

ORDINANCE NO. 1318

AN ORDINANCE TO REVISE AND AMEND ARTICLE 18 OF CHAPTER 10 OF THE RALSTON MUNICIPAL CODE, MOBILE FOOD VENDORS; TO PROVIDE FOR THE REPEAL OF ALL PROVISIONS OF THE RALSTON MUNICIPAL CODE WHICH ARE IN CONFLICT HEREWITH; TO PROVIDE FOR AN EFFECTIVE DATE; AND TO AUTHORIZE THAT SAID ORDINANCE BE PUBLISHED IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF RALSTON, NEBRASKA.

That on the 6th day of December 2022, the Ralston City Council conducted a regularly scheduled public hearing at which it considered revising Article 18, of Chapter 10 of the Ralston Municipal Code. Upon consideration of such, the Ralston City Council approved the revision of so that after passage of this ordinance said section shall read as follows:

Article 18 - Mobile Food Vendors

§ 10-1801. - **Findings and purpose.** Mobile food vending is a popular and diverse part of local economies across the United States. The city wishes to support economic development, foster opportunities for small businesses and encourage mobile food vending. The city also seeks to increase consumer access to desired local foods.

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 of circumstances from other food retailers and vehicle users which suggest the expediency of diverse legislation. It is, thus, desirable to regulate, and require licenses for, mobile food vendors so that their transitory use of various properties and right-of-way locations can occur in a safe manner, ensuring that public safety and welfare can be protected. The purpose of this article is to enact regulations to serve these goals.

§ 10-1802. - **Definitions.** For the purpose of this article the following terms shall have the meanings respectively ascribed to them:

Caterer shall mean a person who transports ready-to-eat food from a permitted food service establishment to another location or building for service on a per event basis for hire, and does not include a temporary food service event.

Food shall mean 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.

Food Truck Park means any parcel of privately-owned land where two or more mobile food trucks or concession trailers congregate on a continuous, regular basis selling food or beverages to the public.

Ordinance No. 1318- Mobile Food Vendors

Mobile food vendor shall mean a person who by traveling from place to place upon the public ways sells or offers for sale food from public or private property to consumers for immediate delivery and consumption upon purchase. The following activities are excluded from such definition, and, alone, do not subject a vendor to being covered by such definition: (a) the sale or offer for sale of farm products produced or raised by such a vendor from land occupied and cultivated by him/her; or (b) the sale or offer for sale of food by a caterer.

§. 10-1803. - **License required.** It shall be unlawful for any person to sell or offer for sale food as a mobile food vendor or operate as a mobile food vendor within the city unless such person complies with the requirements and regulations of this article, including holding a valid and active mobile food vendor license issued by the City Clerk under this article. *Copy of registration and proof of insurance.*

§ 10-1804. - **Application.** An applicant for a license pursuant to this article shall file with the City Clerk a signed application on a form to be furnished by the City Clerk, which shall contain the following information:

- (a) The applicant's business name, address, and phone number; and e-mail address, if any;
- (b) If the applicant is a corporation, partnership, or other entity, the names of all officers and managers of such entity;
- (c) If food is to be sold from any motor vehicle, the vehicle license numbers and descriptions of all vehicles from which the applicant proposes to sell food, and the names of all persons expected to drive such vehicles;
- (d) The description of the general type of food items to be sold;
- (e) Documentation from the Douglas County Health Department showing its approval of the applicant's sale of food, if required;
- (f) A copy of the State of Nebraska sales tax permit, or proof of an applicable sales tax exemption, for the applicant;
- (h) A copy of the vehicle registration and proof of insurance
- (i) Such other information as the City Clerk may require and as requested in the said application form.

§. 10-1805. - **Issuance or denial.**

- (a) Upon receipt of a complete application for a license pursuant to this article, the City Clerk shall make or cause to be made any inquiry or investigation that may be necessary to determine whether the applicant is in compliance with the provisions of all applicable laws and

this Code. The City Clerk may request and take into consideration the recommendations of other affected departments of the city.

(b) After receipt of the completed application and application fee, the City Clerk shall either approve or deny the application. 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 this Code;
- (4) A finding that the applicant has been convicted of three or more separate violations of the provisions of this article within the 12 months preceding the submission of a complete application.

(c) Appeal. A license applicant may file an appeal with the City Council in the event their application is denied by the City Clerk made under this section.

§. 10-1806. - **License fee.** There shall be no fee associated with this license.

§. 10-1807. - **Renewal.**

A license issued under this article shall expire on December 31 of each year, unless renewed for the following year by the licensee. The licensee shall renew the license for the following year by filing with the City Clerk, on or before December 31, a registration updating or confirming the information provided in the immediately preceding license application or registration. The registration shall be on a form provided by the City Clerk.

