



CENTER *for* RURAL AFFAIRS

LEGISLATIVE RESOLUTION 328:

Interim study to determine whether rules and regulations guiding the inspection and permitting of mobile food units are being applied consistently between jurisdictions.

2022

I. INTRODUCTION

A 2021 market research report estimated approximately 32,000 mobile food businesses operating in the United States. Together they employed 38,000 people and created \$2.7 billion in annual revenue.¹ Their welcome presence in communities big and small ensures nearly every American has experienced the value they offer.

The restaurant industry is capital-intensive, creating a significant barrier for first-time entrepreneurs. A mobile food business allows entrepreneurs to introduce their product to the marketplace, and, if successful, build the equity they need to open a brick-and-mortar location. This appeals to consumers who appreciate a new food experience and value the quality and convenience mobile food businesses can provide.

This growing popularity has led states across the country to modernize laws governing the mobile food business industry. Utah and Maryland both passed regulatory reform in 2017. This was followed by Arizona, Rhode Island, and Washington in 2018. Then Colorado and Virginia passed laws in 2019, and finally, Florida in 2020. All of these states have eliminated redundancy and simplified regulations. Many now allow food trucks to

operate under a single permitting system and disallow localities from requiring additional permits or fees.^{2,3}

In Nebraska, the number of mobile food businesses is hard to measure. No agency or department keeps track. The website [FoodTrucksIn.com](https://www.foodtrucksin.com) follows the locations of food trucks that register with them. In Nebraska, it lists 72 food trucks across 20 communities from Scottsbluff to Loup City.⁴ A similar website, [roaminghunger.com](https://www.roaminghunger.com), lists 102 food trucks in Nebraska.⁵ This is viewed as a low estimate since not every food truck will sign up to advertise on these websites.

A mobile food unit in Nebraska is subject to the same regulations and permitting requirements

1 “Food Trucks Industry in the US - Market Research Report.” IBISWorld, Sept. 12, 2022, ibisworld.com/united-states/market-research-reports/food-trucks-industry/. Accessed October 2022.

2 “Food Trucks: An LRO Backgrounder.” Nebraska Legislative Research Office, March 2020, [nebraska.legislature.gov/pdf/reports/research/food-trucks_2020.pdf](https://legislature.gov/pdf/reports/research/food-trucks_2020.pdf). Accessed October 2022.

3 Wimer, Andrew. “Food Truck Freedom Legislation Passes Florida Legislature.” Institute for Justice, March 12, 2020, [ij.org/press-release/food-truck-freedom-legislation-passes-florida-legislature](https://www.ij.org/press-release/food-truck-freedom-legislation-passes-florida-legislature). Accessed October 2022.

4 “National List of Food Trucks Cities.” Food Trucks In, [foodtrucksin.com/national-list-of-food-truck-cities](https://www.foodtrucksin.com/national-list-of-food-truck-cities). Accessed October 2022.

5 “Nebraska Food Trucks.” Roaming Hunger, [roaminghunger.com/food-trucks/nebraska/1/](https://www.roaminghunger.com/food-trucks/nebraska/1/). Accessed October 2022.

as a brick-and-mortar food establishment.⁶ This is problematic because the two are different. The Nebraska Department of Agriculture (NDA) does not offer official guidance on how to adapt brick-and-mortar regulations to mobile food units, resulting in differences of interpretation among inspectors and among enforcement agencies. This is further exacerbated by the sheer number of institutions responsible for enforcement. The NDA, area health inspectors, county health departments, various municipal agencies, and hundreds of city clerks are all asked to consult regulations that were developed for brick-and-mortar restaurants when deciding how to permit and regulate mobile food units.

Bills introduced by the 106th and 107th legislatures sought to rectify this by proposing regulations unique to mobile food units. Both Legislative Bill (LB) 732, introduced in 2019, and LB 584, introduced in 2021, proposed a Mobile Food Unit Act that would have established a new set of standards.^{7,8} The Legislature's Agriculture Committee did not take action on either bill.

Is legislative activity needed? This report answers that and other important questions posed by the 107th Legislature in Legislative Resolution 328. It begins by identifying the jurisdictions responsible for regulating mobile food units in Nebraska and reviewing the applicable rules and regulations. It then considers how these are applied between jurisdictions. Finally, the report concludes by considering proposed revisions to the Nebraska Pure Food Act and other laws.

