

**ORDINANCE NO. 2017-31**

**AN ORDINANCE AMENDING SECTION 5.04.160 MOBILE FOOD VENDORS OF CHAPTER 5.04 BUSINESS LICENSES AND ADOPTING SECTION 18.68.608 MOBILE FOOD VENDORS OF CHAPTER 18.68 SUPPLEMENTARY ZONING REGULATION OF THE HEBER CITY MUNICIPAL CODE.**

BE IT ORDAINED by the City Council of Heber City, Utah, Section 5.04.160 Mobile Food Vendors is **amended** to read as follows:

**5.04.160 Motorized Street Mobile Food Vendors**

**A. Definitions:**

Mobile Food Vendors are comprised of the following:

1. Ice Cream Truck: A fully encased food service establishment on a motor vehicle from which a vendor, from within the frame of the vehicle, serves ice cream; that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and that may stop to serve ice cream at the signal of a patron.
  2. Food Truck: A fully encased food service establishment on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption.
  3. Food Cart: "Food cart" means a cart that is not motorized; and that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.
- ~~A. The selling of merchandise or solicitation for sales primarily from a motorized vehicle parked in the public street. These vendors carry merchandise, goods, and services for sale and consumption immediately from the vehicle. Examples include ice cream vendors, both individual servings and packaged servings, frozen goods vendors, produce, dairy products, hot food sales, yard care services, and health services.~~
- ~~1. License required: No person shall sell merchandise from a motorized or non-motorized vehicle without obtaining a motorized street vendor Mobile Food Vendor business license. It shall be unlawful for any person under the age of eighteen to engage in a motorized street mobile food vendor business. Each person selling, offering to sell, or displaying of sale retail merchandise from or on a motorized or non-motorized vehicles on public streets or private property shall obtain a Heber City business license prior to beginning operation. Applicants for said license will be subject to a background investigation and possess a valid drivers license. Each party engaged in such a business shall display the business license in~~

~~a conspicuous location at the point of sale on the lower left (driver) side of the windshield of the vehicle. The City may deny, suspend, or revoke a license if the applicant or licensee:~~

- ~~a) Has violated any provision of this Title or the business license requirements;~~
- ~~b) Has been convicted of a felony or has served a sentence for a felony conviction within five years, or a misdemeanor within the last three years involving controlled substances, alcohol, sex crimes, contributing to the delinquency of a minor, theft, possession of stolen property or, any other criminal act with might relate to the operation of the business.~~

~~B. Application: Application must be made at least 48 hours prior to operation of the business.~~

B. License required: No person shall sell merchandise from a motorized vehicle or cart without obtaining a Mobile Food Vendor, Temporary, or Event Vendor business license. Each person selling, offering to sell, or displaying of sale retail merchandise from or on a motorized vehicle or cart on public streets or private property shall obtain a Heber City business license prior to beginning operation. Each party engaged in such a business shall display the business license in a conspicuous location at the point of sale on the lower left (driver) side of the windshield of the vehicle. The City may deny, suspend, or revoke a license if the applicant or licensee:

- 1. Has violated any provision of this Title or the business license requirements;
- 2. When applicable, has been convicted of a felony or has served a sentence for a felony conviction within five years, or a misdemeanor within the last three years involving controlled substances, alcohol, sex crimes, contributing to the delinquency of a minor, theft, possession of stolen property or, any other criminal act with might relate to the operation of the business.

C. Application: Application must be made at least 10 business days prior to operation of the business.

D. Temporary Business License: Food Trucks may obtain a Temporary Business license when only operating for no more than 6 days within a 12-month period.

E. Event Vendor License: Mobile Food Vendors are required to obtain an Event Vendor License for each specific event unless:

- 1. The business has been issued a Mobile Food Vendor Business License by Heber City and;
- 2. The business has been identified as a vendor in the Event Permit by the event coordinator.

F. Mobile Food Vendor License: The license shall be for a one year period and renewed annually. The license shall run from January 1st of the year to December 31st.

~~C.G. License: The license shall be for a one year period and renewed annually. The license shall run from January 1st of the year to December 31st.~~ Multiple Vehicles: A separate business license is required for each motorized vehicle engaged in a Mobile Food Vendor Business. Each business license shall be tied to the license plate number of the vehicle.

H. Reciprocity: Where applicable, Heber City recognizes the business licenses, health permits, and fire inspections of other municipalities in accordance with Utah State Code when considering business license applications.

~~D.I. License Fees: Refer to the Consolidated Fee Schedule for current fees.~~ Mobile Food Vendors shall pay the associated fees as outlined in the Consolidated Fee Schedule.-

J. Conditions and Requirements for ~~Motorized Street~~ Mobile Food Vendors:

I. General Requirements

- a) The vehicle shall be inspected by the health, police, and fire departments.

