

## **Article 15 Mobile Food Vendor**

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## **10-1501 Findings And Purpose**

Mobile food vendors provide a beneficial service to the general public within the city while, due to their distinct manner of operation, also presenting substantial differences in circumstances to other food retailers and vehicles users. It is, therefore, desirable to regulate, and require licenses for, mobile food vendors so that their transitory use of various properties can right-of-way locations can occur in a fair and safe manner, and so that public safety and welfare can be protected. The purpose of this article is to enact regulations to service those goals.

## **10-1502 Definitions**

For the Purpose of this article, the following terms shall have the meanings respectively ascribed to them:

**Auxiliary equipment:** Any equipment used in the serving, preparation, storage, or cleanup of food for mobile food trucks or mobile food vending units including, but not limited to, cooking equipment, warming and holding equipment, food prep equipment, refrigeration equipment, janitorial equipment, generators, tables, seating, and umbrellas.

**Food:** Any raw, cooked, or processed edible substance, beverage, ingredient, ice, or water used or intended for use or for sale in whole or in part for human consumption.

**Mobile food truck:** A licensed and operable vehicle or concession trailer, which is enclosed and self-contained, independent with respect to water, sewer, and power utilities, that contains equipment for the preparation and sale or service of food or beverages with or without charge which is designed for immediate consumption. Mobile food trucks may connect to city power utilities if the conditions set forth by the City and Public Works Director are satisfied.

**Mobile food vending:** The act of preparation and sale of service of food or beverages with or without charge that are designed for immediate consumption from a mobile food truck or mobile food vending unit.

**Mobile food vending units:** Any non-motorized vehicle, trailer, stand, cart, or other device designed to be portable and not permanently attached to the ground from which food is served or offered for sale,

which is enclosed and self-contained, independent with respect to water, sewer, and power utilities, that contains equipment for the preparation and sale or service of food or beverages with or without a charge which is designed for immediate consumption. Mobile food vending units may connect to city power utilities if the conditions set forth by the City and Public Works Director are satisfied. Food vending machines which are designed to be unstaffed and exchange food items for money are not considered mobile food vending units.

Mobile food vendor: Any person or entity conducting the sale or service of food and beverage with or without charge from a mobile food truck or mobile food vending unit that are designed for immediate consumption in the public right-of-way or on private property.

### **10-1503 Permit Required**

It shall be unlawful for any person to engage in mobile food vending on public property owned by the City without first obtaining a mobile food vending permit or operate under a valid mobile food establishment permit and all applicable state and City permits and licenses.

### **10-1504 Permit Types**

Applicants for a permit under this article may apply for an annual mobile food vending permit.

### **10-1505 Applications**

(a) An applicant for an annual mobile food vending permit shall file with the Crete City Clerk a signed application on a form to be furnished by the City Clerk, which shall contain the following information:

1. The applicant's business name, address, phone number, and e-mail address;
2. If the applicant is a corporation, partnership, or other entity, the names of all officers and managers of such entity;
3. The vehicle license plate numbers and descriptions of all vehicles from which the applicant proposes to sell food;
4. The business's business registration number or a completed business registration form with the requisite fees;
5. The description of the general type of food items to be sold;
6. Documentation (certificate) from the State of Nebraska (Dept. of Agriculture) Health Department showing its approval of the applicant's sale of food, if required;
7. A copy of the State of Nebraska sales tax permit, or proof of an applicable sales tax exemption for the applicant;
8. The address of the location the applicant anticipates selling from with a signed letter authorizing permission to sell in that location;
9. A copy of the vehicle registration and proof of insurance;
10. Proof of insurance with a minimum coverage amount of Five Hundred Thousand Dollars (\$500,000) together with an insurance certificate listing the City of Crete as an additional insured. The insurance certificate shall remain valid for the duration of the permit.
11. A parking lot layout, if applicant will operate in an established parking lot;
12. A signed waiver of liability
13. A non-refundable application fee shall accompany all applications; and
14. Such other information as the City Clerk or City Administrator may require and as requested in the said application form.

(b) Applicants for a mobile food vending permit must provide the following information to the City for the City Administrator's, or their designee's, approval before operating within City limits:

1. The vehicle license plate numbers and descriptions of all vehicles from which the mobile food vendor proposes to sell food;
2. The description of the general type of food items to be sold;

3. Documentation (certificate) from the State of Nebraska (Dept. of Agriculture) Health Department showing its approval of the mobile food vendor's sale of food, if required;
  4. A copy of the State of Nebraska sales tax permit, or proof of an applicable sales tax exemption or the mobile food vendor; and
  5. A copy of the vehicle registration and proof of insurance of the mobile food vendor.
- (c) Mobile food vendor permits may only be applied for by businesses, organizations, or property owners for a location adjacent to their business or property or if they have written authorization from the adjacent property owners.

