcement authority may grant the permit and the permit fee shall be assessed in accordance with the following fee table:

<u>Permit Type</u>	<u>Permit Effective Dates</u>	<u>Fee</u>
<u>Annual</u>	<u>April 1 – March 31</u>	<u>\$50</u>
<u>Late Season</u>	<u>October 1 – March 31</u>	<u>\$30</u>

(2) Adjustment of Fees. Fees charged in relation to the Albuquerque Market Food Vendor Ordinance may be established by rules adopted by the enforcement authority. Any such rule shall be adopted under the procedures of Chapter 2, Article 15 ROA 1994.

§ 9-6-7-8 PERMITS; COMPLIANCE PROCEDURES.

(A) Permits. It shall be unlawful for any person to operate a market food establishment within the city who does not possess a valid market food establishment permit issued for that food establishment by the enforcement authority. Such permit shall be posted in a conspicuous location. Permits shall not be transferable.

(B) Issuance of Permits. The enforcement authority shall review the contents of the application and make a determination of approval or denial. The enforcement authority may require an inspection of the applicant's operations prior to the approval of the application. The applicant shall remit payment for the permit prior to the commencement of operations. If approved, a permit shall be issued following the payment of all applicable fees and compliance with the requirements §§ 9-6-7-1 et seq. and other laws, regulations and ordinances. Failure to pay the permit fee within 14 calendar days of permit approval will result in the cancellation of the application and the applicant must re-apply.

(C) Term and Scope of Permit. The term of each approved market food establishment permit shall begin on (i) April 1, if the market food establishment application was submitted on or before March 15, or (ii) the date of issuance. The term of each market food establishment permit shall end on March 31. A market food establishment permit authorizes a market food vendor to operate at any market, subject to the requirements of this ordinance and the market coordinator, within City limits.

(D) Service of Notices. Notices provided for under this ordinance shall be deemed to have been properly served when the original of the inspection report form or other written notice has been delivered personally to the permit applicant, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit

1 applicant. A copy of such notice shall be filed with the records of the  
2 enforcement authority.

3 (E) Denial of Permit. The enforcement authority may refuse to issue a  
4 permit to any applicant who fails to demonstrate, to the satisfaction of  
5 the enforcement authority, the ability to comply with or who fails to  
6 comply with the requirements of §§ 9-6-7-1 et seq. or of other laws,  
7 regulations or ordinances or any applicable rules or orders issued  
8 pursuant to a Civil Emergency or Public Health Emergency, as those  
9 terms are defined in state law or ROA 1994, Chapter 2, Article 9, Part 1.  
10 In the event the enforcement authority denies a permit, the enforcement  
11 authority shall notify the applicant in writing, stating the reasons for  
12 which the permit was denied. An opportunity for a hearing to appeal the  
13 denial of a permit will be provided if a written request for hearing is  
14 filed with the City Clerk's office within fifteen working days. A hearing  
15 shall be held in accordance with subsection (J) of this ordinance.

16 (F) Suspension of Permits.

17 (1) Permits may be suspended by the enforcement authority for:

18 (a) Failure of the holder to comply with the requirements of §§ 9-6-  
19 7-1 et seq. or of other laws, regulations or ordinances or any  
20 applicable rules or orders issued pursuant to a Civil Emergency  
21 or Public Health Emergency, as those terms are defined in state  
22 law or ROA 1994, Chapter 2, Article 9, Part 1.

23 (b) Failure of the permit holder or operator to comply with corrective  
24 actions required by the enforcement authority, within a time  
25 period specified by the enforcement authority, after the  
26 enforcement authority has completed an inspection and found  
27 violations. If the violations are not corrected within the time  
28 period specified by the enforcement authority, the market food  
29 establishment shall immediately cease operation.

30 (2) The permit holder or operator shall be notified in writing that the permit  
31 is immediately suspended. A permit holder may appeal the  
32 suspension of a permit by making written request to the enforcement  
33 authority within fifteen working days of notice of suspended permit. A

1 hearing shall be held in accordance with subsection (J) of this  
2 ordinance.

3 (3) Immediate Suspension for Imminent Health Hazard. Notwithstanding  
4 the other provisions of §§ 9-6-7-1 et seq., whenever the enforcement  
5 authority finds an imminent health hazard or other conditions in the  
6 operation of a market food establishment which, in its judgment,  
7 constitute a substantial hazard to the public health, the enforcement  
8 authority may without any prior warning, notice, or hearing, issue a  
9 written notice to the permit holder or operator citing such condition,  
10 specifying the corrective action to be taken, and specifying the time  
11 period within which action shall be taken; and, if deemed necessary,  
12 such order shall state that the permit is immediately suspended and all  
13 food-service or food processing operations are to be immediately  
14 discontinued. Any person to whom such an order is issued shall  
15 comply immediately therewith. A permit holder may appeal the  
16 suspension by requesting a hearing within fifteen working days of the  
17 notice of suspension. A hearing shall be held in accordance with  
18 subsection (J) of this ordinance.

19 (G) Reinstatement of Suspended Permits. Any person whose permit has  
20 been suspended may at any time make application for a reinspection for  
21 the purpose of reinstatement of the permit. At the next date of the market  
22 food establishment's operations following receipt of a written request  
23 for reinspection, and subject to availability of the enforcement authority,  
24 the enforcement authority shall make a reinspection. If the enforcement  
25 authority deems that the permit holder complies with the requirements  
26 of §§ 9-6-7-1 et seq. and other applicable laws, regulations, and  
27 ordinances, the permit shall be reinstated.

28 (H) Revocation of Permits.

