

ORDINANCE NO. 2024-845

AN ORDINANCE OF THE CITY OF BENKELMAN, NEBRASKA REGULATING MOBILE FOOD TRUCKS, PEDDLERS AND SOLICITORS; TO REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

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

SECTION 1. It shall be unlawful for any person to sell or offer for sale or peddle food, goods, etc. from a mobile food truck, mobile food vending unit, mobile sale of goods, etc. upon any property within the city limits of the City of Benkelman, including, but not limited to, streets, sidewalks, parking lots, parks, and private property without first having obtained a permit from the City of Benkelman in accordance with this Ordinance.

SECTION 2. Persons may apply for a permit to operate a mobile food truck, mobile food vending unit, mobile sale of goods, etc. by filing with the City Clerk a signed Application on a form to be furnished by the City of Benkelman, which shall contain the following information:

1. The applicant's business name, address and phone number;
2. If the applicant is a corporation, partnership, or other entity, the names of all officers and managers of such entity;
3. The vehicle license plate numbers and descriptions of all vehicles from which the applicant proposes to sell;
4. The description of the general goods and/or food items to be sold;
5. The requested term of the permit (i.e., a single event or a recurring license to operate);
6. Documentation from the State of Nebraska showing any and all licenses and permits required for applicant's sale of goods or food;
7. A copy of the State of Nebraska sales tax permit, or proof of an applicable sales tax exemption for the applicant;
8. The address of the location the applicant anticipates selling from, including written permission from any private landowner, as well as adjoining private landowners (if applicable);
9. A copy of the vehicle registration and proof of insurance;
10. Proof of insurance with a minimum coverage of \$1,000,000.00, together with an insurance certificate listing the City of Benkelman as an additional insured unless the application is for a peddler;
11. A signed waiver of liability set forth in Section 6;
12. A non-refundable application fee;
13. A plan for disposal of grease, water and other waste; and
14. Such other information as the City of Benkelman may require and as requested in the application form.

SECTION 3. Upon receipt of a complete application submitted in accordance with Section 2, the Mayor and/or City Council and/or the City Clerk shall either approve or deny the permit. Grounds for denial may include, but are not limited to, the following:

1. A finding that the application is incomplete;
 2. Nonpayment of applicable fees;
 3. A finding that the application is not in conformity with any applicable laws, including, but not limited to, this Ordinance;
 4. A finding that the proposed location of the applicant are materially untrue or incorrect;
 5. Previous revocations or suspensions of permits issued under this Ordinance or similar ordinances of other municipalities;
 6. Insufficient or unacceptable plans for the disposal of grease, water, or other waste;
- or

7. The issuance of the permit is not in the best interest of the City of Benkelman.

The Mayor, City Council and the City Clerk also may modify any provision of the permit, including, but not limited to, reducing the term of the permit.

SECTION 4. Permits issued under this Ordinance are nontransferable and no such permit shall be used at any time by an person other than the one to whom it was issued.

SECTION 5. The fee for applications submitted under this Ordinance shall be \$25.00.

SECTION 6. Before a permit under this Ordinance is granted, the applicant shall sign a waiver of liability holding harmless the City of Benkelman and indemnifying the City, its officials, and employees, for any claims for damages to property or injury to persons, which may occur in connection with mobile food vending, mobile sale of goods, etc.

SECTION 7. Permitholders shall conduct their activities in strict conformity with this permit, including, but not limited to, adhering to their plan for disposal of grease, water, and other waste.

SECTION 8. It shall be unlawful for any person to violate the provisions of this Ordinance. Any person found guilty of violating any of the provisions of this Ordinance shall, upon conviction, be fined a sum of not less than \$250.00 nor more than \$500.00. Each day that a violation of any of the provisions of this Ordinance continues shall constitute a distinct offense and shall be punishable as such.

SECTION 9. A permit issued under this Ordinance may be revoked or suspended by the City of Benkelman for any of the following reasons:

1. Any fraud, misrepresentation, or false statement contained in the application for the permit;
2. Any fraud, misrepresentation, or false statement made in connection with the selling of food;
3. Operating in contravention of the parameters of the permit;
4. Any unlawful activity of the permitholder, including any violation of this Ordinance; or
5. Operating in such a manner as to constitute a breach of the peace or a menace to the health, safety, or general welfare of the public.

SECTION 10. When the City of Benkelman revokes or suspends a permit or a permit application is denied, the City of Benkelman shall mail a notice of such revocation, suspension, or denial to the address of the permitholder or applicant, as set forth on the application form. Such permitholder or applicant may file an appeal with the City Clerk. The request for an appeal shall be in writing to the City Clerk. Such request for an appeal must be received within 30 days of the date the City Clerk mailed notice of the revocation, suspension, or denial. If no timely request for an appeal is made, the initial decision shall be final. If a timely request for appeal is received, the appeal shall be heard by the Mayor and the City Council at a regularly scheduled meeting with notice mailed to the permitholder or applicant at least 14 days prior to the meeting.

SECTION 11. That all conflicting ordinances or parts of ordinances in conflict be and the same hereby are repealed.

SECTION 12. That this ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED, APPROVED, AND ADOPTED ON MARCH 18, 2024.



Tammy Buffington
Tammy Buffington, Mayor

Attest:

Diane L. Rosenfelt
Diane L. Rosenfelt, City Clerk