6 "Food Trucks: An LRO Backgrounder." Nebraska Legislative Research Office, March 2020, nebraska.gov/legislature/pdf/reports/research/food-trucks_2020.pdf. Accessed October 2022.

7 "LB 732 - Adopt the Mobile Food Unit Act and change fees for a mobile food unit." Nebraska Legislature, Jan. 23, 2019, nebraskalegislature.gov/bills/view_bill.php?DocumentID=37848. Accessed October 2022.

8 "LB 584 - Adopt the Mobile Food Unit Act and change fees for a mobile food unit." Nebraska Legislature, Jan. 19, 2021, nebraskalegislature.gov/bills/view_bill.php?DocumentID=44466. Accessed October 2022.

II. PERMIT TYPES

Mobile food unit owners in Nebraska must acquire different permits to operate. Cost, frequency, and details of each are typically dictated by the county or municipality. Additional rules and regulations are introduced when seeking permits for specific events, such as the Nebraska State Fair or College World Series. These examples illustrate the regulatory morass faced by each aspiring entrepreneur.

A. Health inspection permits

This permit is mandatory and comes from the NDA in 90 of the state's 93 counties. Possession of a permit is considered proof that a mobile food unit is following food service best practices that safeguard against food borne diseases.

- Business owners in the remaining three counties—Douglas, Lancaster, or Hall—must secure health inspection permits from their local health departments.

B. Municipal mobile food vendor permits

The municipality in which a mobile food unit is operating may require a special permit above and beyond the health inspection permit. For example, the Park Omaha permit allows a vendor to operate in Omaha. The cost is \$100, or \$200 if the vendor plans to park in downtown Omaha.⁹ Permits can vary widely in price and duration.

C. Peddler and solicitor permits

Many smaller municipalities in Nebraska do not have specific mobile food unit ordinances. Instead, they use itinerant merchant, peddler, solicitor, or street vendor ordinances. Enforcement is uneven, especially in cases in which the town does not regularly have visiting mobile food units or the local administrator is

9 "Mobile Food Vendor Permit, Location Fees and Restrictions." Park Omaha, parkomaha.com/resources/mobile-food-vendor-permit. Accessed October 2022.

unsure whether the solicitor permit applies to mobile food units at all.^{10,11}

D. Commissary kitchen certification

Commissary kitchens are mobile food units that store food supplies and cook, prepare, and package food. They also serve as a place to fill water tanks, dispose of dirty water, and clean equipment at the end of the day. Only Douglas County requires that a mobile food unit also own or pay to use a certified commissary kitchen.

E. Occupation taxes

Mobile food units may be required to pay occupation taxes. For example, the City of La Vista charges a 1.5% occupation tax in addition to an annual license fee.¹²

F. Background checks

Some cities require police background checks on mobile food unit employees before permitting is approved. Whether a community requires a background check does not depend on its size. Lindsay, population 285, and Bellevue, population 64,000, both require them.^{13,14}

G. Insurance requirements

Some cities require mobile food unit owners to carry insurance policies and, in many cases, require that the city be added as an additional insured party. For example, Beatrice requires mobile food units to carry a \$1,000,000 insur-

10 Personal communication, Paul Del Signore, Sarpy County Food Health Inspector, July 2022.

11 Personal communication, Daniel Ludwig, Douglas County Interim Supervisor of Food Safety & Compliance, July 2022.

12 “La Vista City Ordinance 1365.” City of La Vista, Sept. 5, 2019, cityoflavista.org/DocumentCenter/View/12784. Accessed October 2022.

13 Murphy, Patrick. “Checks on Lindsay food truck vendors remains—for now.” *Norfolk Daily News*, July 15, 2022, norfolkdailynews.com/news/checks-on-lindsay-food-truck-vendors-remains-for-now/article_f9f08200-044a-11ed-bffd-df59e40dc972.html. Accessed October 2022.

