

BILL NO. 2019-02

ORDINANCE #189

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALIENTE REGULATING THE OPERATION OF MOBILE FOOD VENDORS IN THE CITY OF CALIENTE; REQUIRING A PERMIT; AND FOR OTHER PURPOSES.

WHEREAS, the City Charter for the City of Caliente authorizes this Council to enact any and all ordinances not repugnant to the Constitution of the United States or the State of Nevada to manage the affairs of the City; and

WHEREAS, the number of mobile food vendors are rising nationwide as well as locally and provide the service of convenient and diverse food choices; and

WHEREAS, the City of Caliente does not currently have any regulations pertaining to the operation of mobile food vendors; and

WHEREAS, the City Council recognizes the need to ensure reasonable operation of mobile food vendors;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CALIENTE DOES ORDAIN:

SECTION 1 - Definitions.

As used in this Chapter, unless the context otherwise requires, the following terms shall have the meanings which are ascribed to them, as follows:

“Department” means the City of Caliente Planning and Building Department.

"Employee" means a person who works for or under the direction of, on behalf of, or as an agent of a licensee.

"Health District" means the State of Nevada Health District.

"Mobile food vendor" means a person who offers for sale or sells food items by means of a vehicle. This definition does not include a person who offers for sale or sells food when catering for private events.

“Frozen Food Vendor” means a motor vehicle in which prepackaged food, dessert, ice cream, popsicles, ice sherbets and/or other frozen desserts of any kind that are not prepared or heated in the vehicle for retail sale on the streets of the City of Caliente whether stationary or mobile. The inclusion of other hot foods would define the vehicle as a Mobile Food Vendor and all applicable rules would apply

"Licensee" means the holder of a mobile food vendor business license issued by the Department.

"Vehicle" means a motorized vehicle, as well as a trailer or other portable unit that is drawn by a motorized vehicle and is intended for use in vending.

"Vend" means to sell or offer to sell food and beverage products from a vehicle.

SECTION 2 - License required.

Except as otherwise provided in this Chapter, it is unlawful for a person to:

- (A) Operate as a mobile food vendor within the City without a license issued pursuant to this Chapter; or
- (B) Operate as a mobile food vendor within the City in violation of this Chapter.

SECTION 3 - License—Application.

An application for a mobile food vendor license must be made upon forms provided by the Department, the applicant shall provide the following:

- (A) A description of the selling methods to be used and the nature of the products or services to be offered;
- (B) Photo of Vending Unit (within 90 days of issuance of license);
- (C) Proposed Menu;
- (D) Proposed Seating/Benches to be set up (if any);
- (E) Proposed days and hours of operation;
- (F) Proposed location(s);
- (G) Proof of filing with the State of Nevada Department of Taxation and proof of Nevada State Business License;
- (H) A health permit for each vehicle, documentation that the vehicle is eligible for such permit, and a health card for each operator (all issued by the Health District);
- (I) A copy of a valid, unexpired Nevada vehicle registration, if applicable, for each vehicle; and
- (J) Such other information or documentation as the Department may require in order to establish the applicant's suitability and fitness for approval.

SECTION 4 - Health District requirements.

Each mobile food vendor shall:

- (A) Comply with all applicable Health District regulations.
- (B) Prominently display all health permits issued to the vendor by the Health District.

SECTION 5 - Location restrictions.

- (A) Except as otherwise provided in Subsection (B) of this Section, no mobile food vendor shall:
 - (1) Have any exclusive right to any location upon the streets, sidewalks, alleys, or public grounds of the City; or
 - (2) Vend in any congested area where the operation will impede pedestrian or vehicle traffic.
- (B) Vendor shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of a public way if necessary, to avoid such congestion or obstruction.
- (C) The provisions of Subsection (A) of this Section do not apply to the operation of a mobile food vendor at a particular location if and to the extent the vendor is operating at that location pursuant to a contractual arrangement with the City.

SECTION 6 - Insurance.

Each licensee must file with the Department and thereafter maintain public liability and property damage insurance which shall protect the public against any and all claims for personal injury damages, including death, and property damages which may arise out of or in connection with any operations or activities of the mobile food vendor. The amount of such insurance shall not be less than one hundred thousand dollars for injuries, including death, to any one person, and subject to the same limit for each person in an amount of not less than three hundred thousand dollars for injuries, including death, to more than one person on account of any one accident, and property damage insurance in an amount not less than twenty-five thousand dollars for each accident. A certificate of insurance shall be provided to the Department prior to the issuance of a business license and the City shall be named as an additional insured party. Any insurance coverage provided under this Section shall also contain a provision that any cancellation or material change in the coverage shall not become effective until the City has been given sixty days prior written notification.

If the licensee sells alcohol under the provisions of this title each licensee must file with the Department and thereafter maintain public liability and property damage insurance which shall protect the public against any and all claims for personal injury damages, including death, and

property damages which may arise out of or in connection with any operations or activities of the mobile food vendor, the amount of such insurance shall not be **LESS THAN ONE MILLION DOLLARS FOR INJURIES, INCLUDING DEATH, TO ANY ONE PERSON, AND SUBJECT TO THE SAME LIMIT FOR EACH PERSON IN AN AMOUNT OF NOT LESS THAN TWO MILLION DOLLARS FOR INJURIES, INCLUDING DEATH, TO MORE THAN ONE PERSON ON ACCOUNT OF ANY ONCE ACCIDENT, AND PROPERTY DAMAGE INSURANCE IN AN AMOUNT NOT LESS THAN FIFTY THOUSAND DOLLARS FOR EACH ACCIDENT.** A certificate of insurance shall be provided to the Department prior to the issuance of a business license and the City shall be named as an additional insured party. Any insurance coverage provided under this Section shall also contain a provision that any cancellation or material change in the coverage shall not become effective until the City has been given sixty days prior written notification.