### **10-1506 Issuance Of Denial**

- (a) Upon receipt of a complete application for a permit pursuant to this article, the City Clerk shall verify that the information provided is accurate and to determine whether the applicant is in compliance with the provisions of all applicable laws and this Code.
- (b) After receipt of the completed application and application fee, the City Administrator, or their designee, shall either approve or deny the annual mobile food vending permit applications. Grounds for denial may include, but are not limited to, the following:
1. A finding that the application is incomplete;
  2. The nonpayment of applicable fees;
  3. A finding that the application is not in conformance with any applicable laws or any provisions of this code;
  4. A finding that the applicant has an inadequate parking lot layout, if applicable;
  5. A finding that the statements within the application are materially untrue or incorrect;
  6. Previous revocations or suspensions of a mobile food vending permit;
  7. When the location of the permit requested is within an area authorized for a city sanctioned event or within four hundred (400) feet of any boundary of such authorized area, unless the mobile food vendor possesses the written consent of the event organizer to sell or offer to sell food from that location; or
  8. When the location for the permit requested is within a city park, unless the mobile food vendor possesses the written consent of the City Administrator or their designee.
- (c) The City Clerk shall keep a permanent record of mobile food vending permits issued.

### **10-1507 Transferability**

Permits issued under this article shall be nontransferable and no such permit shall be used at any time by any person other than the one to whom it was issued.

### **10-1508 Permit Fee**

An application fee for a permit under this article shall be established by resolution each year within the Master Fee Schedule as adopted by City Council.

### **10-1509 Waiver Of Liability**

Before a mobile food vendor permit is granted, the applicant shall sign a waiver of liability holding harmless the City of Crete and indemnifying the City, its officials, and employees, for any claims for damages to property or injury to persons, which may occur in connection with any activity carried on pursuant to any activities associated with mobile food vending.

### **10-1510 Change In Operating Area**

Mobile Food Vendor shall update the City Clerk of any changes to vending location.

## **10-1511 Permit Renewal**

Mobile food vending permits issued under this article shall expire on December 31 of each year. The permit holder may renew the permit for the following year by filing with the City Clerk a renewal application updating or confirming the information provided in the immediately preceding permit application. At the time of permit renewal, the permit holder shall pay a renewal fee established by resolution within the Master Fee Schedule as adopted by City Council.

## **10-1512 Sales Regulations**

(a) All mobile food vendors shall comply with the following regulations:

1. Mobile food vending is allowed in any zoning district when a mobile vendor has the permission of the City to engage in mobile food vending on the City's property.
2. While engaging in mobile food vending, mobile food vendors shall not be in violation of any city ordinances including any zoning, health, fire, building, or safety requirements.
3. A mobile food vendor shall not sell or offer to sell food from a location which would involve customers waiting in line, to be waited on, or to be served while standing in a portion of a street that is open to be traversed by motor vehicle traffic.
4. The City may order a mobile food vendor to move from or leave a specific location if the mobile food vending at that location causes an obstruction to vehicular or pedestrian traffic or otherwise endangers the health, safety, or welfare of the public. The City may tow or otherwise move, at the vendor's expense, any vehicles or equipment of a mobile food vendor if the vehicle or equipment presents a danger to public safety and the mobile food vendor fails to move the same; or if a mobile food vendor is engaged in mobile food vending without a valid mobile food vending permit.
5. A mobile food vendor shall maintain in operable condition all fire suppression equipment or devices as required by local, state, or federal law.
6. It shall be unlawful for a mobile food vendor to sell or offer to sell alcoholic drinks without obtaining the appropriate permits.
7. A mobile food vendor shall provide trash receptacles for the collection of trash, in sizes sufficient to serve their customers. On a daily basis, and prior to leaving a location, the mobile food vendor shall pick up and properly dispose of any trash and litter within twenty-five (25) feet of the location. Receptacles and their contents shall be removed from the location for proper disposal and contents shall not be deposited in public trash containers on City right-of-way or City property.
8. A mobile food vendor shall not vend or allow vending between the hours of 9:00 p.m. until 8:00 a.m. the following day within a residentially zoned district.
9. A mobile food vendor shall not vend or allow vending between the hours of 10:00 p.m. until 7:00 a.m. the following day within any non-residential zoned district.
10. No mobile food vendor shall utilize any electricity or power without the prior written authorization of the electrical customer; no power cable or similar device shall be extended at or across any street or sidewalk except in a safe manner. If a mobile food vendor requires electrical service, an application must be submitted to the Public Works Director.
11. Minimum of three (3) marked parking spaces must be available within one hundred and fifty (150) feet of the mobile food vendor.
12. A mobile food vendor shall keep the space they occupy clear of any oil, food preparation materials, or food debris. If a mobile food vendor causes the spillage of oil, grease, or other food product, the vendor shall clean the spot of all spilled material.