14 Bellevue, Nebraska, City Code Ordinance No. 3404 §(23-5b).

ance policy with the city included as an additional insured party.¹⁵ This is more common when the unit is going to be operating in a public space or at a city event.¹⁶

III. HEALTH INSPECTION PERMITS

All food establishments, including mobile food units, must first acquire a permit from the State of Nebraska. Mobile food units must also obtain a health inspection permit. Four organizations have the authority to issue a health inspection permit—the NDA and the three autonomous county health departments in Douglas, Hall, and Lancaster counties. See Figure 1 on page 4.¹⁷

There is no reciprocity among the state and autonomous county health departments, or between the autonomous county health departments individually. If a mobile food unit wants to operate in Douglas, Hall, or Lancaster counties, it will need to pay for and be inspected by that county’s health department. A health inspection permit issued at the state level by NDA, which would allow a mobile food unit to operate in 90 of the state’s 93 counties, will not allow a mobile food unit operator to do business in Douglas, Hall, or Lancaster counties.

This regulatory mish-mash is further complicated by the 15 separate food inspector areas managed by NDA. Because the NDA has not developed guidance, each of the employees charged with inspecting mobile food units do so by relying on their own interpretation of a checklist originally developed for brick-and-mortar restaurants.

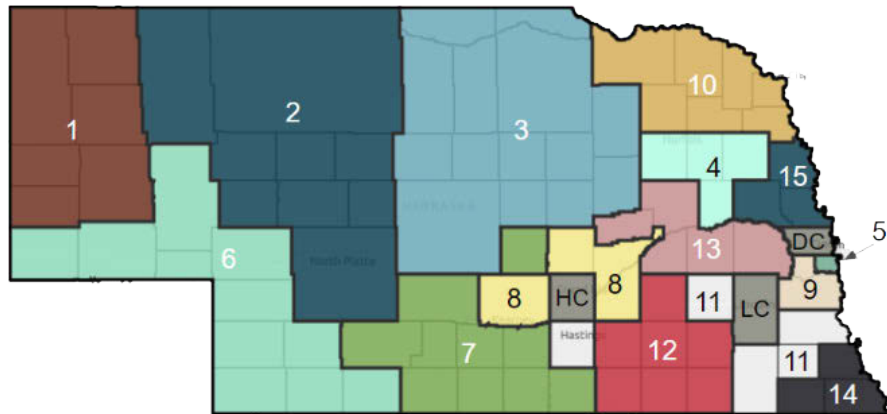
This confusion and uncertainty can often result in unexpected costs. Operators hoping to travel to adjacent counties for events or new clientele must purchase new permits and subject themselves to additional inspection. The new inspector may also mandate the purchase of additional

15 Beatrice, Nebraska, Municipal Code 22-6, page 4, item 9.

16 Personal communication, Dana Klabenes, Neligh City Clerk, July 2022.

17 “Application/Inspection Areas.” Nebraska Department of Agriculture, nda.nebraska.gov/fscp/foods/inspection_areas.html#map. Accessed October 2022.

FIGURE 1. 15 NEBRASKA DEPARTMENT OF AGRICULTURE FOOD INSPECTOR AREAS PLUS THE THREE AUTONOMOUS COUNTIES



equipment or require modifications that add an unnecessary expense.

Inspection criteria in each of these four jurisdictions find their basis in state statute and the Nebraska Food Code.¹⁸ Because these regulations were written for brick-and-mortar restaurants and not mobile food units, differences in interpretation have created a situation where the process and metrics used to determine whether a mobile food unit business is sufficiently safe vary considerably. Like a game of telephone, inconsistent interpretation permeates through several layers of enforcement.

- **Commissary kitchens:** These kitchens are inspected facilities used by mobile food unit owners to prepare and store food, wash dishes, and dispose of trash and dirty water. Douglas County requires a mobile food unit owner to have a commissary kitchen space while other jurisdictions do not.
- **Food handler training:** The Lincoln Food Code has specific training requirements for food handlers.¹⁹ This includes serving, cleaning, cooking, and staff management. Depending on the class, these certifications cost between \$20 and \$30 per employee each year.

- **Bare hand contact with ready-to-serve food:** Lancaster County is unique because it does not allow any bare hand contact with ready-to-serve food unless special permission is granted through the Health Department.²⁰
- **Commercial equipment:** Douglas County requires equipment inside of a mobile food unit to be commercial grade, which can add considerable expense.²¹
- **Fire suppression:** The Lincoln Bureau of Fire Prevention requires cooking equipment used in processes that produce smoke or grease-laden vapors to be equipped with an exhaust system that complies with all of the equipment and performance requirements of NFPA 96, Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations, 2001 Edition.²²

20 Lincoln, Nebraska, Municipal Code 8.20.070.

21 “Mobile Pre-opening Inspection Checklist.” Douglas County Health Department, April 1, 2022, douglascountyhealth.com/images/EHD/Food_Safety__Compliance/2022_Food_Safety_Permit_Forms/Mobile_inspection_checklist_04.01.2022.pdf. Accessed October 2022.