- b) Each applicant for a license or renewal under this Section shall submit with its application evidence of general liability insurance in an amount not less than \$500,000 when using motorized vehicles. The applicant must submit to the City a certificate of insurance that provides that the policy cannot be canceled prior to giving the City at least 10 days written notice of cancellations.
- ~~The operator of the motorized vehicle shall not sell to any person standing in the roadway.~~
- c) The motorized vehicle and operator must comply with all other requirements of this Chapter and any other requirements of ordinance or statute that may be applicable.
- d) The volume of any audio equipment used to advertise for the business must be approved by the Heber City Police Department.
- e) Applicant shall provide a sales tax license number for Heber City.
- f) Anyone under the age of eighteen (18) years of age shall not engage in a Mobile Food Business without an accompanying adult.
- g) A building permit shall be obtained for any electrical connections.

2. Motorized Street VendorsIce Cream Trucks:

~~E. shall comply with the following:~~

- a) All Ice Cream trucks are subject to a background check.
- b) Hours of operation shall be between 10:00 a.m. and sunset. Sunrise and sunset shall be determined on any particular day by the times listed that day in any major newspaper circulated in Wasatch County.
- 1. ~~Have a clearly-audible backup warning device that activates whenever the vehicle is shifted into reverse gear.~~
- ~~c)~~
- 2. ~~Have a convex mirror mounted on the front of the vehicle so that the driver, in a normal driving position, can see the area in front of the vehicle that is obscured by the hood.~~
- ~~d)~~
- 3. ~~Have a flashing yellow beacon on the roof of the vehicle that is visible from all sides of the vehicle. This beacon shall be activated whenever the merchandise is being sold, offered for sale or displayed for sale.~~
- ~~e)~~
- f) Be prohibited from pulling any type of trailer during business operation.
- g) The operator of the motorized vehicle shall not sell to any person standing in the roadway.
- h) The operator of the motorized vehicle shall sell, offer to sell or display for sale retail merchandise only when the vehicle is completely stopped and lawfully parked, and shall sell only from the rear or side of the vehicle nearest to the curb or edge of the roadway.
- i) To reach a point of sale, the motorized vehicle shall not be moved backwards in order to sell, offer to sell or display for sale retail merchandise.

4. ~~—~~

~~5. — The vehicle shall be inspected by the health department if the merchandise includes any item intended for human consumption.~~

~~6. — Hours of operation shall be between 10:00 a.m. and sunset. Sunrise and sunset shall be determined on any particular day by the times listed that day in any major newspaper circulated in Wasatch County.~~

~~7. — The operator of the motorized vehicle shall not sell to any person standing in the roadway.~~

~~8. — The operator of the motorized vehicle shall sell, offer to sell or display for sale retail merchandise only when the vehicle is completely stopped and lawfully parked, and shall sell only from the rear or side of the vehicle nearest to the curb or edge of the roadway.~~

~~9. — To reach a point of sale, the motorized vehicle shall not be moved backwards in order to sell, offer to sell or display for sale retail merchandise.~~

~~10. — Each applicant for a license or renewal under this Section shall submit with its application evidence of general liability insurance in an amount not less than \$500,000. The applicant must submit to the City a certificate of insurance that provides that the policy cannot be canceled prior to giving the City at least 10 days written notice of cancellations.~~

~~11. — The motorized vehicle and operator must comply with all other requirements of this Chapter and any other requirements of ordinance or statute that may be applicable.~~

~~12. — The volume of any audio equipment used to advertise for the business must be approved by the Heber City Police Department.~~

~~13. — Applicant shall provide a sales tax license number.~~

### 3. Food Trucks:

a) Retail sales are restricted to Commercial, Industrial, and Manufacturing Zones as outlined in Section 18.68.608.

i. Exceptions:

A. Retail sales are permitted on public and private school property with written permission of the school district or property owner, regardless of the zone.

B. Retail sales are permitted at parks or on public property as part of a Civic, Recreation, or Special Event with written permission of the property owner, regardless of the zone.

b) Food Trucks shall comply with all requirements of the Zoning Code, as outlined in Section 18.68.608.

c) For each location the following shall be submitted as part of the application:

i. Days and hours of operation.

ii. A letter of authorization from the property owner.

iii. A site plan, including the location of the food truck, signage, and dining areas.

iv. Any proposed signage.

d) Food Trucks shall not be on a public street or within the public right of way unless as part of a Civic or Special event and with written permission from the City.

4. Food Carts:

- a) Food Carts are prohibited outside of Civic, Recreation, or Special Events.
- b) Food Carts shall comply with all requirements of the Zoning Code, as outlined in Section 18.68.608.
- c) Food Carts shall obtain an Event Vendor business license. The following shall be required as part of the application:
  - i. Written approval from the property owner and event coordinator.
  - ii. Site Plan showing the location of the food cart, signage, and dining areas.

F.K. Lawful Advertising and Business Markings - Exception: The prohibitions of this Section shall not be construed to prohibit vehicles from carrying business markings or advertising not otherwise prohibited by law, nor shall they prohibit delivery of merchandise which was not sold or purchased on public streets or within the City limits.

