

**CITY OF DAPHNE, ALABAMA  
ORDINANCE 2022-21**

**An Ordinance to Provide For and Regulate Mobile Food Vehicles Within the City of Daphne**

**WHEREAS**, the City Council of the City of Daphne, Alabama desires to promote the health, safety, welfare, and convenience of the residents of the City of Daphne; and

**WHEREAS**, Alabama municipalities are authorized to regulate the use of public streets, sidewalks, and rights-of-way for public health, safety, welfare, and convenience; and

**WHEREAS**, no person, firm, association, or corporation is authorized or permitted to use the streets, avenues, alleys, or public rights-of-way of any municipality for the operation of any private enterprise without first obtaining the consent of the proper authorities of such municipality (Ala. Const. Art. XII, § 220; Ala. Code § 11-49-1(a)); and

**WHEREAS**, mobile food vehicles are a national trend and provide the useful service of convenient and varied dining options in business areas and in areas that lack businesses providing nutritional dietary options; and

**WHEREAS**, the City Council of the City of Daphne finds it in the interest of public health, safety, welfare, and convenience to authorize the operation of mobile food vehicles within the City of Daphne, subject to regulations to protect the safe and convenient use of public rights-of-way.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DAPHNE AS FOLLOWS:**

**SECTION 1. Purpose.**

The general purpose of this Ordinance is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of Daphne by establishing reasonable guidelines and regulations for mobile food vehicles to encourage the safe and convenient use of the City's public rights-of-way.

**SECTION 2. Definitions.**

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

*Business license* shall mean the license or licenses required of any business to operate within the City pursuant to the business license code.

*Mobile food vehicle* shall mean a food establishment that is motorized or non-motorized and located upon a vehicle, pulled by a vehicle, or which may be pushed or pulled by an individual, where food or beverage is cooked, prepared and/or served for individual portion service, such as a mobile food kitchen. This includes a truck, cart, wagon, and the like. This Ordinance shall not apply to ice cream trucks that move from place to place and are stationary in the same location for no more than 15 minutes at a time.

*Mobile food vendor* shall mean the owner or operator of a mobile food vehicle.

*Restaurant* shall mean a brick and mortar establishment where meals are generally served and eaten on premises or which prepares and serves food and/or drink to customers for consumption on or off the premises.

**SECTION 3. Business license required; license fees; compliance with laws.**

- (a) All mobile food vendors shall obtain an annual business license issued by the City prior to commencing any food sales in the City. Said business license shall be assigned the NAICS code

722320 and shall be subject to schedule C as detailed in section 13-272 of the City's business license code.

- (b) All mobile food vehicles and mobile food vendors must obtain all approvals required by the Baldwin County Health Department. Proof of the health department approvals must be displayed on the mobile food vehicle.
- (c) All mobile food vehicles must be inspected initially by the City of Daphne Fire Marshal and the mobile food vendor must provide proof of same. Annual inspections are required and each mobile food vehicle is subject to re-inspection at any time.
- (d) Each business license for a mobile food vehicle is non-transferable and may be revoked in accordance with the City's Code of Ordinances.
- (e) All mobile food vehicles and mobile food vendors are responsible for obtaining and following all procedures for the remittance of any and all applicable sales tax.
- (f) All mobile food vehicles and mobile food vendors shall comply in all respects with all applicable federal, state, and local laws, ordinances, rules, and regulations of any kind as they exist or are hereafter adopted or amended, including without limitation those pertaining to the manufacture, preparation, display, and service of foods, confections, and beverages, and/or pertaining to the operation of licensing of mobile food vehicles in general.