22 Schweitzer, Chuck. “Fire Inspector Letter.” Nebraska Bureau of Fire Prevention, Feb. 13, 2012, lincoln.ne.gov/files/sharedassets/public/health-dept/environmental/food-safety/management/fireinspectorletter.pdf. Accessed October 2022.

18 “Nebraska Food Code.” Nebraska Department of Agriculture, Food Safety and Consumer Protection, 2017, nda.nebraska.gov/regulations/foods/food_code.pdf. Accessed October 2022.

19 Lincoln, Nebraska, Municipal Code 8.20.195.

TABLE 1. COST DIFFERENCES FOR HEALTH INSPECTIONS BY JURISDICTION

Jurisdiction	Mobile Food Unit Inspection (annual fee)	Nebraska Department of Agriculture (one-time admin fee)	Commissary Inspection (annual fee)	Total
Nebraska Department of Agriculture (90 Counties)	\$41.00	\$81.61	\$114.00 (optional)	\$122.61 to \$236.61
Douglas County	\$518.00	\$81.61	Included in mobile food unit permit cost (required)	\$599.61
Lancaster County	\$420.00	\$81.61	\$195.00 (optional)	\$501.61 to \$696.61
Hall County	\$129.00	\$81.61	\$103.00 (optional)	\$210.61 to \$313.61

TABLE 2. REQUIREMENT AND INSPECTION DIFFERENCES BETWEEN THE JURISDICTIONS

	Nebraska Department of Agriculture	Douglas County	Lancaster County	Hall County
Commissary kitchen	Optional	Required	Optional	Optional
Food handler training	None	None	Required (\$20-\$30)	None
Bare hand contact with ready-to-serve food	Minimize	Minimize	Not allowed	Minimize
Fire suppression equipment on exhaust vent hood	Optional	Optional	Required	Optional
Commercial equipment	Optional	Required	Optional	Optional

IV. LOCAL PERMITS AND REGULATIONS

Municipalities are allowed to regulate mobile food units above and beyond state regulations. While some communities have specific ordinances in place, others choose to apply generic peddler and solicitor ordinances or leave the industry unregulated. Although mobile food unit policy overall has not kept up with industry growth, individual communities are beginning to make changes. For example, Fremont, a com-

munity of 26,000, enacted a specific mobile food unit ordinance in May 2022.²³

The list below highlights the varied fees and regulations a mobile food unit owner must consider before deciding to operate in a municipality.

 23 “Fremont Municipal Code Amendment 5611.” City of Fremont, April 10, 2022, fremontne.gov/DocumentCenter/View/6358/5611. Accessed October 2022.

Each permit or license must be obtained in addition to state and county permits. This list does not include rules concerning where and when a unit can operate, as most communities regulate that as well.

- **Kearney** requires a \$500 itinerant vendor permit, which can be purchased through the police department, along with payment of a 1% occupation tax.^{24,25} Mobile food units must also park on private property, unless they have special permission during an event.²⁶
- **South Sioux City** requires a \$25 license fee and a \$500 occupation tax annually.^{27,28,29}
- **Beatrice** approved a new ordinance in March 2022 and now requires a \$25 fee be included with an application. Operators must sign a document releasing the city from any liability and carry \$1,000,000 of insurance coverage, with a certificate listing the City of Beatrice as an additional insured entity.^{30,31}
- **Bellevue** requires a \$300 peddler permit and a background check.³²
- **Norfolk** requires mobile vendors to purchase a \$250 annual permit.³³
- **North Platte** has no licensing requirements for mobile food units.³⁴
- **Columbus** permits are issued by the police department and cost \$30 per month.³⁵
- **Grand Island** permits are issued by the Central District Health Department and cost \$41 per year.³⁶
- **Hastings** requires payment of \$40 annual occupation tax.³⁷
- **Scottsbluff** has no permit requirements, but mobile food units must be inspected by the city's fire marshal.³⁸
- **La Vista** requires the payment of a 1.5% occupation tax and classifies mobile food units as restaurants. It also requires a \$100 mobile food vendor license.^{39,40}
- **Ralston** requires a mobile food vendor permit, but as of June 10, 2022, does not charge a fee.⁴¹ The City Council made this

24 "Application: City of Kearney, Nebraska, Itinerant Merchant, Peddler, Solicitor." City of Kearney, cityofkearney.org/DocumentCenter/View/4816. Accessed October 2022.

