

CITY OF SCHUYLER, NEBRASKA, ORDINANCE NO. 2020-10

AN ORDINANCE OF THE CITY OF SCHUYLER, NEBRASKA, AMENDING ORDINANCE NUMBER 2018-06 AND 2018-17, AND ZONING CODE SUPPLEMENTAL USE REGULATION 11-618, REGARDING THE CITY OF SCHUYLER, NEBRASKA, MOBILE FOOD VENDORS ORDINANCE; SPECIFICALLY PROVIDING FOR A CHANGE RELATING TO LIABILITY AND INSURANCE PROVISIONS REQUIRING INSURANCE FOR PRIVATELY OWNED PROPERTY AND CITY OWNED PROPERTY; ALLOW THE MAYOR TO AUTHORIZE USE OF CITY OWNED PROPERTY/RIGHT OF WAY BY MOBILE FOOD VENDORS; TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; TO PROVIDE FOR PENALTIES; AND TO PROVIDE FOR WHEN SAID ORDINANCE SHALL TAKE EFFECT.

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

SECTION 1. The City Council of the City of Schuyler, Nebraska, passed approved Ordinance No. 2018-06 on May 15, 2018, with the supplemental amendment to same with new Ordinance No. 2018-17 on November 6, 2018, establishing a mobile food vendors ordinance and regulations and application, and there now appears to be a community need to provide certain insurance provisions applicable to both privately owned property and property owned by the City of Schuyler, Nebraska.

SECTION 2. Zoning Ordinance Section 11-618, Supplemental Use Regulations; mobile food vendors shall provide, to-wit:

11-618 Supplemental Use Regulations: Mobile Food Vendors

A. Long term mobile food vending site. In the event mobile food vending unit is operating on one site 50 or more days per calendar year, these regulations shall apply. One-half hour or more of operation shall be considered one day. Applicable to private property only.

1. Vending area and parking area shall be of a hard surface including paving, asphalt or pavers. Alternatively, with City of Schuyler, Nebraska Planning and Zoning Commission approval, upon Schuyler Building Inspector advice, approval may be given for crushed rock such as limestone crushed rock that is applied with appropriate compaction for the appropriate use.
2. Minimum of 3 parking spaces.
3. Entrance, access and traffic flow plan must be approved by City of Schuyler Building Inspector.
4. There shall be no accessory buildings that do not meet the zoning regulations for the zoning district. Structures such as carports shall not be permitted unless they have been in existence on the subject property on or before January 1, 2018, and

such structures are affixed to the ground with concrete anchors or footings and conform with zoning setbacks. Mobile food vending units must be set according to setbacks the same as for building structures within the appropriate zoning district.

5. Mobile food vendors must follow all of City of Schuyler, Nebraska, mobile food vendor standards and application form.
6. These mobile food vending regulations or standards do not necessarily apply to temporary contract caters for venues and events as defined in the City of Schuyler, Nebraska, Municipal Code or Zoning Regulations.
7. Exempt from the mobile food vending regulations or standards shall be all vendors that are owned by or under the exclusive direction of a non-profit entity or governmental subdivision within the Schuyler, Nebraska, area (considered no more than 10 miles from the city limits of the City of Schuyler, Nebraska), for a specific or special event or purpose.

B. City of Schuyler, Nebraska, owned property and right-of-way property. It shall be unlawful for any person to engage in mobile food vending as a mobile food vendor on property owned by the City of Schuyler, Nebraska, or public right-of-way of the City of Schuyler, Nebraska, without first having obtained permission for such use (time/day limits a part of permission) from Schuyler City Mayor in addition to the approval of any vendor application permit. This permission is available irrespective of the zoning district permitted under Table 4-2. Mobile food vendors must be actively engaged in mobile food vending operations at all times while parked in any City owned or right-of-way property after permission is granted. This additional written permission by the Mayor shall result in additional fees as set forth on the Application for the permit which shall be approved by City Council in advance.

C. Violations of the provisions of this ordinance or failure to comply with any of its requirements shall constitute a misdemeanor and appropriate law enforcement officer may issue a citation to the applicant or other appropriate person with the penalty provisions as provided in Section 11-1214 being applicable upon conviction.

CITY OF SCHUYLER, NEBRASKA, MOBILE FOOD VENDOR STANDARDS

REQUIREMENTS

It shall be unlawful for any person to engage in mobile food vending as a mobile food vendor on public or on private property within this City of Schuyler and its extraterritorial zoning jurisdiction, without first obtaining all applicable state and municipal permit and licenses.

