

**ORDINANCE NO. 970**

**AN ORDINANCE OF THE CITY OF ORD, NEBRASKA, AMENDING SECTION 10-204 TO ARTICLE 2 – PEDDLERS AND HAWKERS OF THE CITY OF ORD, NEBRASKA, CODE OF ORDINANCES; REPEALING ALL ORDINANCES AND SECTIONS IN CONFLICT HEREWITH; AND PROVIDING A TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.**

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY ORD, NEBRASKA:

Section 1. That the Mayor and City Council of Ord, Nebraska, do hereby amend Section 10-204 to Article 2 – Peddlers, Hawkers and Mobile Vendors of the City of Ord, Code of Ordinances, to read as follows:

**§10-204 MOBILE VENDORS.**

(A) Mobile Vendors shall not be considered a peddler or hawker and shall not be forced to comply with Sections 10-201 through 10-203 of this Article.

(B) An application in writing shall be filed with the City Clerk for a mobile vendor permit prior to the sale of any item or food sold out of any vehicle, cart or stand on public or private property within the city limits. The applicant shall provide the following information:

- (1) Personal information including business name, address, phone, e-mail, etc.
- (2) Vehicle license number(s), description(s) for all vehicles that will be used to sell the items/food and names of individual(s) expected to drive the vehicle(s).
- (3) Description of the location of where the vendor will be doing business.
- (4) If selling food, documentation of *Temporary Food Establishment Permit* or *Mobile Food Unit Permit* issued by the Nebraska Department of Agriculture – Food Safety & Consumer Protection.
- (5) Copy of Sales Tax Permit and proof of liability insurance.
- (6) Special liquor license (if applicable).
- (7) Written permission as required in Section E (if applicable).

(C) The City Clerk, upon review of the application with the police department and any other appropriate department or agency, shall determine whether a license will be issued to the applicant. Waiting period of not less than three (3) business days from the date of the application shall be in effect to provide sufficient time for the City Clerk’s fact gathering process to be completed in a reasonable period. In making his/her decision the Clerk shall consider the following factors:

- (1) All information required has been provided and the application is complete;
- (2) The required fee is paid;
- (3) The application is in conformance with the municipal code;

- (4) The applicant has not been convicted of two or more separate violations of the provisions of the code within 12 months preceding application submittal.

Upon the City Clerk deciding the factors have been satisfied by the applicant, a license shall be issued upon payment of non-refundable fee, in advance as set in the schedule of fees adopted by the City Council by resolution. Said permit and, if selling food, either their Temporary Food Establishment Permit or Mobile Food Unit Permit issued by the Nebraska Department of Agriculture – Food Safety & Consumer Protection shall be exhibited on the vendor's vehicle or trailer at all times they are operating within the city limits. The vendor's proof of a State of Nebraska sales tax permit or proof of tax exemption shall also be available upon request of any city official/employee or a customer.

The City shall revoke any and all permits based on fraud or misrepresentation in the original application or related to the selling of items/food, any violation of municipal code, etc. Upon revocation, the vendor shall not be allowed to reapply for a permit for a period of 30 days for the first offense and 12 months for a second offense.

(D) Reporting Sales Tax is the responsibility of each permit holder and must be accomplished by the normal channels used to pay the State of Nebraska. Vendors must include Ord in the location section of Nebraska Form 10.

(E) Permit holders are prohibited from conducting business within 50 feet of the main entrance used by customers to enter/exit a permanent business during the establishment's normal business hours. Exceptions can be made if the vendor provides the city with documentation showing that he/she has written permission from the permanent business owner to locate closer than 50 feet.

In addition, vendors are prohibited from selling within 50 feet of any city, county or school-owned property without the written consent from the city, county or school.

Vendors setting up within an approved street closure for a special event shall provide the city with documentation showing that he/she has written permission from the event sponsor.

(F) At least one representative of the mobile vendor shall be present with the vehicle and/or auxiliary equipment at all times it is parked in the city right-of-way.

(G) Motor vehicles from which items/food is sold shall be limited to 40 feet in length and 96 inches in width. If items/food are sold from a trailer, the total length of the trailer and vehicle towing it shall be 60 feet and 96 inches in width. The trailer shall remain hitched to the vehicle pulling it at all times in case of an emergency.

(H) Parking of mobile trucks:

- (1) An approved mobile vendor may do business from a location in a city right-of-way that is open to traffic only where motor vehicles are allowed to park by law, signage or permit. Parking is prohibited in or blocking access to designated handicap parking areas unless such area is closed for a special event.
- (2) Mobile vendors shall only conduct business in a commercial zoned area. (Per motion passed by City Council 11/7/22, food truck vendors will be allowed in a residential zoned area for auctions.)
- (3) Mobile vendors are restricted from parking within 25 feet of the corner of a block.

- (4) Vendors shall not place on city right-of-way or city property any freestanding sign, table, chair, umbrella, electric generator or other fixture or equipment except one identification or menu sign on the sidewalk or other area directly adjacent to the parked motor vehicle or trailer.
- (5) Vendors shall be responsible for their own electricity.
- (6) Mobile vendors shall only be allowed to remain parked in a parking site for eight hours at a time unless the street is closed for a special event. In cases of a special event, the vendor may remain from 2 hours prior to the special event until 2 hours after.
- (7) All items/food shall be sold to customers on the sidewalk so that customers are not waited on or served while standing on any portion of the street unless the street is closed for a special event.
- (8) The vendor shall provide trash receptacles sufficient to serve the customers and shall be required to pick up and dispose of any trash, litter, etc. within 20 feet of their vehicle or trailer.
- (9) The public works or police departments shall have the authority to order a mobile vendor to move from or leave a specific location if the operation at that location causes an obstruction to vehicular or pedestrian traffic, violates any section of the municipal code (including noise), or otherwise endangers the health, safety, or welfare of the public. Should the vendor fail or refuse to move, the City shall move or tow the vendor's vehicle to another location.

(I) No alcoholic beverages shall be sold unless there is a street closure and the vendor has a special liquor license for the event.

(J) Those vendors requesting exceptions to the rules outlined herein, shall make a written request to the city council and attend the council meeting in which the city council reviews the request to answer any questions. All decisions of the city council are final. (*Neb. RS 17-134, 17-525, 17-526*)

Section 2. Any other ordinance or code section passed and approved prior to passage, approval and publication or posting of this ordinance and in conflict with its provisions is repealed.

Section 3. That this ordinance shall take effect and be in full force and effect from and after its passage, approval and publication or posting as required by law.

PASSED AND ADOPTED this 6<sup>th</sup> day of June, 2022.

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Daniel Petska, Mayor

ATTEST:

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Sandy Kruml, City Clerk