SECTION 7 - Unlawful operations.

It is unlawful for any mobile food vendor to:

- (A) Consume alcoholic beverages while vending;
- (B) Vend in any residential neighborhood unless the vendor is operating:
 - (1) As a caterer for a specific event at a specific location; or
 - (2) At a location concerning which such vending has been specifically approved by means of a special event permit issued;
- (C) Vend within one hundred feet of the primary public entrance of a licensed restaurant during the hours the restaurant is open for business, unless the vendor:
 - (1) Is located on the same premises as the licensed restaurant and is operating either on behalf of or with the consent of the restaurant licensee; or
 - (2) Is operating at a location concerning which such vending has been specifically approved by means of a special event permit;
- (D) Operate or park a vehicle to be used in vending in violation of applicable traffic and parking laws and ordinances including, but not limited to, noise ordinances;
- (E) Vend within fire lanes or at other locations where to do so would be in violation of parking prohibitions or limitations;

- (F) Vend at the same location within the public right-of-way for more than ten consecutive hours. For purposes of this prohibition, the "same location" means a particular vending location and any location within a distance of one hundred fifty feet from that location;
- (G) Vend within designated loading zones, except as permitted by means of a special event permit;
- (H) Place tables, chairs or similar items in the public right-of-way in connection with a vending operation;
- (I) Vend on any one parcel, lot or commercial subdivision for more than ten hours within any twenty-four hour period, unless the vendor is operating at that location pursuant to a contractual arrangement with the landowner;
- (J) Vend on undeveloped lots, or developed lots with unoccupied structures or unpaved surfaces, unless the vendor is operating at that location pursuant to a contractual arrangement with the landowner;
- (K) Vend on any one parcel or lot that is zoned for Residential use, unless the vendor has been approved for a Conditional Use Permit through the Caliente Planning Commission;
- (L) In the case of a mobile food vendor who sells from a trailer or other portable unit drawn by a motorized vehicle, keep the trailer or unit connected to a motorized vehicle (except in the case of an emergency).
- (M) Extend any auxiliary power required for operation. Use of public or private power sources may be permitted by providing written consent from the owner. However, no power cable or equipment shall be extended at grade across any City street, alley, or sidewalk.
- (N) Permit the disposal of liquids, garbage, litter, or refuse on city sidewalks, streets, lawns, gutters, or drains. Vendor is required to supply trash containers sufficient in size to collect all waste. Vendor is also required for removing all waste generated by Vendor and/or its customers from premises and disposing of waste in an appropriate manner.
- (O) Utilize a Public Address (PA) system, bells, music, loudspeakers or any other device before the hours of 9:00 a.m. and after the hours of 8:00 p.m.
- (P) Vend alcohol from the same window in which the Mobile Food Vendor sells and distributes non-alcohol products.

SECTION 8 - License—Display—Nontransferable.

- (A) Any person required to have a mobile food vendor license must display in a conspicuous manner. The display shall be of such color, size and placement that the identification number can be easily read at a distance of ten feet.
- (B) A mobile food vendor license is not transferable.

SECTION 9 - Vehicle maintenance.

The licensee shall maintain a vehicle to be used for vending in such a condition that:

- (A) All doors, windows, hoods and trunks open and close securely;
- (B) The exterior of the vehicle is clean and in good repair; and
- (C) Any windows on the vehicle are clear of signs and other obstructions.

SECTION 10 – Exceptions

The provisions of this title and ordinance do not apply to Frozen Food Vendors as defined in Section 1.

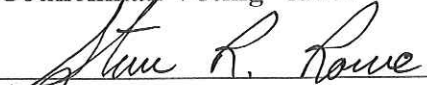
SECTION 11 – Penalties

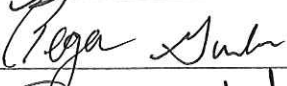
Any person violating any provisions of this Ordinance may be fined up to \$1000.00 and may result in the loss of the business license.


PASSED, ADOPTED AND APPROVED this 2ND day of MAY, 2019.

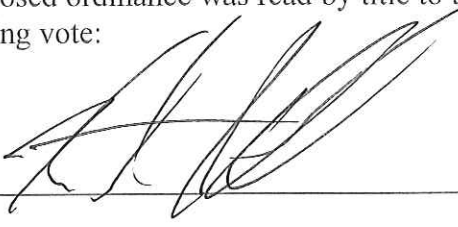
The above and foregoing ordinance was first proposed and read by title to the City Council on the 18th day of April, 2019. City of Caliente Bill No. 2019-02, Ordinance # 189 was published in the Lincoln County Record the _____ day(s) of _____, 2019. At the regular meeting of the City Council on 2nd day of May, 2019, the proposed ordinance was read by title to the City Council as first introduced and adopted by the following vote:

Councilman Voting "AYE":









Councilman Voting "NAY":

Councilman Absent:

APPROVED:



Mayor Victor Jones

ATTEST



MaryJo Shearer, City Clerk