

CITY of ALBUQUERQUE

TWENTY-FIRST COUNCIL

COUNCIL BILL NO. C/S O-15-36 ENACTMENT NO. _____

SPONSORED BY: Isaac Benton

1 **ORDINANCE**

2 **AMENDING THE ZONING CODE TO PERMIT AND REGULATE MOBILE FOOD**
3 **UNITS ON PRIVATE PROPERTY; AND AMENDING THE PARKING CODE TO**
4 **REGULATE MOBILE FOOD UNITS IN PUBLIC RIGHTS-OF-WAY.**

5 **WHEREAS, the food truck industry is a growing and vital economic**
6 **generator, and there is increased popularity of food trucks in the City of**
7 **Albuquerque; and**

8 **WHEREAS, the City desires to promote and accommodate the growth of**
9 **the food truck industry while helping to preserve equity with the City's**
10 **valuable and important site-built restaurant industry; and**

11 **WHEREAS, encouraging and accommodating food trucks to set up and**
12 **operate from privately-owned parcels as opposed to public rights-of-way may**
13 **help provide parity with the City's site-built restaurant industry which bears**
14 **overhead and carrying costs associated with real property not born by food**
15 **trucks; and**

16 **WHEREAS, presently there are no on-street use limitations for food trucks,**
17 **and nothing prevents a food truck from setting up and operating in close**
18 **proximity to site-built restaurants – which both eliminates parking availability**
19 **for area site-built land uses and deprives the City of revenue from parking**
20 **fees; and**

21 **WHEREAS, a food truck's ability to operate from private property is**
22 **presently limited by the zoning code's limits on outdoor activity, and by a**
23 **longstanding interpretation that applies to food trucks which limits outdoor**
24 **activities to a maximum of two-hours per day on private property without a**
25 **conditional use permit; and**

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1 WHEREAS, the purpose of this ordinance is to ease the zoning
2 requirements for food trucks on private property while placing reasonable
3 limits to on-street use in order to address these issues.

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

6 SECTION 1. Section 14-16-1-5(B) is amended to add the following
7 definition:

8 [“Mobile Food Unit – Any wagon, truck, push cart, or vehicle self-propelled
9 or otherwise movable from place to place from which any person sells, offers
10 for sale, or gives away, beverages, food or any food product for human
11 consumption.”]

12 SECTION 2. Section 14-16-3-25 is added to the zoning code as follows:

13 “[§14-16-3-25 Mobile Food Unit.

14 (A) Mobile Food Unit

15 (1) Mobile food units are permitted on private property in any
16 zone, except residential zones, provided:

17 (a) The mobile food unit and any associated tables, chairs,
18 displays, umbrellas, or the like, must not physically occupy or obstruct access
19 to any parking stalls necessary to meet the minimum parking requirements for
20 the on premise land uses (if any), except that this requirement does not apply
21 if the mobile food unit is operating outside of the hours of operation of the on
22 premise uses;

23 (b) The mobile food unit and any associated tables, chairs,
24 displays, umbrellas, or the like, must not obstruct any designated ingress or
25 egress from the property, or any designated drive-aisle;

26 (c) The mobile food unit must have written permission from
27 the property owner for use of the site, a copy of which shall be kept and
28 maintained in the mobile food unit and made available for review by any City
29 inspector at all times during operation of the mobile food unit at the site;

30 (d) Every mobile food unit is subject to, and must comply
31 with, the general noise restrictions prescribed by Section 9-9-12 ROA 1994,
32 and all other relevant requirements and restrictions of local, state, and federal
33 law.

(2) This section establishes land use regulations pertaining to Mobile Food Units. Other aspects of Mobile Food Units are regulated in other parts of the Municipal Code. Please refer to Traffic Code § 8-5-1-42 and Health, Safety & Sanitation Code § 9-6-5.]

SECTION 3. Section 8-5-1-42 is hereby added to the Traffic Code as follows:

“[§ 8-5-1-42 Mobile Food Units on Public Streets. Any vehicle classified as a mobile food unit pursuant to Section 9-6-5-2 ROA 1994 is permitted to operate from any public right-of-way where on-street parking is permitted subject to the following:

(A) No mobile food unit shall operate from a public right-of-way without first obtaining a “Mobile Food Unit Parking Permit” from the City Parking Management Division.