G.L. Sales on Private property: Sales on private property shall be made only with the permission of the property owner or occupant.

H. Severability: If any provision of this ordinance is declared invalid by the court of competent jurisdiction, the remainder shall not be affected thereby.

M.

BE IT ORDAINED by the City Council of Heber City, Utah, Section 18.68.608 Mobile Food Vendors is **adopted** to read as follows:

18.68.608 Mobile Food Vendors

A. Definitions:

Mobile Food Vendors are comprised of the following:

1. Ice Cream Truck: A fully encased food service establishment on a motor vehicle from which a vendor, from within the frame of the vehicle, serves ice cream; that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and that may stop to serve ice cream at the signal of a patron.
2. Food Truck: A fully encased food service establishment on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption.
3. Food Cart: "Food cart" means a cart that is not motorized; and that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.

B. General Requirements

1. All Mobile Food Vendors shall have a Business License and comply with the requirements of Section 5.04.160.

2. All requirements of the Health Department shall be met.

3. A building permit shall be required for any electrical connections.

C. Ice Cream Truck

1. Retail sales are permitted in all zones and:

a. Shall not sell any goods to individuals standing in the street.

b. Shall not be allowed to sell goods from a motorized vehicle while in the right of way on the following streets:

i. Main Street

ii. Hwy 40

iii. Hwy 189

iv. Center Street

v. 100 South (Midway Lane)

vi. 1200 South

c. Are prohibited from pulling any type of trailer with a motorized vehicle during business operation.

d. Shall not stop or be located within an area that would block an intersection or driveway clear site triangle, or obstruct the view of traffic.

D. Food Trucks

1. Retail sales are restricted to Commercial, Industrial, and Manufacturing Zones and shall:

a. Only be permitted at an existing brick and mortar business location, with the property owner's permission.

b. Provide, maintain, and remove trash receptacles for the duration of sales and/or event.

c. Provide sanitation services for employees and patrons. An agreement with the hosting business may satisfy this requirement.

d. Exceptions:

i. Retail sales are permitted on public and private school property with written permission of the school district or property owner, regardless of the zone.

ii. Retail sales are permitted at parks or on public property as part of a Civic, Recreation, or Special Event with written permission of the property owner, regardless of the zone.

2. Dining areas are only permitted when approved by the property owner and shall be set up and taken down with each occurrence.

3. Food Trucks are not permitted to be parked at a sales location overnight.

E. Food Cart

1. Food Carts are prohibited outside of Civic, Recreation, or Special Events and:

a. Must have written permission from the property owner and event coordinator.

b. Shall obtain an Event Vendor Business License.

- c. Shall not be located in the public right of way.
- d. Shall not be located in an intersection or driveway clear site triangle.
- 2. Dining areas are only permitted when approved by the property owner and shall be set up and taken down with each occurrence.
- 3. Food Carts are not permitted to be located at a sales location overnight, unless approved with the associated event.

F. Signs

- 1. All images, text, and wraps that do not project from a motorized or non-motorized vehicle that solely advertise for the Mobile Food Vendor business are permitted.
- 2. Ice Cream Trucks are only permitted signage that does not project from the vehicle and solely advertises for the associated business.
- 3. Food Trucks are permitted two A-Frame signs.
- 4. Food Carts are permitted one A-Frame sign.
- 5. A-Frame signs shall not exceed four feet in height and twelve square feet of sign copy area.
- 6. Signs are not permitted in the public right of way.
- 7. Signs that exceed three feet in height shall not be placed in either an intersection or driveway clear sight triangle.
- 8. Off-premise signs are prohibited.

G. Process

- 1. Ice Cream Truck: The following shall be submitted for review with the business license application.
  - a. Picture of the vehicle.
- 2. Food Trucks: The following shall be submitted for review with the business license application.
  - a. Site plan for each location
  - b. Any proposed signage
  - c. Letter of consent by hosting businesses
  - d. Proof of sanitation facilities or agreement with hosting business
- 3. Food Carts: The following shall be submitted for review with the business license application.
  - a. Site Plan for each location
  - b. Any proposed signage
  - c. Letter of consent from property owner and event coordinator

This Ordinance shall take effect and be in force from and after (a) its adoption, (b) a copy has been deposited in the office of the City Recorder and (c) a short summary of it has been published in the Wasatch Wave, but not prior to the 4 day of October, 2017.

ADOPTED and PASSED by the City Council of Heber City, Utah this 21 day of September, 2017, by the following vote:

AYE NAY

Council Member Jeffery M. Bradshaw

X \_\_\_\_\_

Council Member Heidi Franco

X \_\_\_\_\_

Council Member Kelleen L. Potter

X \_\_\_\_\_

Council Member Jeffrey Smith

\_\_\_\_\_ *absent*

Council Member Ronald R. Crittenden

X \_\_\_\_\_

APPROVED:

*Alan McDonald*

Mayor Alan McDonald

ATTEST:

*Amy M. Bridge*

Date: *9-21-17*

RECORDER

Date of First Recording: *9-21-17*