

# CITY of ALBUQUERQUE

## TWENTY-FIRST COUNCIL

COUNCIL BILL NO. C/S(2) O-15-36

ENACTMENT NO. 0-2015-024

SPONSORED BY: Isaac Benton

1

### ORDINANCE

2

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

3

4

5

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

6

7

8

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

9

10

11

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

12

13

14

15

16

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

17

18

19

20

21

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

22

23

24

25

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

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                       **(e)     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 specifically  
16 pertaining to Mobile Food Units. Mobile Food Units shall comply with all other  
17 applicable requirements of the traffic code. Other aspects of Mobile Food  
18 Units are regulated in other parts of the Municipal Code. Please refer to Traffic  
19 Code § 8-5-1-42 and Health, Safety & Sanitation Code § 9-6-5."

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

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

25 (A) For the purposes of this section, "operation" of a Mobile Food  
26 Unit includes any activity involved with food preparation or sales.

27 (B) No Mobile Food Unit, shall operate from any street frontage  
28 immediately abutting a single family residence, except that:

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

1                   (2)     **Mobile Food Units may operate from a street frontage**  
2     **immediately abutting a single-family residence during neighborhood events**  
3     **for which a Block Party Application has been filed with the Department of**  
4     **Municipal Development and for which a Block Party Permit has been received;**  
5     **and**

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

11                (C)     **Every Mobile Food Unit is subject to, and must comply with,**  
12    **the general noise restrictions prescribed by Section 9-9-12 ROA 1994, and all**  
13    **other relevant requirements and restrictions of local, state, and federal law.**

14                (D)     **No Mobile Food Unit shall obstruct any sidewalk or pedestrian**  
15    **way within a public right-of-way with the Mobile Food Unit or any associated**  
16    **tables, chairs, displays, umbrellas, or the like.**

17                (E)     **Every Mobile Food Unit shall maintain a minimum distance of**  
18    **100 feet from any publicly accessible building ingress or egress for any site-**  
19    **built food service establishment unless written permission is granted by the**  
20    **owner(s) or operator(s) of each site-built food service establishment within**  
21    **100 feet, a copy of which is kept at the Mobile Food Unit and made available**  
22    **for review by any City inspector.**

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

30                (F)     **Every Mobile Food Unit shall maintain a distance of at least 10**  
31    **feet from any vehicular and pedestrian egress/ingress points to adjacent**  
32    **properties and from intersections.**

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

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

1           **(G) Use of on-street spaces by Mobile Food Units is on a first**  
2     **come first served basis, Mobile Food Unit operators shall not reserve spaces**  
3     **in advance of arrival. Mobile Food Unit operators are responsible for paying all**  
4     **applicable meter fees for on-street parking spaces.**

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

9           **SECTION 4. Two new items shall be added to Section 9-9-15, Cross**  
10    **References, of the Health, Safety and Sanitation Code as follows:**

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

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

15           **SECTION 5. SEVERABILITY CLAUSE. If any section, paragraph, sentence,**  
16    **clause, word or phrase of this ordinance is for any reason held to be invalid or**  
17    **unenforceable by any court of competent jurisdiction, such decision shall not**  
18    **affect the validity of the remaining provisions of this ordinance. The Council**  
19    **hereby declares that it would have passed this ordinance and each section,**  
20    **paragraph, sentence, clause, word or phrase thereof irrespective of any**  
21    **provisions being declared unconstitutional or otherwise invalid.**

22           **SECTION 6. COMPILATION. This ordinance shall be incorporated in and**  
23    **made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.**

24           **SECTION 7. EFFECTIVE DATE. This ordinance shall take effect five days**  
25    **after publication by title and general summary.**  
26  
27  
28  
29  
30  
31  
32

1 PASSED AND ADOPTED THIS 9<sup>th</sup> DAY OF September, 2015  
2 BY A VOTE OF: 8 FOR 0 AGAINST.  
3

4 Excused: Harris  
5  
6

7   
8  
9 Rey Garduño, President  
10 City Council  
11  
12  
13

14 APPROVED THIS 22<sup>nd</sup> DAY OF September, 2015  
15  
16  
17

18 Bill No. C/S(2) O-15-36  
19  
20

21   
22 Richard J. Berry, Mayor  
23 City of Albuquerque  
24  
25

26 ATTEST:  
27

28   
29 Natalie Y. Howard, City Clerk  
30  
31  
32  
33

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