CITY OF SCHUYLER, NEBRASKA, OWNED PROPERTY AND RIGHT-OF-WAY PROPERTY.

It shall be unlawful for any person to engage in mobile food vending as a mobile food vendor on property owned by the City of Schuyler, Nebraska, or public right-of-way of the City of Schuyler, Nebraska, without first having obtained permission for such use (time/day limits a part of permission) from Schuyler City Mayor in addition to the approval of any vendor application permit. This permission is available irrespective of the zoning district permitted under Table 4-2. Mobile food vendors must be actively engaged in mobile food vending operations at all times while parked in any City owned or right-of-way property after permission is granted. This additional written permission by the Mayor shall result in additional fees as set forth on the Application for the permit which shall be approved by City Council in advance.

MOBILE FOOD VENDING PERMIT ISSUANCE AND FEES

Prior to any mobile food vending permit being issued, the applicant shall have all applicable state and municipal permits and licenses, (including vehicle/trailer license and registration) pay a nonrefundable application fee of as set by fee schedule by Schuyler City Council, and submit to and pass a background check and provide a photo of applicant. The primary operator of the mobile food vending unit is required to obtain a mobile food vending permit.

ISSUANCE RESTRICTED

No mobile food vending permit shall be issued to a corporation, partnership, or other impersonal legal entity. A permit is issued to the primary operator of the vending unit.

NON-TRANSFERABILITY

Any permit issued is non-transferable to another mobile food vending unit. Separate permits are required for multiple vending units owned by same applicant/operator.

BACKGROUND CHECK

A background check will be conducted annually by the City of Schuyler, Nebraska Police Department/Colfax County Sheriff/City of Schuyler Staff with all applicable information being provided to the city's licensing specialist. The applicant shall submit to photographing. No permit shall be granted to any person:

- Who has been convicted for a sex crime as defined by Neb. Rev. Statutes 29-4001 - 29-4014, or any indecent exposure for which they are still subject to registration requirements.
- Who has a conviction or date of discharge from prison, jail, probation, or parole within the last five years for all other indecent exposure (Class 1 misdemeanor).
- Who has a conviction or date of discharge from prison, jail, probation, or parole within the last ten years of application for a crime of violence.
- Who has a conviction or date of discharge from prison, jail, probation, or parole within the last five years of application for felony possession/distribution of controlled substances.
- Any fraud, misrepresentation or false statements contained in the application for a permit or made in connection with the selling of any products, which is the subject of these guidelines.

- Conviction of the applicant of any felony or misdemeanor involving a crime of moral turpitude.
- For any good cause.

Any conviction for an offense in another state which, if committed in this state, would be a violation of one of the offenses listed above shall be used to determine if applicant is eligible for a license.

DISPLAY OF PERMIT

Permits issued shall be displayed in a conspicuous place where it can be read by the general public on the mobile food vending unit. This will include City of Schuyler Occupation Tax, Food and Dairy Permit and Nebraska sales tax number.

REVOCAION

Any permit issued may be revoked by the city's licensing specialist, for violation of any provisions of Municipal Code, state law, or city ordinance. Upon revocation, the permit shall immediately be surrendered, and failure to surrender said permit shall be an offense.

ALLOWED MOBILE VENDING LOCATIONS

Mobile food vending units are permitted on private property within the Schuyler Zoning Districts as provided in Table 4-2 of Schuyler Zoning Code and as per the official zoning map of the City of Schuyler, Nebraska, including its extraterritorial zoning jurisdiction.

HOURS OF OPERATION

Mobile food vendors are not allowed to operate in the public right-of-way (after City permission) between the hours of 12 a.m. and 6 a.m. from Monday to Thursday and between the hours of 2 a.m. and 6 a.m. from Friday to Sunday. Regarding private property, mobile food vendors are not allowed to operate on private property between the hours of 3:00 a.m. and 6:00 a.m. daily.

HEALTH AND SANITATION REQUIREMENTS

Mobile food vendors shall comply with the minimum public health and safety requirements determined by the State of Nebraska Department of Health.

Mobile food vendors shall allow:

- The equipment used in vending be inspected upon application for a permit and shall be required to obtain a valid food service license and operating permit.
- City of Schuyler, Nebraska, duly appointed employee/agency so tasked with jurisdiction over this duty.