25 Kearney, Nebraska, Municipal Code Article 30.

26 Personal communication, Peggy Eynetich, Kearney Interim City Clerk, July 2022.

27 "Mobile Food Trucks and Mobile Food Vending Units." Beatrice City Clerk, March 7, 2022, beatrice.ne.gov/city-clerk/page/mobile-food-trucks-and-mobile-food-vending-units. Accessed October 2022.

28 South Sioux City, Nebraska, Municipal Code Article V.

29 "Application for Itinerant Sales License." City of South Sioux City, southsiouxcity.org/egov/apps/document/center.egov?view=item&id=1414. Accessed October 2022.

30 "Mobile Food Trucks and Mobile Food Vending Units." Beatrice City Clerk, March 7, 2022, beatrice.ne.gov/city-clerk/page/mobile-food-trucks-and-mobile-food-vending-units. Accessed October 2022.

31 Beatrice, Nebraska, Municipal Code 22-6, page 4, item 9.

32 Bellevue, Nebraska, City Code Ordinance No. 3504, §1(23-21).

33 "Norfolk Municipal Code Sec. 2-5 Schedule of Fees." City of Norfolk, norfolkne.gov/citycode/Chapters/Chapter%202.htm#Sec.%202-5. Accessed October 2022.

34 Personal communication, Brianna Duerst, Norfolk City Clerk, July 2022.

35 "Resolution No. R20-88, Schedule of Fees 2020-2021." City of Columbus, Sept. 8, 2020, columbusne.us/DocumentCenter/View/4466. Accessed October 2022.

36 Grand Island, Nebraska, City Code §29-4.

37 Hastings, Nebraska, City Code Sec. 5-201, 5-202.

38 Personal communication, Kimberley Wright, Scottsbluff City Clerk, July 2022.

39 La Vista, Nebraska, City Ordinance 1365 §111.01.

40 "Mobile Food Vendors, FAQ." City of La Vista, cityoflavista.org/Faq.aspx?QID=172. Accessed October 2022.

41 "Mobile Food Vendor." City of Ralston, cityofralston.com/city-hall/pages/mobile-food-vendor. Accessed October 2022.

change to encourage mobile food vendors to visit Ralston.⁴²

- **Omaha** requires mobile food units to purchase a \$100 permit, \$200 if parking downtown.⁴³ These permits are issued by Park Omaha. Mobile food push-carts that do not take up parking space must buy a \$75 peddler permit.⁴⁴
- **Lincoln** requires a \$25 peddler permit along with food handler certifications for all employees, which range from \$20 to \$30 annually.⁴⁵
- **Neligh** requires a \$50 annual permit and a background investigation.^{46,47}
- **Chadron** requires a solicitor's license, which costs \$200 a year.^{48,49}
- **Fremont** requires a \$100 permit; \$200 if operating downtown.⁵⁰

42 Personal communication, Maura Kelly, Ralston City Clerk, July 2022.

43 "Mobile Food Vendor Permit." Park Omaha, parkomaha.com/resources/mobile-food-vendor-permit. Accessed October 2022.

44 Omaha, Nebraska, Code of Ordinances, 19-89.

45 "City of Lincoln, Nebraska, Peddler Permit Application/Vendor Truck Application." City of Lincoln, app.lincoln.ne.gov/city/finance/clerk/pdf/Peddler.pdf. Accessed October 2022.

46 Neligh, Nebraska, City Code Chapter 4, Article 8, Mobile Food Vendors.

47 Personal communication, Dana Klabenes, Neligh City Clerk, July 2022.

48 Personal communication, Donna Rust, Chadron City Clerk, July 2022.

49 "City of Chadron, Nebraska, Application for Solicitor License." City of Chadron, Sept. 13, 2021, chadron-nebraska.com/DocumentCenter/View/154/City-of-Chadron-Application-for-Solicitor-License-PDF. Accessed October 2022.