(b) The following regulations apply only to mobile food vendor's engaging in mobile food vending on public property owned by the City:

1. A mobile food vendor may sell or offer to sell food from a mobile food truck or mobile food vending unit at a location in a city right-of-way open to traffic or parking, but only from a mobile food truck or mobile food vending unit parked in a location where a mobile food truck or mobile food vending unit is authorized to park by law, signage, or city permit. Such a mobile food truck or mobile food vending unit and auxiliary equipment shall not be parked in a parking space adjacent to the corner of a street intersection. No mobile food truck, mobile food vending unit, or auxiliary equipment shall be parked in

any parking stall designated for handicap parking.

2. An individual representative of the mobile food vendor shall be present with the mobile food truck, mobile food vending unit, and auxiliary equipment of the mobile food vendor at all times that it is engaged in mobile food vending.

3. Upon evidence of endangerment of public safety, the City Administrator may limit hours of operation for any mobile food vendor within the City, as needed for the protection of public safety.

4. A mobile food vendor using a mobile food truck shall maintain a motor vehicle liability insurance policy for such motor vehicle as required by state law, and shall exhibit proof of such policy when requested.

5. A mobile food vendor shall visibly display their business name on their mobile food truck, mobile food vending unit, and auxiliary equipment.

6. In the event the mobile food vendor does not clean the space of spilled material or refuses to clear the space of spilled material, The City shall clean the space and bill the mobile food vendor for the work completed based on the rates outlined in the Master Fee Schedule.

### **10-1513 Notice Of Violations**

For purposes of revocation or suspension of mobile food vending permits, upon discovery of any violation under this article, the City Clerk shall provide written notice to the permit holder of such violation. Such notice shall be served personally upon the permit holder or shall be sent by regular U.S. mail to the permit holder's address as stated in their application.

### **10-1514 Revocation Or Suspension**

A permit issued under this article may be revoked or suspended by the City Administrator or their designee for any of the following reasons:

- (1) Any fraud, misrepresentation, or false statement contained in the application for permit;
- (2) Any fraud, misrepresentation, or false statement made in connection with the selling of food;
- (3) Receipt of notices of violations pursuant to section 10-1515; or
- (4) Mobile food vending in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to health, safety, or general welfare of the public.

### **10-1515 Notice Of Revocation Or Suspension; Re-Application**

(a) The City Administrator, or their designee, shall provide written notice to the permit holder stating the revocation or suspension action taken, the grounds for such action, and the availability of an appeal under this section. Such notice shall be served personally upon the permit holder or sent by regular U.S. mail to the permit holder's address as stated in their application.

(b) The City Administrator, or their designee, shall revoke a permit issued under this article for any mobile food vendor who has received notice for one (1) or more violations of the provisions of this article on three (3) separate occasions, or who has received notice of three (3) or more violations of the provisions of this article in total, or any combination thereof, within any consecutive twelve-month period.

(c) A person whose permit has been revoked under this article may not re-apply for a new permit for a period of six (6) months after the effective date of the revocation.

### **10-1516 Appeal Hearing**

(a) Violations. A permit holder aggrieved by the decision of the City Administrator or their designee under this section may file and appeal with the City Clerk. Such request for appeal shall be in writing to the City Clerk accompanied by non-refundable appeal fee. The appeal fee shall be set by resolution in the Master Fee Schedule as adopted by City Council. Such appeal shall be heard by the City Council. The City Administrator shall set such hearing within twenty (20) calendar days from the date of receipt of the written request.

(b) Denials, suspensions, or revocations of permits. Mobile food vendors whose permits under this article have been denied, suspended, or revoked may file an appeal of such decision within twenty (20) calendar days of receipt of the notice. Such request for appeal shall be in writing to the City Clerk and accompanied by the non-refundable appeal fee as set by resolution in the Master Fee Schedule as adopted by City Council. Such appeal shall be heard by the City Council. The City Administrator shall set such hearing within twenty (20) calendar days from the date of receipt of the written request.

(c) A written notice of the decision by the City Council shall be sent to the mobile food vendor by regular U.S. mail or shall be provided at the conclusion of the meeting.

### **10-1517 Severability**

If any provisions, clause, sentence, paragraph or other portion of this article or the application thereof to any person or circumstances shall be held to be invalid, that invalidity shall not affect the other provisions of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

**Source:** *Ord. 2224 (2024)*