§. 10-1808. - **Sales regulations.** Mobile food vendors shall comply with the following regulations:

(a) A motor vehicle from which a mobile food vendor sells or offers to sell food shall not exceed 40 feet in length and 96 inches in width. A mobile food vendor selling or offering the sale of food from or using a trailer or other auxiliary equipment shall, during such operations, keep the trailer or auxiliary equipment hitched to an operable motor vehicle towing it, unless otherwise permitted by the city in association with an authorized street show, festival, parade, block party, food truck park, or similar event. An attached trailer or other auxiliary equipment shall not exceed 96 inches in width, and the combined length of the motor vehicle and trailer or auxiliary equipment shall not exceed 60 feet. The maximum dimensions in this subsection may be exceeded by a particular motor vehicle, trailer, or piece of equipment, if approved by the City Clerk upon a mobile food vendor's application for a waiver.

Ordinance No. 1318- Mobile Food Vendors

(b) A mobile food vendor shall not conduct business on a sidewalk or street in any of the following places:

- (1) Within 10 feet of the intersection of the sidewalk with any other sidewalk, except that the Chief Building Official may waive this restriction.
- (2) Within 10 feet of any handicapped parking space or access ramp.
- (3) Within 15 feet of a fire hydrant.
- (4) From a location or position which would involve customers to be waited on or served while standing in a lane or a street traversed by motor vehicle traffic.
- (5) From a diagonal parking space, unless specifically authorized by the City Administrator.

(c) A mobile food vendor who sells or offers to sell food from a location shall first obtain and possess, and be able to exhibit upon request, written consent of the owner of such property.

(d) A mobile food vendor shall not sell nor offer to sell food from city park property or Right of Way unless he/she possesses the written consent of the City Administrator.

(e) A mobile food vendor shall not sell nor offer to sell food from a school property unless he/she possesses the written consent of an authorized representative of the school.

(g) A mobile food vendor shall possess and be able to exhibit his/her license under this article, all required Douglas County Health Department permits, a State of Nebraska sales tax permit or proof of sales tax exemption, and any other written consents or documentation required under this article, at all times during which the mobile food vendor is selling or offering to sell food.

(h) An authorized employee of the public works or police departments may order a mobile food vendor to move from or leave a specific location, if the operation of the mobile food vendor 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 a mobile food vendor's vehicle or other auxiliary equipment to another location if the vehicle or equipment presents a danger to public safety and the mobile food vendor fails to move the same. The City Clerk shall provide to the mobile food vendor a written explanation for any such order, upon written request by the mobile food vendor to the City Clerk.

(i) An individual representative of the mobile food vendor shall be present with the motor vehicle and other auxiliary equipment operated by the mobile food vendor at all times that it is parked in city right-of-way or on city property, and at all times that it is parked on private property at a location where food is or will be offered for sale.

(j) A mobile food vendor may sell or offer to sell food seven days a week, but only from 6:00 a.m. to 2:30 a.m. It shall be unlawful for a mobile food vendor to sell or offer to sell food at any other times. Notwithstanding this subsection, upon evidence of endangerment of public

safety, the chief of police or his/her designee may further limit hours of operation for all mobile food trucks within the city, as needed for the protection of public safety, for a period of no more than 30 consecutive days at a time.

- (k) A mobile food vendor using a motor vehicle 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.
- (l) A mobile food vendor shall maintain in operable condition all fire suppression equipment or devices as required by local, state or federal law.
- (m) Mobile food vendors may only sell alcohol pursuant to a valid liquor license issued in accordance with Nebraska state law.
- (n) A mobile food vendor shall visibly display his/her business name on his/her motor vehicle or auxiliary equipment.
- (o) A mobile food vendor shall provide trash receptacles for the collection of trash and recyclable materials, in sizes sufficient to serve his/her customers. Prior to leaving a location, the mobile food vendor shall pick up and properly dispose of any trash, litter, or recyclable materials within 20 feet of the location. Receptacles and their contents shall be removed from the location for proper disposal or recycling, and contents shall not be deposited in public trash or recycling containers on city right-of-way or city property.
- (q) A mobile food vendor shall comply with all city ordinances regulating noise.

Sec. 10-1809. - Revocation or suspension.