50 Fremont, Nebraska, City Council Ordinance 5611.

V. BUSINESS UNCERTAINTY

Each of Nebraska's 529 municipalities is invited to regulate mobile food units. In addition, all 93 counties are able to enact some form of regulation. The NDA covers 15 inspection areas, each with a different inspector that lends his or her own interpretation to the brick-and-mortar restaurant guidelines that apply to mobile food units. The autonomous counties of Douglas, Hall, and Lancaster have tremendous latitude within their borders on all categories of regulation.

This regulatory morass makes it incredibly difficult for a new entrepreneur to succeed. Some of the initial questions an aspiring entrepreneur will face include:

Which permits do I need?

Who issues these permits?

What is covered by my permit from the State of Nebraska?

Which agency is responsible for issuing a health inspection permit in my area?

Which inspector is in charge of my area?

How will that inspector apply the guidelines designed for brick-and-mortar restaurants to my business?

Are there any regulations that apply to mobile food units but do not apply to brick-and-mortar restaurants?

What do I need to prepare for one inspector that another does not require?

How will one inspector interpret information differently from another?

Which municipalities are covered by my health inspection permit?

Does my municipality require an additional permit?

Do the neighboring municipalities require an additional permit?

Do neighboring municipalities share the same health inspection jurisdiction?

Do neighboring municipalities share the same health inspectors?

How much will this municipality charge for a health inspection fee?

Does this municipality charge a commissary inspection fee?

What are the laws and regulations in my municipality?

What are the laws and regulations in neighboring municipalities?

Which municipalities require a commissary kitchen?

Which municipalities charge occupation taxes?

Is the tax in the form of an annual fee or a percentage of sales?

Which municipalities require a background check?

Which municipalities require a food handler permit?

How much will this municipality charge for a food handler license?

Which municipalities require an insurance policy?

Which municipalities must be included on my insurance policy?

Which municipalities require that we wear gloves when handling food?

Which municipalities require commercial equipment?

Which municipalities require cooking equipment to be equipped with an exhaust fan?

Where am I allowed to park?

Which municipalities require an inspection by the fire marshal?

The answer to each of these questions can be the difference between profitability and another failed enterprise. The mobile food unit industry operates on a 6% to 9% profit margin and, in a state like Nebraska, many only function for nine months out of the year. As with any small business, they face their own unique expenses, such as fuel, propane, vehicle insurance, business insurance, vehicle maintenance, and mobile Wi-Fi for point-of-sales. Requiring a commissary kitchen, for example, adds an additional \$300 to \$700 per month to a growing list of expenses.⁵¹

Consider a mobile food unit based out of West Point in Cuming County that serves individually sized pizzas at a cost of \$10. If that pizza truck operates with an above-average 9% profit margin it will earn 90 cents on each pizza sold. Testing the market and customer base in new communities charging a permit fee is going to be a risk. If the fee is on the low end, like Neligh at \$50, the truck will have to sell 55 pizzas before turning a profit. Higher fees, such as Bellevue's \$300, would require the truck to sell more than 330 pizzas before turning a profit.

Now consider if this mobile food unit wanted to serve customers at every University of Nebraska-Lincoln home football game. In 2022, they would have seven game days to turn a profit. The cost to operate in Lancaster County and the city of Lincoln is approximately \$500, counting health inspections, food handler classes, and city fees. In this scenario, each game day, the profit from the first 80 pizzas sold would go to government fees required by redundant regulations.

Beyond money, it takes time to navigate the administrative process and get all the permits an owner needs. This often includes calling city clerks, filling out paperwork, and sometimes submitting to a background investigation. The administrative and financial overhead created by redundant regulations make it difficult to operate a successful mobile food unit legally and in some cases may lead to owners operating outside of regulations.

51 "Price list." The Upstart Kitchen, [facebook.com/theupstartkitchen](https://www.facebook.com/theupstartkitchen). Accessed October 2022.

VI. REGULATORY REFORM

As the mobile food unit industry matures, it becomes increasingly difficult to regulate using language designed for brick-and-mortar restaurants. Several states have acknowledged this in recent years and have developed legislation to better facilitate business success. Lawmakers have a growing list of options.