29 (1) A permit may be revoked by the enforcement authority for the  
30 following:

31 (a) For failure of an establishment to correct violations, upon  
32 reinspection, when the establishment's permit has been

1 suspended for failure to meet the requirements of this §§ 9-  
2 6-7-1 et seq.

3 (b) For the second suspension within any 36-month period for  
4 any market food establishment.

5 (c) For refusal of inspection of the establishment after proper  
6 identification has been tendered by the enforcement  
7 authority.

8 (d) For interference with or harassment of the enforcement  
9 authority in the performance of its duties.

10 (2) Prior to revoking a permit, the enforcement authority shall notify  
11 the permit holder in writing, stating the reasons for which the  
12 permit is subject to revocation and advising that the permit shall  
13 be revoked at the end of five working days after service of such  
14 notice, unless a written request for a hearing is filed with the City  
15 Clerk's office by the permit holder within such five working day  
16 period in accordance with subsection (J) of this ordinance. The  
17 hearing shall be scheduled within five working days following  
18 receipt of the written request by the City Clerk's office. The permit  
19 shall be deemed suspended from the date of notice of revocation  
20 until the issuance of the hearing officer's decision.

21 (I) Application for a New Permit After Revocation.

22 (1) A permit holder may, after 90 calendar days following permit  
23 revocation, submit a written application to the enforcement  
24 authority for a new permit and shall pay all applicable fees for a  
25 new permit and any outstanding fees associated with the revoked  
26 permit.

27 (2) The permit fee due for the new permit shall be determined by the  
28 date the new permit is issued by the enforcement authority.

29 (J) Hearings. The hearings provided for in this ordinance shall be  
30 conducted by the Independent Hearing Officer in accordance with the  
31 provisions in the IHO Ordinance, ROA 1994, Chapter 2, Article 7, Part 8.  
32 Any action of the enforcement authority for which a hearing is not  
33 otherwise provided for in this ordinance, which action adversely impacts

1 the permit holder, is subject to review under this section if a hearing  
2 request is filed within fifteen working days of the action and in  
3 accordance with the provisions in the IHO Ordinance, ROA 1994, Chapter  
4 2, Article 7, Part 8. A nonrefundable hearing fee of \$50.00 shall  
5 accompany each application for hearing conducted by the hearing  
6 officer requested pursuant to this ordinance.

7 (K) Judicial Review. The exclusive remedy for any party to appeal a final  
8 decision of the hearing officer is to file a petition to the District  
9 Court within 30 days after service of written notice of the decision of the  
10 concerned party. The petition for review shall be limited to the record.

11 (L) Injunctive Relief. As an additional remedy, if any person, permit holder,  
12 or market food establishment violates the provisions of §§ 9-6-7-1 et  
13 seq., the enforcement authority may seek injunctive relief in a court of  
14 competent jurisdiction.

15 (M) Issuance of Citations. Citations may be issued by the enforcement  
16 authority for failure to comply with any requirement set forth in §§ 9-6-7-  
17 1 et seq.

18 § 9-6-7-9 VARIANCES.

19 The enforcement authority may grant an individual variance from the limitations  
20 prescribed in §§ 9-6-7-1 et seq. whenever it is found upon presentation of  
21 adequate proof, that compliance with that specific part of §§ 9-6-7-1 et seq. will  
22 impose an undue economic burden or hardship upon the business and that  
23 granting of the variance will not result in a condition injurious to health or safety.  
24 Any person seeking a variance shall do so in writing, setting forth their reasons  
25 for the variance and stating the length of time for which they seek the variance.  
26 The enforcement authority shall promptly investigate the petition and make a  
27 determination as to the disposition thereof. The party seeking this variance shall  
28 be given a decision within ten working days following receipt of the request by  
29 the enforcement authority. A permit holder may appeal the enforcement  
30 authority's decision by requesting a hearing within fifteen working days of the  
31 decision. A hearing shall be held in accordance with the provisions of the IHO  
32 Ordinance, ROA 1994, Chapter 2, Article 7, Part 8.

33 § 9-6-7-10 AVAILABILITY OF ORDINANCE.

1 A copy of the "Albuquerque Market Food Vendor Ordinance" [i.e., §§ 9-6-7-1 et  
2 seq.] is now on file in the Office of the City Clerk and is available for inspection  
3 by the public during regular business hours. A copy of the ordinance [i.e., §§  
4 9-6-7-1 et seq.] shall be available to any individual upon request and the  
5 payment of a reasonable charge as set forth by the Chief Administrative Officer,  
6 to be not less than the actual cost per copy.

7 § 9-6-7-11 PENALTY.

8 Every person convicted of a violation of any provision of §§ 9-6-7-1 et seq. shall  
9 be guilty of a petty misdemeanor and shall be subject to the penalty provisions  
10 set forth in § 1-1-99 of this code of ordinances. Every violation of §§ 9-6-7-1 et  
11 seq. shall be a petty misdemeanor. Each day such violation is committed or  
12 permitted to continue shall constitute a separate offense and shall be  
13 punishable as such hereunder.]”

14 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
15 clause, work or phrase of this ordinance is for any reason held to be invalid or  
16 unenforceable by any court of competent jurisdiction, such decision shall not  
17 affect the validity of the remaining provisions of this ordinance.

18 SECTION 3. COMPILATION. Section 1 of this ordinance shall be incorporated in  
19 and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994,  
20 as a new Part 7 of Chapter 9, Article 6 titled “Albuquerque Market Food Vendor  
21 Ordinance.”

22 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect after publication  
23 by title and general summary on January 1, 2023.