

**City of Aztec
ORDINANCE 2016-451**

An Ordinance Amending Chapter 11 Licenses and Business Regulations, Section 11-1-1 Definitions and Article IX Food Catering, Food Vending and Mobile Vending Service Units

- WHEREAS:** The City Commission would like to see economic diversification; and
- WHEREAS:** Allowing the commercial use of public property with reasonable controls will help diversify the local economy; and
- WHEREAS:** Such commercial use ought to include owners of mobile food and vending units to operate on public property with the proper business license; and
- WHEREAS:** Vendors shall not operate or park a mobile food/vending unit less than 100 feet from a like establishment; and
- WHEREAS:** It is deemed acceptable and necessary to amend the City of Aztec Municipal Code to allow for food and vending units to operate on public property, so long as, the owner of the mobile vending unit obtains a business license for a mobile food/vending unit;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Aztec, New Mexico that Ordinance 2016-451 which amends Chapter 11 Licenses and Business Regulations, Section 11-1-1 Definitions and Article IX Food Catering, Food Vending and Mobile Vending Service Units

PASSED, APPROVED, SIGNED AND ADOPTED THIS _____ day of _____ 2016.

By the Aztec City Commission, City of Aztec, New Mexico

Mayor Sally Burbridge

ATTEST:

Karla Saylor, City Clerk

APPROVED AS TO FORM:

Larry T. Thrower, City Attorney

ADVERTISED DATE OF FINAL ADOPTION: _____

EFFECTIVE DATE OF ORDINANCE: _____

**Chapter 11
LICENSES AND BUSINESS REGULATIONS**

ARTICLE I. IN GENERAL

Section 11-1-1. Definitions.

Mobile Food Service Unit

Means a motor vehicle department-licensed vehicle-mounted food/~~vending~~ service establishment designed to be readily movable and which serves multiple locations on a daily basis ~~for not more than two (2) hours at each location~~ and shall not be parked closer than one hundred (100) ~~thousand (1000)~~ feet from a like establishment, unless given written permission by the establishment, ~~apart~~, except for single, temporary events or celebrations. ~~The 100 feet separation will be measured along the sidewalk or street edge.~~ Mobile Food Service Unit does not include a "Transporter" used to transport packaged food from a food facility or other approved source to the consumer.

**ARTICLE IX. FOOD CATERING, FOOD VENDING AND MOBILE ~~FOOD SERVICE~~
VENDING UNITS**

DIVISION 1. IN GENERAL

Sec. 11-9-1. License Required.

It shall be unlawful for any person, firm, organization or corporation to engage in or carry on, or to operate, or cause or permit to be operated, the business of a Mobile ~~Food Service Vending~~ Unit, Food Catering business, or Food Vending operation, upon any public street, sidewalk, alley, or any other public or private place in the City of Aztec without first having obtained a Business License from the City of Aztec, accompanied by documentation of official approval by the ~~Health authority~~ **New Mexico Environmental Department**. A license issued under this Article is not transferable from vehicle to vehicle or from person to person.

DIVISION 2. LICENSE

Sec. 11-9-2 License Application.

Except as otherwise provided herein, an application for a Business License for a Mobile Food/~~vending~~ Service Unit pursuant to the provisions of this Article shall specify or include:

1. The name, business and residence address of the applicant and the address where the mobile catering vehicle is stored during non-operating hours. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation; the names and residence addresses of each of the officers and directors. If the applicant is a partnership, the application shall set forth the name and

residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this Section pertaining to a corporate applicant apply.

2. A description of the Mobile Food/~~Vending~~ Service Unit, including the following data:
 - a. The make, model and type of body; the vehicle license plate number; the vehicle identification number or any other identifying number as may be required by the City of Aztec. ~~If this information is not known at the time of license application a temporary license may be issued and this requirement can be satisfied as a condition of obtaining a final and permanent license; if this information is not obtained within sixty (60) days of the date the City issues a temporary business license, the license request shall be automatically scheduled for a license revocation hearing.~~
3. A description of the food products or services the applicant intends to sell.
4. The specific location(s) and/or routes of the activity, including a detailed description and proposed site plan of where the applicant intends to place his or her Mobile Food/~~Vending~~ Service Unit, illustrating sufficient parking area and adequate ingress and egress for customer vehicles, as required by the Community Development Department.
5. The proposed hours of operation and days of operation for each location and/or route that the Mobile Food/~~Vending~~ Service Unit proposes to serve.
6. Proof of a valid and current food service permit issued by the ~~health authority~~ **New Mexico Environmental Department** or a written statement from the ~~health authority~~ **New Mexico Environmental Department** stating that a food service permit is not necessary.
7. If proposing to locate the Mobile Food/~~Vending~~ Service Unit on private property not owned by the applicant, a lease agreement or notarized statement from the landowner of record is required as proof of location approval and use.
8. If proposing to be located at one location for more than two hours, a notarized statement from a business within one hundred fifty (150) feet of the Mobile Food/~~Vending~~ Service Unit location must be provided as proof that employees of the Mobile Food/~~Vending~~ Service Unit will have access to and use of flushable restrooms (or other facilities as approved by the ~~health authority~~ **New Mexico Environmental Department**) during hours of Mobile Food/~~Vending~~ Service Unit operation.

