

ORDINANCE NO. 762

AN ORDINANCE REGULATING MOBILE FOOD VENDORS WITHIN THE CORPORATE LIMITS OF THE CITY OF OGDEN, KANSAS; AMENDING CHAPTER 5 OF THE CODE OF THE CITY OF OGDEN.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OGDEN, KANSAS:

Section 1. Amendment. That the Code of Ordinances of Ogden, Kansas, is hereby amended, by adding a new Article 13 to Chapter V, which shall read as follows:

ARTICLE 13. - MOBILE FOOD VENDING

5-1301. DEFINITIONS. The words and phrases listed below when used in this Chapter shall have the following meanings:

- a) "City Approved Event" shall mean any event sponsored by the City, any event such as a community celebration or festival approved by the Governing Body, or any event sanctioned by a permit issued by the City, including but not limited to a Temporary Use Permit.
- b) "Food and/or Beverage" shall mean:
 - 1. Articles used for food or drink for humans or animals.
 - 2. Articles used for components of any such article, in accordance with the definition of food within K.S.A. 65-656.
- c) "Licensee" means a Mobile Food Vendor who has been granted a license pursuant to this Article.
- d) "Mobile Food Vending" shall mean to conduct, hold, carry on, pursue, or operate a business of vending, peddling, hawking and/or selling any food and/or beverage from a Mobile Food Unit stopped in one location for a period of more than 5 minutes.
- e) "Mobile Food Vendor" shall mean any person, corporation, association, or other entity, however organized, that offers any food or beverage for sale from a Mobile Food Unit to conduct Mobile Food Vending.
- f) "Mobile Food Unit" or "Unit" shall mean any self-contained vehicle, trailer, cart, wagon, or other type of conveyance from which any food and/or beverage is offered for sale.
- g) "Person" shall mean an individual, corporation, partnership, company, agency, institution, or any other entity.

5-1302. VENDING PROHIBITED WITHOUT CITY LICENSE. It is unlawful for any person to conduct or operate Mobile Food Vending within the corporate limits of the City of Ogden, Kansas, without obtaining a license in accordance with this Chapter.

5-1303. LICENSE APPLICATION. No person shall engage in activities set forth within this Article, within the City, without first obtaining a license. Any applicant for a license under this Article shall file with the city clerk a sworn application on a form furnished by the city clerk, which shall give information, or provide documentation as follows:

- a) Name, date of birth, phone number, copy of state or government issued identification card, and permanent address of the applicant and the business.
- b) The name of the owner and the type, make and registration number of the vehicle(s)/Mobile Food Unit to be used.
- c) Date(s) and time(s) for which the license is desired:
- d) Address (or description) of location and nature of the business.
- e) Description (with dimensions) of any temporary structures to be erected, constructed, and used by all persons or employees.
- f) A statement as to whether the applicant has ever had a mobile vending license or other similar license, or registration revoked or suspended under the Ogden Code or the ordinances of the City of Ogden or any other city. Such a revocation or suspension may result in the City's refusal to process the requested license.
- g) A statement as to whether all persons or employees are required to register as a drug or sex offender under any state or federal law.
- h) A statement that the applicant understands and agrees that the license will not be used or represented in any way as an endorsement of the applicant by the City of Ogden, Kansas or by any department, officer, or elected or appointed official of the City.
- i) Proof of a valid driver's license within the State of Kansas for operation of the class of vehicle identified in the application for the applicant and any agents or employees of the applicant who will be involved in driving the identified vehicle.
- j) Proof of a current sales tax license from the State of Kansas or proof of exempt status from state sales tax.
- k) Proof of Food Service Permit issued by the State of Kansas.
- l) Proof that the applicant has secured commercial general liability insurance for the mobile vending operation to be maintained for the entire length of the license, written by an insurance carrier licensed to do business in Kansas, with minimum limits of \$500,000 combined, single limit for bodily and property damage, each occurrence and \$1,000,000 in the general aggregate. Evidence of compliance with these insurance requirements shall be in the form of a certificate of insurance that shall be submitted with the application. Such insurance certificate shall not be cancelled without prior written notice to the City.
- m) Signatures of applicant, individually and/or by its members and officers, and any agents or employees of the applicant who will be involved in the Mobile Food Vending certifying that all the information provided in the application is true and correct.

5-1304. FEE. All applications for Mobile Food Vending licenses shall be accompanied by a non-refundable, non-transferable license fee as in the City's fee schedule.

5-1305. LICENSE. If the facts stated in the application are satisfactory and the requirements of this Article are met, the City Clerk may issue a Mobile Food Vending license to the applicant. The issuance of a license shall not constitute approval of the business or activity or otherwise prohibit enforcement of this article or any other applicable laws, city code provisions, rules, or regulations. The Licensee shall also possess all applicable health and safety licenses, food handling licenses or the like as required by local, state, and federal laws, statutes, rules, or regulations.

