

D-2016-004

---

**CITY OF ALBUQUERQUE  
CITY COUNCIL**

---

**INTEROFFICE MEMORANDUM**

**TO: Richard J. Berry, Mayor**

**FROM: Jon K. Zaman, Director of Council Services**

*Jon 3/15/16*

**SUBJECT: Transmittal of Legislation**

---

Transmitted herewith is Bill No. F/S O-16-3 Amending The Traffic Code, Chapter 10, Article 5, Part I Of The Revised Ordinances Of Albuquerque To Decrease The Required Buffer Between Mobile Food Units And Site-Built Restaurants And To Authorize Mobile Food Units To Operate Within That Buffer After Those Establishments' Business Hours (Benton), which was passed at the Council meeting of March 7, 2016, by a vote of 8 FOR AND 1 AGAINST.

**Against: Sanchez**

In accordance with the provisions of the City Charter, your action is respectfully requested.

RECEIVED  
CITY OF ALBUQUERQUE

2016 MAR 23 PM 1:26

JKZ:mh

**CITY of ALBUQUERQUE**  
**TWENTY-SECOND COUNCIL**

COUNCIL BILL NO. F/S O-16-3

ENACTMENT NO. 0.2016.004

SPONSORED BY: Isaac Benton

**ORDINANCE**

**AMENDING THE TRAFFIC CODE, CHAPTER 10, ARTICLE 5, PART I OF THE  
REVISED ORDINANCES OF ALBUQUERQUE TO DECREASE THE REQUIRED  
BUFFER BETWEEN MOBILE FOOD UNITS AND SITE-BUILT RESTAURANTS  
AND TO AUTHORIZE MOBILE FOOD UNITS TO OPERATE WITHIN THAT  
BUFFER AFTER THOSE ESTABLISHMENTS' BUSINESS HOURS.**

**BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
ALBUQUERQUE:**

**SECTION 1. Section 8-5-1-42 of the Traffic Code is amended as follows:**

**“§ 8-5-1-42 Mobile Food Units on Public Streets. Any vehicle classified as a  
Mobile Food Unit pursuant to Section 9-6-5-2 ROA 1994 is permitted to operate  
from any public right-of-way where on-street parking is permitted subject to  
the following:**

**(A) For the purposes of this section, “operation” of a Mobile Food Unit  
includes any activity involved with food preparation or sales.**

**(B) No Mobile Food Unit, shall operate from any street frontage immediately  
abutting a single family residence, except that:**

**(1) When only one side of a street abuts a single family residence,  
nothing in this section shall be construed as prohibiting a Mobile Food Unit  
from operating from the opposite side of the street, provided that all other  
relevant requirements and restrictions are met; and**

**(2) Mobile Food Units may operate from a street frontage immediately  
abutting a single-family residence during neighborhood events for which a  
Block Party Application has been filed with the Department of Municipal  
Development and for which a Block Party Permit has been received; and**

[Bracketed/Underscored Material] - New  
[Bracketed/Strikethrough-Material] - Deletion

[Bracketed/Underscored Material] - New  
[Bracketed/Strikethrough Material] - Deletion

1           **(3) Mobile Food Units that traditionally sell pre-packaged foods for sale**  
2 **or delivery to the public in residential areas and that generally do not remain**  
3 **stationary at any location for intervals exceeding a few minutes at a time, such**  
4 **as ice-cream trucks, paleta carts, and frozen food trucks, may operate from a**  
5 **street frontage immediately abutting a single-family residence.**

6           **(C) Every Mobile Food Unit is subject to, and must comply with, the general**  
7 **noise restrictions prescribed by Section 9-9-12 ROA 1994, and all other**  
8 **relevant requirements and restrictions of local, state, and federal law.**

9           **(D) No Mobile Food Unit shall obstruct any sidewalk or pedestrian way**  
10 **within a public right-of-way with the Mobile Food Unit or any associated**  
11 **tables, chairs, displays, umbrellas, or the like.**