NOISE

Mobile food vending units must adhere to all noise ordinances found in Schuyler Municipal Code or other applicable law.

PARKING

- If operating from the public right-of-way, (with City permission) mobile food vendor shall only vend from legal parking space in the public right-of-way.

- If operating on public right-of-way, mobile food vendors shall not operate with the serving window facing street traffic.
- Mobile food vendors must adhere to established parking rules as found in Schuyler Municipal Code, unless City permission authorizes other use rules.
- If operating from private property, there shall be sufficient parking spaces for a minimum of 3 vehicles.

FIRE SAFETY

- No mobile food vendor shall operate without proof of an annual third-party inspection or receipt of propane fill or gas-related capabilities.
- Mobile food vending is not allowed within parking garages, overhangs, or within 10' of any entrance to any property.

LITTER CONTROL

- Mobile food vendors are responsible for providing one private trash bin for public use with capacity of no less than 30 gallons each.
- All litter shall be removed within 100' of the mobile food vending unit upon closing.
- Litter shall be removed at mobile food vendor's expense and shall not be placed in an unauthorized private or city receptacle.

PROHIBITED CONDUCT

No mobile food vendor shall:

- Vend on the public right-of-way within 150 feet of a licensed restaurant property line or 150' from a sidewalk patio, whichever is greater, unless the restaurant is closed for business.
- Operate a mobile food vending unit within 300 feet of any sanctioned event held in the Central Business District without obtaining permission from the event sponsor.
- Operate in or abutting a city park without proper permissions and permits from the City of Schuyler and specific approval from Schuyler City Council.
- Place any object that blocks the pedestrian pathway.
- Utilize signage in addition to what is already permanently displayed on the mobile food vending unit, unless additional signage is permitted through the Zoning division.
- Operate without commercial license plates and registration.
- Erect or construct structures or seats that are not removed when the mobile food vending unit is not in operation on the site. Excepted from this provision are structures such as carports in existence and on site of a mobile food vendor as of January 1, 2018.

LIABILITY AND INSURANCE

Before a mobile food vendor permit is granted, the applicant shall sign a statement holding harmless the City of Schuyler, Nebraska, and agreeing that said applicant shall indemnify the City of Schuyler, Nebraska, Mayor, City Council Members, officers and employees for any claims for damages to property or injury/disease or death to persons, which may occur in connection with any activity carried on pursuant to any activities associated with mobile food vending and this ordinance. All applicants, whether the mobile food vendor is applicable to

property owned by the City of Schuyler, Nebraska, or by private property owners, shall furnish and maintain an in-force policy of liability insurance protecting the applicant and the City of Schuyler, Nebraska, and its agents identified above from all claims for damage to property or bodily injury/disease, including death, which may arise from activities associated with mobile food vending and that applicant. The insurance policy shall list or endorse the City as an additional insured and carry minimum liability limits of at least \$1,000,000.00 per occurrence.

SELF CONTAINED FOOD TRUCKS/TRAILERS AND UTILITIES

No mobile food vending unit permit shall be issued unless the applicant is operating with a self contained food truck or trailer, not relying or using other water or sewer services, and operating in that manner. Food waste and grease must be disposed of in accordance with City of Schuyler Municipal Code and other applicable laws. If operating on public right of way, no other utilities other than the food truck or trailer shall be used. If operating on private property no utilities from off site shall be used.

MOBILITY OF VENDING UNIT

Mobile food vending units must be operational as a licensed and registered mobile truck/vehicle or a trailer pulled by another licensed and registered vehicle and must be moved off site if using private property a minimum of 10 hours per week.

LIGHTING/ENTRANCE AND EXIT/ADVERTISING SIGN

There shall be adequate lighting provided for the mobile food vending operation, and if operating from private property there shall be adequate entrance and exits available to be approved by City of Schuyler Building Inspector. Advertising sign as permitted by the zoning district only when the food vending unit is on site. Electronically display sign only to operate when food vending unit is on site and open for sales.

CATERERS

These Mobile Food Vendor Standards do not necessarily apply to temporary, contract caterers for venues and events as defined in the City of Schuyler, Nebraska Municipal Code or Zoning Regulations.

PASSED AND APPROVED this _____ day of _____, 2020.

Mayor, Jon Knutson

Attest:

City Clerk, Lora Johnson

Prepared and Submitted by:

Richard T. Seckman, Schuyler City Attorney