

## ORDINANCE 2023 – 14

AN ORDINANCE OF THE CITY OF SOUTH SIOUX CITY, NEBRASKA PERTAINING TO FOOD TRUCKS; ADOPTING NEW REGULATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PRESCRIBING A TIME WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SOUTH SIOUX CITY, DAKOTA COUNTY, NEBRASKA:

SECTION 1: SECTION AMENDED. Section 74-31, titled “Definitions” is hereby amended to read as follows:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Public street or sidewalk* includes all areas legally open to public use as public streets, sidewalks, roadways, highways, parkways, alleys and any other public way.

*Stand* means any newsstand, table, bench, booth, rack, handcart, pushcart or any other fixture or device that is not required to be licensed and registered by the department of motor vehicles, used for the display, storage or transportation of articles offered for sale by a vendor.

*Vendor* means any person, including an employee or agent of another, who sells or offers to sell food, beverages, foods or merchandise on any public street or sidewalk from a stand, from his person, or one who travels by foot, wagon, motor vehicle, pushcart or any other method of transportation from house to house or street to street selling or offering to sell food, beverages, goods or merchandise. In addition, the term shall not mean or include, and there shall be exempt from the provisions of this article those residents of the county who are selling or delivering for sale fruits and vegetables.

SECTION 2: ARTICLE ADDED. A new Article is hereby added to Chapter 74, titled “Article IV. – Food Trucks”, to read as follows

### **Sec. 74-91. – Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Food truck* means a person engaged in the business of selling food or beverages from a mobile, self-contained motorized vehicle or trailer. A vendor, as defined in Section 74-31 of this Code, who sells food or beverages from house to house or street to street, is not a “food truck” and is exempt from the provisions of this Article.

**Sec. 74-92. – Permit Required.**

It shall be unlawful for any person to engage in the sale of food or beverages to the public from a temporary or mobile facility on public or private property within the corporate limits of the City without first obtaining a food truck permit from the City, in addition to any other required State or federal permits, certifications and licenses. A food truck permit by the City shall be subject to the following:

1. A food truck permit may be an annual permit that expires on December 31 of each year or a single use permit.
2. Each food truck shall be permitted separately. No permit transfer between food trucks is allowed.
3. Each food truck shall comply with State of Nebraska requirements for health inspections, licensing, safety, fire code requirements, and sales tax and shall display its licensing in full view of the public in or on the unit.
4. Food trucks without an annual permit may be granted temporary authorization to operate by the City Council in conjunction with a permitted special event.

**Sec. 74-93. – Permit Application.**

1. Filing. Application requests shall be filed with the City Clerk. No application request shall be accepted for filing and processing unless it conforms to the requirements of this chapter. This includes a complete and true application, all of the required materials and information prescribed, and required fees.
2. Timely Submittal. Unless otherwise provided herein, applications must be submitted not less than 10 calendar days prior to the proposed start date of the food truck activities. The City reserves the right to reject any application that has not been timely submitted to the City.
3. Application Contents. Application shall be made on a form provided by the City and shall include:
  - A. Full name of the applicant. If the applicant is a business entity, such name shall include the name of the owner/authorized agent of the entity.
  - B. Applicant’s contact information including mailing address, phone numbers and e-mail address. Applications without valid, operational phone numbers shall be deemed incomplete.

C. State health inspection certificate with the classification level of the state license.

D. Photographs of the food truck from the front, side and back.

E. Make, model and year of vehicle or trailer to be used and the license plate number.

F. Certificate of insurance showing general liability coverage in a minimum amount of \$1 million per occurrence and naming the City as an additional insured.

4. Application Deemed Withdrawn. Any application received shall be deemed withdrawn if it has been held in abeyance, awaiting the submittal of additional requested information from the applicant, and if the applicant has not communicated in writing with the City and made reasonable progress within 30 days from the last notification from the City to the applicant. The application fee is nonrefundable. Any application deemed withdrawn shall require submission of a new application and fees to begin a new review and approval process.

5. Issuance of Permit. Upon completion of the review process and a determination by the City of compliance with the applicable regulations, the City Clerk shall issue a food truck permit.

#### **Sec. 74-94. – Prohibited Locations.**

1. Food trucks are prohibited from parking within 75 feet of the main entrance of an establishment that sells prepared food, unless approved in advance by the establishment. This only applies from one hour before the establishment's opening to one hour after closing.