5-1306. OPERATING CONDITIONS. All Mobile Food Vending licenses shall be subject to compliance with the following conditions:

a) Location. Mobile Food Vendors may vend on property within the City subject to the following:

1. Mobile Food Vendors may operate in the following zoning classifications: C-1, C-2, and Mixed-Use zones.
2. Mobile Food Vendors shall not be located on property where the Unit or a line of customers would (1) hinder the flow of traffic on any street, (2) hinder the flow of bicycles within any bike lane or route, (3) hinder the flow of pedestrians along any sidewalks, (4) block or reduce to less than five feet in width any accessible route to persons with disabilities, (5) block, hinder, or obstruct the vehicular flow within any parking lot, or (6) block or obstruct access to any driveway or access point to any property.
3. Mobile Food Vendors shall not operate or locate on any City or public property.
4. Mobile Food Vendors shall not operate or locate within 500 feet of an otherwise Approved City Event unless approval is given by the mayor.
5. Every Unit shall be stationary while vending.

b) Written Permission of Property Owner. All Mobile Food Vendors operating on private property shall acquire and maintain the written permission of the property owner for the use of and location of the Unit on said property. Written permission of the property owner shall be kept in the Unit and produced upon request by the RCPD, or designee or other public officer charged by the Mayor.

c) Hours of Operation. Mobile Food Vendors are prohibited from offering for sale any food or beverage between the hours of 3:00 a.m. and 6:00 a.m.

d) Lights. In accordance with the City Zoning Regulations, no flashing lights or attention attracting devices are permitted on or in association with the use of the Mobile Food Unit. No direct light from a Mobile Food Unit may be shined on adjacent property or cause a glare or distraction for vehicles, bicycles, or pedestrians.

e) Signs. One sign, within fifteen (15) feet of the associated Unit, may be displayed and shall not be greater than 16 square feet in total area. The sign may not interfere with vehicle access, pedestrian movement, or handicap-accessible routes to and around the Unit. Streamers, pennants, search lights and any device with flashing, blinking, rotating, or moving actions are prohibited. No signage shall be placed in a public right-of-way or hinder the lines of sight of any roadway.

f) Trash and Site Cleanup. All Mobile Food Vendors shall ensure that a trash receptacle shall be provided with each Mobile Food Unit. Such receptacle must be attached to the Unit or located within fifteen (15) feet of the Unit and shall not interfere with vehicle access, pedestrian movement, or handicap-accessible routes to and around the Unit. Immediately upon the cessation of vending, the Mobile Food Vendor shall remove and properly dispose of all trash and litter accumulated at the vending site.

g) Licenses and Permits. All mobile food vendors shall acquire and maintain all required licenses and permits applicable to the use and operation of Mobile Food Units from all applicable jurisdictions. Evidence of such licenses and/or permits shall be kept in the Unit and produced upon request by the RCPD or designee or other public officer charged by the Mayor with enforcement of this article.

h) Safety. All mobile food vending units shall be maintained in good repair, shall be free from peeling or flaking paint, and shall be clean and sanitary to not pose a threat to public health, safety, or welfare. All units shall be connected safely to electricity and other necessary utilities, so they do not pose a threat to public health, safety, or welfare.

5-1307. TERM AND TRANSFERABILITY. Licenses issued under this Article are available for periods of one day, one month, six months or annually. No licenses shall be transferred or assigned.

5-1308. PARKING IN PUBLIC RIGHTS-OF-WAY. It is unlawful for any Licensee or Mobile Food Vendor to stop, stand or park any Unit in any street, alley, or sidewalk or other public right-of-way for the purpose of Mobile Food Vending. The Mobile Food Vendor shall be conducted at locations which provide adequate parking for customers or other persons going to and from the activity or business.

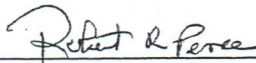
5-1309. SOUND DEVICES. The production of amplified music or chimes from a Mobile Food Unit is allowed between the hours of 10:00 AM and 7:00 PM provided that the sound from the amplified music or chimes is inaudible at any distance greater than three hundred (300) feet from the Unit.

5-1310. EXEMPTIONS. The provisions of this article shall not apply to the following activities:

- a) The sale of farm or garden products or fruits grown by the seller or his or her employer or at a recognized farmer's market.
- b) Vendors selling as part of a Special Event sponsored in part by the City, civic organizations, not-for-profit organizations, charitable organizations, public or private schools.
- c) Individuals providing catering services to a private event and not open for the sale of food and/or beverages to the general public.
- d) Lemonade stands.
- e) Restaurants in permanent immovable structures that are already operating as a licensed business within the City.

Section 2. Effective Date. This ordinance shall take effect and be in force from and after its publication in the official city newspaper.

PASSED AND ADOPTED THIS 3rd DAY OF JANUARY 2024, BY THE GOVERNING BODY OF THE CITY OF OGDEN, KANSAS.



ROBERT PENCE
Mayor

ATTEST:



DAVID WARD, City Clerk