

CITY of ALBUQUERQUE

TWENTY-FIRST COUNCIL

COUNCIL BILL NO. C/S(2) 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 to operate on private property
16 in any non-residential zone, 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 has written permission from the
27 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) The mobile food unit operator must provide receptacles
31 for disposal of all food truck-generated refuse;

32 (c) Every mobile food unit is subject to, and must comply
33 with, the general noise restrictions prescribed by Section 9-9-12 ROA 1994,

1 and all other relevant requirements and restrictions of local, state, and federal
2 law.

3 (2) Mobile Food Units are permitted to operate on private property
4 in residential zones, provided:

5 (a) The Mobile Food Unit has written permission from the
6 property owner for use of the site, a copy of which shall be kept and
7 maintained in the Mobile Food Unit and made available for review by any City
8 inspector at all times during the operation of the Mobile Food Unit at the site;

9 (b) Mobile Food Units may not operate on the same
10 residential property more than 12 days per year.

11 (c) The mobile food unit operator must provide receptacles
12 for disposal of all food truck-generated refuse;

13 (3) For purposes of this section, “operation” of a mobile food unit
14 includes any activity involved with food preparation or sales.”

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

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

20 “[§ 8-5-1-42 Mobile Food Units on Public Streets. Any vehicle classified as
21 a mobile food unit pursuant to Section 9-6-5-2 ROA 1994 is permitted to
22 operate from any public right-of-way where on-street parking is permitted
23 subject to the following:

24 (A) For the purposes of this section, “operation” of a mobile food
25 unit includes any activity involved with food preparation or sales.

26 (B) No mobile food unit, shall operate from any street frontage
27 immediately abutting a single family residence, except that:

28 (1) When only one side of a street abuts a single family
29 residence, nothing in this section shall be construed as prohibiting a mobile
30 food unit from operating from the opposite side of the street, provided that all
31 other relevant requirements and restrictions are met; and

32 (2) Mobile Food Units may operate from a street frontage
33 immediately abutting a single-family residence during neighborhood events

1 for which a Block Party Application has been filed with the Department of
2 Municipal Development and for which a Block Party Permit has been received;
3 and

4 (3) Mobile Food Units that traditionally sell pre-packaged
5 foods for sale or delivery to the public in residential areas and that generally
6 do not remain stationary at any location for intervals exceeding a few minutes
7 at a time, such as ice-cream trucks, paleta carts, and frozen food trucks, may
8 operate from a street frontage immediately abutting a single-family residence.

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

12 (D) No mobile food unit shall obstruct any sidewalk or pedestrian
13 way within a public right-of-way with the mobile food unit or any associated
14 tables, chairs, displays, umbrellas, or the like.

15 (E) Every mobile food unit shall maintain a minimum distance of
16 100' feet from any publicly accessible building ingress or egress for any site-
17 built food service establishment unless written permission is granted by the
18 owner(s) or operator(s) of each site-built food service establishment within
19 100', a copy of which is kept at the mobile food unit and made available for
20 review by any City inspector.

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

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

31 (G) Use of on-street spaces by mobile food units is on a first come
32 first served basis, mobile food unit operators shall not reserve spaces in

advance of arrival. Mobile Food Unit operators are responsible for paying all applicable meter fees for on-street parking spaces.

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

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

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

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

SECTION 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this resolution. The Council hereby declares that it would have passed this resolution and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provisions being declared unconstitutional or otherwise invalid.

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

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