2. The City Council may by resolution, in its sole discretion, restrict the operation of food trucks on designated public roads.

3. Food trucks shall not operate on public property, other than permitted streets, without prior approval of the City Council.

4. Food trucks shall not operate within residentially zoned or used districts without temporary authorization to operate by the City Council in conjunction with a permitted special event and subject to reasonable conditions set by the council.

#### **Sec. 74-95. – Operational Requirements.**

Persons conducting business from a food truck must do so in compliance with the following standards:

1. The food truck must obtain a permit as required by this Article. The permit must be kept in full view of the public in or on the unit.

2. Food trucks shall serve patrons who are on foot only; no drive-up service to the food truck itself shall be provided or allowed.

3. Food trucks shall not serve alcoholic or intoxicating beverages except as permitted by federal, state, and local laws and regulations.

4. The window or area where a patron orders and receives their purchase shall be located so as not to require a patron to stand or create a line that may cause pedestrians to be in the public right-of-way, vehicle travel lane, including parking lot drive aisles, or similar situation that may create a potential safety hazard. Adequate space for patrons waiting for their order must be available on the property where the food truck is located.

5. Signs are limited to those that are attached to the exterior of the mobile unit and must be mounted flat against the unit and not project more than 6 inches from the exterior of the unit. No freestanding signs, banners, flags, or similar items are allowed.

6. During business hours, the food truck operator shall provide a trash receptacle for use by customers and shall keep the area around the food truck clear of litter and debris at all times.

7. All food trucks shall be located in such a manner as to not create a safety hazard, such as blocking emergency access to buildings and the site, obstructing access to fire hydrants, impeding entering and exiting from a building, creating a visual impediment for the motoring public at drive entrances, intersections, pedestrian crossings, or similar movement and access.

**Sec. 74-96. – Permit Fees.**

At the time of the submittal of a permit application, the applicant shall pay to the City the applicable permit fee and occupation tax in such amounts as established by the council. The fee schedule will be set by resolution and may be modified from time to time with approval by resolution of the Council.

**Sec. 74-97. – Suspension or Revocation of Permit.**

Any permit issued under the provisions of this Article may be suspended or revoked by the City as follows:

1. Grounds. The permit may be suspended or revoked if it is found that:

A. The permit holder has made fraudulent statements in his/her application for the permit or in the conduct of his/her business.

B. The permit holder has violated this chapter or any other chapter of this code or has otherwise conducted his/her business in an unlawful manner.

C. The permit holder has conducted his/her business in such a manner as to endanger the public welfare, safety, order, or morals.

2. Notice of Suspension or Renovation; Right of Appeal. The City shall cause notice of the permit revocation to be served by personal delivery or by mail to the permit

holder's local address, which notice shall specify the reason(s) for such action, at which time operations of the permit holder must cease within the corporate limits of the City. The permit holder may appeal the revocation of the permit to the Council at its next regularly scheduled meeting by filing with the Clerk a written request for an appeal to the Council at least seven days prior to the meeting. The Council may affirm, modify, or reverse the decision to revoke the permit. If the permit is revoked, no refund of any permit fee or occupation tax paid shall be made. Upon the revocation of a permit, the permit holder is not eligible for the issuance of a new permit under this chapter for a period of one year from the date the permit revocation is served in person or deposited in the U.S. mail.

3. The remedies in this Section are nonexclusive, and the City may pursue any and all legal remedies available at law for violation of this Article, including, but not limited to, a citation for violation of the City code of ordinances.

SECTION 3: **Severability:** In the event that any section of this ordinance shall be declared illegal or unconstitutional by a court of competent jurisdiction, such declaration shall not in any manner prejudice the enforcement of the remaining provisions.

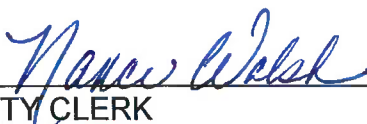
SECTION 4: **Repealer:** All ordinances, resolutions, or policies, or parts thereof, in conflict herewith are hereby repealed.

SECTION 5: **Effective Date:** This ordinance shall be in full force and effect from and after January 01, 2024 and its passage, approval and publication as required by law.

PASSED AND APPROVED this 17<sup>th</sup> day of November, 2023.

  
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MAYOR

ATTEST:

  
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CITY CLERK