A. Encourage reciprocity

Each mobile food unit must comply with minimum standards set out in the Nebraska Food Code to receive a health inspection permit from any of the four jurisdictions authorized to conduct inspections. While a permit from Douglas, Hall, or Lancaster counties allows a mobile food unit to operate in the 90 counties managed by NDA, the reverse is not true. Operators must obtain new annual permits each time they would like to conduct business in any of the three autonomous counties.

This time-consuming process is loaded with uncertainty. Not only do operators need to be aware of any regulations above and beyond the minimum standards included in the Nebraska Food Code, they also must be prepared for differences in interpretation. Inspectors in one area can and do evaluate the same requirements differently than inspectors in another. Full reciprocity among the NDA, Douglas, Hall, and Lancaster counties would reduce uncertainty, limit owner expenses, and remove redundancy. This pragmatic option, recently adopted by six additional states, could be an incremental step in improving our business climate.

B. Establish guidelines for a single state permit

In addition to obtaining authorization from the NDA, an annual state permit from the department and a health inspection permit from an autonomous county, operators must also obtain municipal permits. The requirements included in these permits vary widely across the state. Beyond the cost of taxes, fees, and licenses, these additional permits often introduce a host of new requirements.

The dizzying variety of new requirements mandated by municipal permits is a source of constant frustration. In 2018, Arizona passed a law

that created a single, state-permitting process for all mobile food units. This approach restricts municipalities from developing restrictions that are too onerous or expensive to comply with.⁵²

C. Address overregulation

The Legislature could instead choose to limit the types of restrictions that can be imposed on mobile food units by municipalities. Examples include disallowing background checks, as in Utah, or capping the cost of a municipal permit. Restricting the use of outdated peddler or solicitor ordinances would ensure regulations for mobile food units are clear and thoughtful. Addressing overregulation is appealing to entrepreneurs because it limits surprises.

D. Establish health inspection criteria unique to mobile food units

As it stands, the Nebraska Food Code does not address mobile food operations in depth. The code only specifies rules for mobile food unit water holding tanks and disposing of waste water.⁵³ Beyond this, inspectors are left adapting regulations written for brick-and-mortar restaurants to a much different industry.

Including language specific to mobile food units in the Nebraska Food Code would eliminate differences in interpretation that exist between inspectors and between agencies. Mobile food unit operators report being held to different standards, even when the inspection is being conducted by members from the same regulatory authority. Inconsistent assessments are bound to exist when there is ample room for interpretation.

52 Wimer, Andrew. "Arizona Governor Signs Law Freeing Food Trucks to Operate Across the State." Institute for Justice, May 15, 2018, [ij.org/press-release/arizona-governor-signs-law-freeing-food-trucks-to-operate-across-the-state](https://www.ij.org/press-release/arizona-governor-signs-law-freeing-food-trucks-to-operate-across-the-state). Accessed October 2022.

53 "Nebraska Food Code." Nebraska Department of Agriculture, Food Safety and Consumer Protection, 2017, nda.nebraska.gov/regulations/foods/food_code.pdf. Accessed October 2022.

E. Mobile Pre-opening Inspection Checklist

An entrepreneur opening a restaurant has ready access to an initial checklist state and local inspectors use to evaluate compliance with basic requirements. Mobile food unit entrepreneurs consult this same document, but it was written for brick-and-mortar restaurants and not mobile food units.

The operator's interpretation of the items on this initial checklist may differ from the inspector's. And again, individual inspectors may differ in the way they apply elements to a mobile food unit. Today a new operator's best course of action is to call the local health inspector and ask what will be considered during an initial inspection. Douglas County has published a Mobile Pre-opening Inspection Checklist, and a similar document from the NDA would be welcome.⁵⁴

VII. CONCLUSION

Nebraska's mobile food unit entrepreneurs are navigating a permitting process unlike any other professional industry. They are doing so in a regulatory environment designed not for them, but for brick-and-mortar restaurants. Nebraska can better facilitate job and economic growth in this emerging market by streamlining regulations, eliminating redundancies, and removing unnecessary barriers to success.

54 "Mobile Pre-opening Inspection Checklist." Douglas County Health Department, April 1, 2022, douglascountyhealth.com/images/EHD/Food_Safety__Compliance/2022_Food_Safety_Permit_Forms/Mobile_inspection_checklist_04.01.2022.pdf. Accessed October 2022.

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