

ORDINANCE NO. 622

AN ORDINANCE OF THE CITY OF NELIGH, NEBRASKA ADOPTING "MOBILE FOOD VENDORS" REGULATIONS TO REGULATE MOBILE FOOD VENDORS OPERATING WITHIN THE CITY; TO PROVIDE FOR A FOOD VENDOR LICENSE; TO ESTABLISH PENALTIES FOR VIOLATION; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE.

WHEREAS, the City of Neligh, (City) has identified an interest from mobile food vendors who desire to offer food to local citizens and visitors to the City; and

WHEREAS, the City Council desires to allow such mobile food vendors; and

WHEREAS, in order to protect the health, safety and welfare of its citizens, the Mayor and Council of the City deem it appropriate to provide for regulation of mobile food vendors and to enact certain licensure requirements for such mobile food vendors.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NELIGH, ANTELOPE COUNTY, NEBRASKA, AS FOLLOWS:

SECTION 1: DEFINITIONS

The following terms shall have the meanings respectively ascribed to them:

"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.

"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.

"Permanent food establishment" shall mean a fixed building which a person occupies on a continual basis and from which such person sells or offers to sell food for immediate delivery and consumption upon purchase. Such term shall not include a location where a mobile food vendor sells or offers to sell food.

SECTION 2: APPLICATION

It shall be unlawful for any person to 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 pursuant to this Article; except that a mobile food vendor may operate at events sponsored by or approved by the City without obtaining a mobile food vendor license if such mobile food vendor has obtained written consent from the City to operate at such event. Any such mobile food vendor shall be subject to all Regulations contained in this Article.

An applicant for a license 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, telephone number and email address, if any;
- (b) If the applicant is a business entity of any kind, 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 such vehicle, and the names of all persons authorized and expected to drive such vehicle, and a copy of a valid and currently existing policy of liability insurance for such motor vehicle;
- (d) A copy of the State of Nebraska sales tax permit, or proof of an applicable sales tax exemption; food sales permit issued by the state of Nebraska department of health, and
- (e) A copy of the applicant's policy or policies of commercial general liability insurance
- (f) Such other documentation as the city clerk may require and as requested in the application.

Upon receipt of a completed application, the city clerk shall make or cause to be made any inquiry or investigation that may be necessary in order to determine whether the applicant is in compliance with all applicable laws. The city clerk may request and take into consideration the recommendations of the Neligh Police Department and may request a criminal record check of the applicant or those persons working in such food vendor vehicle.

After receipt of the completed application and a nonrefundable application fee in the amount as set by the City Council and listed on the city fee schedule resolution, the city clerk shall either approve or deny the application.

SECTION 3: REGULATIONS

Mobile food vendors shall comply with the following regulations:

- a) A mobile food vendor shall not operate from a location within fifty feet (50') of the main entrance of a Permanent Food Establishment during the hours that food is sold within such Permanent Food Establishment, unless such Permanent Food Establishment has provided written consent.

- b) A mobile food vendor may operate from a motor vehicle at a location in a city right-of-way open to traffic or parking, but only from a motor vehicle parked in a location where a motor vehicle is authorized to park by law and has received the written approval of the Chief of Police of the City of Neligh.
- (c) A mobile food vendor shall not operate from a location which would involve customers to be waited on or served while standing in a portion of a street being traversed by motor vehicle traffic.
- (d) A mobile food vendor who operates from a location on property rather than city right-of-way shall first obtain and possess, and be able to exhibit upon request a written consent of the owner of the property; and any required temporary use permit to be issued by the City.
- (e) A mobile food vendor shall not operate from city park property unless it possesses the written consent of the City or the Antelope County Fair Society, if operated during the Antelope County fair.
- (f) A mobile food vendor shall not operate from a school property unless it possesses the written consent of the school district.
- (g) A mobile food vendor shall not operate from a location authorized for a street show, festival, parade, block party, or similar event, or within 200 feet of any boundary of such authorized area, unless the mobile food vendor possesses the written consent of the event permittee to operate from that location.
- (h) A mobile food vendor shall possess and be able to exhibit its city license, 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 operating.
- (i) The City police department 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. If such order is refused, the Police Department may authorize that the vehicle be towed.
- (j) An individual representative of the mobile food vendor must remain with the motor vehicle, trailer or auxiliary equipment during all operating hours of the food vendor vehicle.
- (k) A mobile food vendor may operate seven days a week but only from 6:00 A.M. to 11:00 P.M. It shall be unlawful for a mobile food vendor to operate at any other times.
- (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) It shall be unlawful for a mobile food vendor to sell or offer to sell alcohol in any form.
- (n) A mobile food vendor shall provide trash receptacles and shall properly dispose of all trash and litter within 20 feet of its location, but such trash shall not be disposed of in public trash containers on city right-of-way or city property.
- (o) If utilizing deep fat frying equipment, a proper means of disposal of used grease used in such operation.
- (p) A mobile food vendor shall not utilize loud speakers or musical equipment which would disrupt the peace and quiet of any residential property near to the location of the food vendor vehicle.

SECTION 4: LICENSE RENEWAL

A license issued shall expire on December 31st of each year, unless renewed for the following year. An applicant shall renew a license for the following year by filing with the city clerk a statement updating or confirming the information provided in the immediately preceding application. The statement shall be on a form to be furnished by the city clerk. At the time of filing of such statement, a renewal fee as set by the City Council and listed on the schedule of fees resolution.

SECTION 5: LICENSE REVOCATION OR SUSPENSION

A license issued may be revoked or suspended by the city clerk for any of the following reasons:

- a) Any fraud, misrepresentation, or false statements contained in the application;
- b) Any fraud, misrepresentation, or false statements made in connection with the sale of food;
- c) Any violation of this Article or any applicable laws;
- d) Conduct of business 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.

To revoke or suspend a license issued, 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. Such notice shall be served personally upon the license holder or sent by regular US mail to the license holder's address as stated in its application.

A license holder aggrieved by the decision of the city clerk under this Section may file an appeal with the City Council. If such appeal is taken the City Council shall

convene a special meeting to hear such appeal. The parties may be represented by their attorney at such appeal but the formal rules of evidence shall not apply. The decision of the City Council shall be final.

A license holder whose license has been revoked under this Section may not reapply for a new license for a period of six months after the effective date of the revocation.

SECTION 6: SEVERABILITY

If any provision, clause, sentence, paragraph or other portion or the application thereof 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.

SECTION 7: INVALIDITY OF PROVISIONS

.If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 8: CONFLICTING ORDINANCES REPEALED

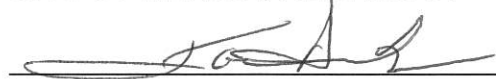
Any other ordinance or section passed and approved prior to passage, approval, and publication of this ordinance and in conflict with its provisions is repealed.

SECTION 9. EFFECTIVE DATE

This ordinance shall take effect and be in full force after its passage, approval, and publication as required by law.


Dated this 2th day of October, 2019.

CITY OF NELIGH, NEBRASKA



Mayor

ATTEST:



City Clerk

CERTIFICATION

I, Danielle Klabenes, clerk of the City of Neligh, Nebraska, hereby certify that the foregoing is a true and complete copy of Ordinance No. 622 of said city, passed by the City Council this 8th day of October, 2019.

Danielle Klabenes

City Clerk

(SEAL)