- (a) Grounds. A license issued under this article may be revoked or suspended by the City Administrator for any of the following reasons:
 - (1) Any fraud, misrepresentation, or false statement contained in the application for license;
 - (2) Any fraud, misrepresentation, or false statement made in connection with the selling of food;
 - (3) Any violation of this article or any applicable laws or provisions of this Code;
 - (4) Conducting the business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.
- (b) Multiple convictions of violation of this article or of any similar article. The City Clerk shall revoke a license issued under this article for any mobile food vendor who is convicted of three or more separate violations of the provisions of this article or of any similar article in effect in any other jurisdiction within any consecutive 12-month period. For purposes of this section

conviction shall mean any finding of guilt or liability on the part of the mobile food vendor by a court of competent jurisdiction, and shall include any conviction that has previously been set aside.

(c) Notice. To revoke or suspend a license, the City Clerk shall provide written notice to the license 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 license holder or sent by regular U.S. mail to the license holder's address as stated in his/her application.

(d) Appeal. A license holder aggrieved by the decision of the City Clerk under this section may file an appeal with the City Council.

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

Section. 10-1811. **Food Truck Parks**

Food truck parks shall be subject to the following regulations:

(a) A food truck park shall only be permitted to operate with an approved conditional use permit in zoning districts designated in section x of the Ralston Zoning Ordinance.

(b) Food truck park operators must ensure that vendors have potable water hookups, approved wastewater drainage facilities, approved grease interceptor hookup(s), and any other accommodations required to ensure compliance with all regulatory codes, including but not limited to the local health authority.

(c) The food truck park shall retain valid copies of all required licenses for each mobile food vendor operating on site.

(d) The food truck park shall obtain a Certificate of Occupancy from the city.

(e) A mobile food truck or concession trailer shall not have a drive through.

(f) There shall be a minimum of ten linear feet of clearance between all individual mobile food truck or concession trailers. A site plan showing the layout of the food truck park and the placement of the units must be submitted.

(g) Restroom requirements shall be based on the proposed maximum occupancy for the property as submitted by the applicant in his/her conditional use permit application and approved by Planning Commission and the Building Official.

(h) Adequate lighting to enable clear and unobstructed visibility of food truck park vendors and patrons shall be provided on all entrances and exits of the food truck park area, and along each corner side of the park area including along the sides of any buildings. No light shall be emitted to any surrounding properties.

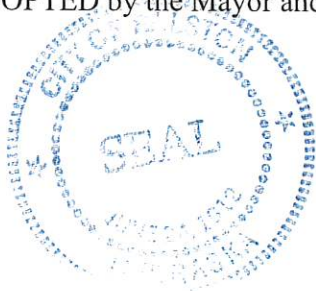
- (1) Waste receptacle container(s) shall be provided on site as determined by the public works department based on the lot size and the amount of solid waste generated by the mobile food vendors on site.
- (2) Each food truck/trailer shall be located in an all-weather surface (i.e., asphalt or concrete), and in no case shall they be parked on an unimproved surface.
- (3) Any dining areas or outside seating within the food truck park shall be paved with an all-weather surface.
- (4) Mobile food trucks and concession trailers must meet all applicable laws regarding mobile food vendors as described in the International Building Code (IBC) and the National Fire Protection Association 1 (NFPA 1), as adopted and amended by the city.
- (5) When required, mobile food trucks and concession trailers must be equipped with commercial mechanical facilities sufficient to provide proper cooking ventilation and fire suppression for eating establishments, as establishments under the city's adopted building codes. All equipment on the vehicle is to be NFS International approved, American National Standards Institute (ANSI) approved, or of commercial grade.
- (6) Electricity shall be from a generator or permanent connection in a food truck park and the mobile food trucks and concession trailers shall utilize electrical cords in conformance with the National Electric Code as adopted and amended by the city.
- (7) Must comply with the city's noise ordinance.
- (8) All mobile food truck/trailer vendors shall comply with all other applicable state and local laws applicable to food vendors and handlers.

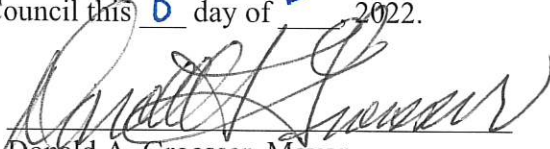
Section 2 – Repealer: Any and all Ordinances or portions thereof, which are in conflict herewith are hereby repealed.

Section 3. – Pamphlet form: This Ordinance shall be published in pamphlet form.

Section 4. - Effective date: This Ordinance shall take effect and be in full force from and after its passage, approval and publication.

ADOPTED by the Mayor and City Council this 6th day of December, 2022.




Donald A. Groesser, Mayor


Ordinance No. 1318- Mobile Food Vendors

ATTEST:



Maura Kelly, City Clerk

APPROVED AS TO FORM:



Donald Ficene, City Attorney