No license for a Mobile Food/~~Vending~~ Service Unit will be issued if the required information is not provided.

Each Mobile Food/~~Vending~~ Service Unit shall require a separate license pursuant to this Article. Each license issued pursuant to this Article shall be valid for only those Locations, Routes and hours of operation that the City of Aztec approves as set forth in this Article.

Sec. 11-9-3 Display of Mobile Food/~~Vending~~ Service Unit License.

Each vehicle used as a Mobile Food/~~Vending~~ Service Unit must obtain a business license and pay the applicable license fee imposed by Section 11-3-7 The business license must display on its face the vehicle identification number (VIN) and the license plate number of the Mobile

Food/Vending Service Unit that is being licensed. The business license, food/vending service permit and list of approved hours and locations must be displayed at all times in the vehicle in a prominent and conspicuous manner for view by the general public.

Sec. 11-9-4 License Amendment, Renewal and Suspension.

Business license(s) must be renewed each January 1. Business Licenses for Mobile Food/Vending Service Units renewed by the City are not final and effective unless and until the Mobile Food/Vending Service Unit Applicant has obtained and provided a copy to the City of an annual renewal of his or her food service permit from the ~~health authority~~ New Mexico Environmental Department.

Business license holders desiring to change the location(s) and/or routes of the Mobile Food/Vending Service Unit, modify the hours of operation, or add a new location(s) during the term of the annual license, shall file a new application with the City of Aztec upon a form provided by the City. Such requests shall be processed in the same manner as a new license. Mobile Food/Vending Service Units shall not implement changes and/or additions to locations and routes until the City of Aztec has issued approval of such changes/additions.

A business license for a food/vending service vendor or establishment within the City may be immediately suspended without a public hearing if the City receives written notification from the ~~health authority~~ New Mexico Environmental Department that the business poses an imminent health hazard (as defined by the New Mexico Food Act). In the event of a license suspension, the City will provide the business owner with written notification of the suspension within forty-eight (48) hours from the date of notification by the ~~health authority~~ New Mexico Environmental Department; once the license is suspended the business shall immediately cease all operations until all health violations have been addressed and the City has received written notification from the ~~health authority~~ New Mexico Environmental Department that the business has been approved to proceed with food service operations.

Sec. 11-9-5 Regulating Locations.

Every person desiring a license pursuant to this Article shall conform to the requirements set forth in this Section and any regulations and rules that the City of Aztec may adopt pursuant to this Article.

The City may issue a business license for a food/vending establishment or business only when the City finds that the following location and time requirements are met:

1. The Location shall:
 - 1) Leave unobstructed a path for pedestrian passage on any sidewalk, a space not less than four (4) feet wide.
 - 2) Satisfy all other location requirements of the City.
2. Notwithstanding the issuance of a License for a specific Location(s), such license shall be temporarily suspended if any City Department issues a permit for occupancy of the subject Location for street fairs, farmer's markets, temporary use, street or building construction, or other permitted activities. At the request of the Applicant, the City may,

but is not required to, authorize a temporary relocation of the Mobile Food/Vending Service Unit under such circumstances. Any such authorization shall be in writing and available at the Mobile Food/Vending Service Unit for review by City officials.

In the event a temporary relocation is authorized by the City, no application for a location amendment shall be required under this Article if any City Department issues a permit for occupancy of the subject Location for street fairs, farmer's markets, temporary use, or other permitted activities as long as the Mobile Food Service Unit has a current and valid food service permit from the ~~health authority~~ New Mexico Environmental Department.

Sec. 11-9-6. Compliance.

All persons operating a Mobile Food/Vending Service Unit must comply with the following guidelines:

1. All vending vehicles and Mobile Service Food Units in or from which food is prepared or sold shall be constructed so that all equipment installed in any part of the vehicle shall be secured in order to prevent movement during transit and to prevent detachment in the event of a collision or overturn.
2. All Mobile Food Service Units having equipment for the preparation of food shall be inspected and approved by the San Juan County fire department annually and shall display evidence of such approval in the Mobile Food Service Unit and shall provide a copy of such approval to the City of Aztec.
3. Proper refuse containers shall be provided to patrons pursuant to Chapter 21, Sec. 21-27 and Chapter 14, Sec. 14-63 to 14-67 of the Aztec City Code.
4. A special events license must be obtained by the owner of a business hiring a Mobile Food Service Unit to be upon its premises if the cab is to be detached from the vehicle and food dispensed there from.
5. The cab must be attached to the Mobile Food/Vending Service Unit while in business on a public street or public parking lot.
6. A business establishment which does not meet the definition of Mobile Food/Vending Service Unit will not be licensed under this article.
7. Prior approval from the City of Aztec is needed to conduct any business at the Community Center or in a city park or city parking lot at a park or other recreational facility and shall be subject to such conditions and restrictions as may be deemed appropriate by the department.
8. Mobile Food/Vending Service Units shall be maintained in good repair and in good sanitary condition at all times.
9. A mobile food/vending establishment shall be equipped with an attached refuse container. The operator must hold, store, and dispose of solid and liquid waste in a refuse container that complies with ~~health authority~~ New Mexico Environmental Department, sanitation service and City Code requirements.