(1) Mobile Food Unit Parking Permits will be issued on an annual basis;

(2) Subject to the limitations and restrictions of this Section, a Mobile Food Unit Parking Permit authorizes the specific mobile food unit to which it has been issued to utilize any available on-street parking space in the City without additional meter fees;

(3) Regardless of any posted parking duration limitations, a mobile food unit with a Mobile Food Unit Parking Permit may operate from a single location in a City right-of-way where parking is permitted and may occupy up to two (2) on-street parking stalls for no more than four (4) hours per day, and only between the hours of 6:00 a.m. to 11:00 p.m. Sunday – Thursday, and from 6:00 a.m. to 2:00 a.m. Friday and Saturday;

(4) The Parking Management Division shall establish, and may amend from time to time, a reasonable annual permit fee that, at a minimum, covers the administrative costs of issuance and enforcement of this section, and that gives due consideration to the value of the privilege of operating from public rights-of-way in the City;

(5) In addition to the application of any other enforcement provisions of the Traffic Code or other City Ordinance, a Mobile Food Unit Parking Permit may be revoked or suspended by the Parking Management

Division for good cause, such as multiple violations of this section or other applicable City Ordinances.

(B) No mobile food unit, except for ice-cream trucks, paleta push carts, and frozen food trucks, shall operate from any street frontage immediately abutting a single family residence. However, when only one side of a street abuts a single family residence, nothing in this section shall be construed as prohibiting a mobile food unit from operating from the opposite side of the street, provided that all other relevant requirements and restrictions are met.

(C) Every mobile food unit is subject to, and must comply with, the general noise restrictions prescribed by Section 9-9-12 ROA 1994, and all other relevant requirements and restrictions of local, state, and federal law.]

(D) The sole customer-approach must be from a sidewalk or designated pedestrian-way; however no mobile food unit shall obstruct any sidewalk or pedestrian way within a public right-of-way with the mobile food unit or any associated tables, chairs, displays, umbrellas, or the like.

(E) Every mobile food unit shall maintain a minimum distance of 100' feet from any publicly accessible building ingress or egress for any site-built food service establishment unless written permission is granted by the owner(s) or operator(s) of each site-built food service establishment within 100', a copy of which is kept at the mobile food unit and made available for review by any City inspector.

(i) For purposes of this section, the 100' separation requirement is measured along the sidewalk or street edge beginning at the center point of the nearest building ingress/egress of any site-built food service establishment, and measured to the nearest edge of the mobile food unit. Where mobile food units are located across one or more public rights-of-way, the 100' separation requirement is measured so to include the width of the right(s)-of-way.

(F) Every mobile food unit shall maintain a distance of at least 10 feet from any vehicular and pedestrian egress/ingress points to adjacent properties and from intersections.

1 (G) Use of on-street spaces by mobile food units is on a first come
2 first served basis, mobile food unit operators shall not reserve spaces in
3 advance of arrival.

4 (H) This section establishes traffic code retulations pertaining to
5 Mobile Food Units. Other aspects of Mobile Food Units are regulated in other
6 parts of the Municipal Code. Please refer to Zoning Code § 14-16-3-25 and
7 Health, Safety & Sanitation Code § 9-6-5.]

8 SECTION 3. Two new items shall be added to Section 9-9-15, Cross
9 References, of the Health, Safety and Sanitation Code as follows:

10 [(F) Mobile Food Unit: Traffic Code (Chapter 8, Article 5, Part 1,
11 Section 42.

12 (G) Mobile Food Unit: Zoning Code (Chapter 14, Article 16, Part 3,
13 Section 25)]

14 SECTION4. SEVERABILITY CLAUSE. If any section, paragraph,
15 sentence, clause, word or phrase of this ordinance is for any reason held to be
16 invalid or unenforceable by any court of competent jurisdiction, such decision
17 shall not affect the validity of the remaining provisions of this resolution. The
18 Council hereby declares that it would have passed this resolution and each
19 section, paragraph, sentence, clause, word or phrase thereof irrespective of
20 any provisions being declared unconstitutional or otherwise invalid.

21 SECTION 5. COMPILATION. This ordinance shall be incorporated in and
22 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

23 SECTION 6. EFFECTIVE DATE. This ordinance shall take effect five days
24 after publication by title and general summary.