12           **(E) Every Mobile Food Unit shall maintain a minimum distance of 75 feet**  
13 **from any publicly accessible building ingress or egress for any site-built food**  
14 **service establishment during that establishment’s business hours, unless**  
15 **written permission is granted by the owner(s) or operator(s) of each site-built**  
16 **food service establishment within 75 feet to authorize mobile food unit**  
17 **operation during business hours, a copy of which is kept at the Mobile Food**  
18 **Unit and made available for review by any City inspector.**

19           **(1) For purposes of this section, the 75 foot separation requirement is**  
20 **measured along the sidewalk or street edge beginning at the center point of**  
21 **the nearest building ingress/egress of any site-built food service**  
22 **establishment, and measured to the nearest edge of the Mobile Food Unit.**  
23 **Where Mobile Food Units are located across one or more public rights-of-way,**  
24 **the 75 foot separation requirement is measured so to include the width of the**  
25 **right(s)-of-way.**

26           **(F) Every Mobile Food Unit shall maintain a distance of at least 10 feet from**  
27 **any vehicular and pedestrian egress/ingress points to adjacent properties and**  
28 **from intersections.**

29           **(G) Use of on-street spaces by Mobile Food Units is on a first come first**  
30 **served basis, Mobile Food Unit operators shall not reserve spaces in advance**  
31 **of arrival. Mobile Food Unit operators are responsible for paying all applicable**  
32 **meter fees for on-street parking spaces.**

1 (H) This section establishes traffic code regulations pertaining to Mobile  
2 Food Units. Other aspects of Mobile Food Units are regulated in other parts of  
3 the Municipal Code. Please refer to Zoning Code § 14-16-3-25 and Health,  
4 Safety & Sanitation Code § 9-6-5.”

5 SECTION 2. SEVERABILITY CLAUSE. If any section, paragraph, sentence,  
6 clause, word or phrase of this ordinance is for any reason held to be invalid or  
7 unenforceable by any court of competent jurisdiction, such decision shall not  
8 affect the validity of the remaining provisions of this ordinance. The Council  
9 hereby declares that it would have passed this ordinance and each section,  
10 paragraph, sentence, clause, word or phrase thereof irrespective of any  
11 provisions being declared unconstitutional or otherwise invalid.

12 SECTION 3. COMPILATION. This ordinance shall be incorporated in and  
13 made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

14 SECTION 4. EFFECTIVE DATE. This ordinance shall take effect five days  
15 after publication by title and general summary.

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

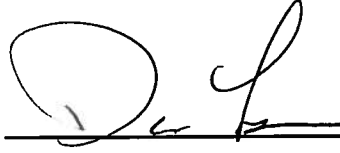
32

33

[Bracketed/Underscored Material] - New  
[Bracketed/Strikethrough-Material] - Deletion

1 PASSED AND ADOPTED THIS 7<sup>th</sup> DAY OF March, 2016  
2 BY A VOTE OF: 8 FOR 1 AGAINST.

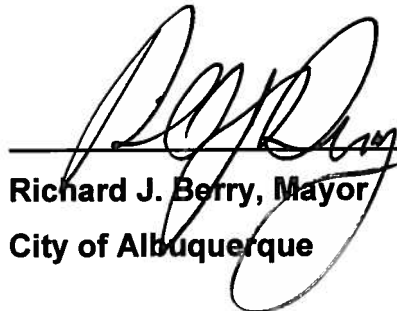
3  
4 **Against: Sanchez**

5  
6  
7 

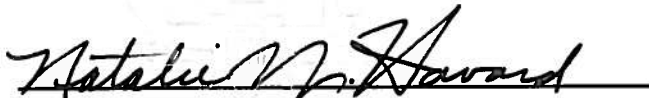
8 **Dan Lewis, President**  
9 **City Council**

10  
11  
12  
13 APPROVED THIS 23<sup>RD</sup> DAY OF March, 2016

14  
15  
16  
17  
18 **Bill No. F/S O-16-3**

19  
20  
21   
22 **Richard J. Berry, Mayor**  
23 **City of Albuquerque**

24  
25  
26 **ATTEST:**

27  
28   
29 **Natalie Y. Howard, City Clerk**

[+Bracketed/Underscored Material+] - New  
[-Bracketed/Strikethrough Material-] - Deletion