10. ~~No advertising, except the posting of prices, shall be permitted on any vending vehicle without an approved sign permit issued by the Community Development Department. All signs, both on-site and secured to the vehicle must be reviewed and approved by the Community Development Department and shall be limited to a size allowable by City Sign Code.~~ No on-site signs (sandwich boards, flags, arrow signs etc...) for advertising will be allowed.
11. Mobile Food/**Vending** Service Units cannot exceed a length of forty (40) feet and a width of eight (8) feet, not including the cab.
12. Mobile Food/**Vending** Service Units must be mobile and must be removed from the street or from the location where food is sold during those hours when not open for business.

Sec. 11-9-7. Prohibited Conduct.

The following acts are prohibited by food/vending vendors in the city. No person shall:

1. Notwithstanding any other provision of this Article, and with the exception of Mobile Food Service Units meeting the definition of Transporter, no Mobile Food Service Unit or Vendor shall peddle goods, wares or merchandise:
 - 1) In any zone district whose primary use is residential development;
 - 2) On property owned, leased or operated by the City of Aztec, unless the ~~peddling is associated with an event~~ location and vendor have been approved by the City;
 - 3) Within ~~five one~~ hundred (~~500~~ 100) feet of the property line of any school or childcare facility; or
 - 4) Vend within ~~five one~~ hundred (~~500-100~~) feet of any church while church is in session.
2. Vend on any street or sidewalk where vending is otherwise prohibited.
3. No Mobile Food/**Vending** Service Unit or Vendor shall peddle goods, wares or merchandise before sunset or after sunrise, unless the City has approved such sales.
4. Leave any stand or motor vehicle unattended for longer than ten (10) minutes. When leaving a stand or motor vehicle unattended the stand or motor vehicle must be turned off and locked or otherwise secured.
5. Store, park, or leave any stand overnight on any street or sidewalk, or park any motor vehicle other than in a lawful parking place, in conformance with city and state parking regulations.
6. Sell food or beverages for immediate consumption unless all required permits from the ~~health authority~~ New Mexico Environmental Department have been obtained and refuse containers are available for use by patrons.

7. Leave any location without first picking up, removing and disposing of all trash or refuse within fifty (50) feet of the food/~~vending~~ service location.
8. Allow any items relating to the operation of the vending or food service business to be placed anywhere other than in, on or under the stand or motor vehicle.
9. Set up, maintain or permit the use of any sign, table, crate, carton, rack, or any other device to increase the selling or display capacity of the stand or motor vehicle, where such items have not been described in the business license application and when all additional required permits have not been obtained from the City.
10. Solicit or conduct business with persons in a motor vehicle.
11. Sell anything other than that which is permitted under the license issued.
- ~~12. Sell non-food items.~~
13. Sound or permit the sounding of any device which produces a loud and raucous noise; or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the general public. This section shall not be construed to prohibit bells, chimes or unamplified musical instruments if in compliance with all other applicable provisions of the City Code including, but not limited to Sec. 12-125 (Unreasonable Noise).
14. Allow customers to block pedestrian or vehicular traffic.
15. Dispose of liquid or other waste in City storm drains, streets, gutters, anywhere on public property, or in waste bins or containers not belonging to their business.
16. Wave, flag or motion to vehicles on the street.
17. No vendor vending from a motor vehicle shall:
 - 1) Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police, emergency or sanitation vehicles.
 - 2) Stop, stand or park a vehicle upon any street or permit it to remain there except on the roadway at the curb for the purpose of vending there from.
 - 3) Stop, stand or park a vehicle upon any street for the purpose of selling, or sell on any street under any circumstances when parking, stopping or standing has been prohibited by signs or curb markings or is prohibited by statute or ordinance.
 - 4) Remain in any one place for a period longer than necessary to make a sale after having been approached or stopped for that purpose.
 - 5) Stop, stand or park a vehicle within twenty-five (25) feet of any intersection, except that vehicles vending products likely to attract children as customers shall park

curbside when stopping to make a sale as close as possible to a pedestrian crosswalk without entering the intersection or otherwise interfering with the flow of traffic.

- 6) Operate a Mobile Food/Vending Service Unit while stopped between the curb lines of any public street without the motor vehicle's hazard lights being in operation and without taking all other reasonable precautions to ensure the safety of patrons.
- 7) Allow any fluids to be discharged from a vending vehicle.
- 8) Park within one hundred (100) feet of flammable fuels.

Sec. 11-9-8. Transitional Period.

Each Mobile Food/Vending Service Unit transacting business within the city shall apply for and obtain a business license in compliance with this article within thirty (30) days from the effective date of this article. Any Mobile Food/Vending Service Unit having a current business license shall make new application within thirty (30) days following the effective date of this article but shall not be required to pay an additional fee to obtain the license.