#### **SECTION 4. Rules and regulations.**

- (a) All mobile food vehicles shall offer a waste container for public use that the operator shall empty at its expense. Said container must allow for ten (10) feet of clearance from the mobile food vehicle. The mobile food vendor shall keep the permitted premise and any adjacent public property clean and free from all trash, litter, debris, or waste generated from the operation of the mobile food vehicle.
- (b) Mobile food vehicles must have the following fire extinguisher on board during operation: minimum class 2A, 10B and C rated extinguisher. If food preparation involves deep-frying and/or production of grease-laden vapors, a class K fire extinguisher must also be on the mobile food vehicle. Fire extinguishers shall be maintained pursuant to National Fire Protection Association (NFPA) standard 10.
- (c) No mobile food vehicle shall make or cause to be made any unreasonable or excessive noise and shall not use lights or noisemakers, such as bells, horns, or whistles, to attract customers.
- (d) No mobile food vehicle or mobile food vendor shall:
  - (1) Create or maintain a public nuisance;
  - (2) Damage or alter public property or infrastructure; and/or
  - (3) Erect or utilize any permanent or fixed structures in any public place pursuant to the business license issued hereunder.
- (e) No signs shall be used to advertise the conduct of the mobile food vehicle at the premises other than that which is physically attached to the mobile food vehicle. Detached menu boards or other signs indicating pricing, etc., may be used within ten (10) feet of the mobile food vehicle, provided that such boards or signs are able to stand on their own without any staking or other protrusion into the ground and without attachment to any other object such as trees or poles.
- (f) Allowable hours of operation for any mobile food vehicle shall be between 6:00 a.m. and 10:00 p.m.
- (g) Mobile food vehicles or vendors shall not operate as a drive-through window.

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**SECTION 5. Location of mobile food vehicles.**

- (a) Mobile food vehicles must maintain a 15-foot clearance from fire hydrants, driveway entrances, and handicap parking spaces/ramps.
- (b) Mobile food vehicles must maintain a 10-foot clearance from any fire lane, utility box, or building entrance.
- (c) No mobile food vehicle or mobile food vendor may obstruct the use of any public right-of-way, street intersection, or pedestrian crosswalk and may not obstruct pedestrian space.
- (d) No mobile food vehicle shall operate within 150 feet of the nearest public entrance of any Restaurant in current operation unless it is the mobile food vendor's principal place of business or unless there has been unrevoked written consent of the owner or manager of such Restaurant obtained in advance and available for inspection upon request of any City official at any time during the operation of the mobile food vehicle. If the owner or manager of such Restaurant grants permission to the mobile food vendor for the operation of a mobile food vehicle to operate within 150 feet as stated herein, the permission may contain such reasonable conditions and restrictions upon which the parties agree.
- (e) Access to neighboring buildings or uses shall not be impeded.
- (f) Mobile food vehicles shall not be located on public property without prior written approval from the City and an executed vendor agreement approved by the City. This shall include property owned or leased by the City, City park property, and City rights-of-way.
- (g) Mobile food vehicles may not be operated in such a way as to block or otherwise obstruct any motor vehicle, bicycle, or pedestrian traffic on any street, bicycle lane, sidewalk, public way, or public place, nor shall any mobile food vehicle obstruct sight distance at any roadway intersection.
- (h) Mobile food vendors shall have approval of the property owner or business owner for each location at which the mobile food vehicle operates. This approval shall be in writing, printed, and signed by the property owner or business owner and must be available for inspection upon the request of any City official at any time during the operation of the mobile food vehicle.

**SECTION 6. Operation of mobile food vehicles.**

- (a) Any mobile food vehicle being operated without a valid City business license shall be deemed a public safety hazard and may be subject to enforcement as provided for herein.
- (b) No mobile food vehicle shall be parked on the street overnight, or left unattended and unsecured at any time, unless registered to participate in a special event recognized by the City of Daphne. Any mobile food vehicle found to be unattended shall be considered a public safety hazard and may be subject to enforcement as provided for herein.
- (c) A mobile food vehicle operating outside of an approved location shall be deemed in violation of this Ordinance and may be subject to enforcement as provided for herein.
- (d) No more than three (3) mobile food vehicles shall operate on the same site on a single day unless specifically approved for private events, City events, or as otherwise approved by the City.

**SECTION 7. Enforcement; penalties.**

Any person found guilty of violating any of the provisions of this Ordinance shall be fined in an amount not less than \$50.00 and not more than \$500.00, and may also be sentenced to imprisonment for a period of time not exceeding six (6) months, in the discretion of the court trying the case, and violations on separate days shall each constitute a separate offense.

**SECTION 8. Severability.**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereof.

**SECTION 9. Repealer.**

Any ordinance(s), parts of ordinance(s), or resolution(s) conflicting with the provisions of this Ordinance are hereby repealed insofar as and only to the extent to which they conflict.

**SECTION 10. Effective Date.**

This Ordinance shall be in full force and effect from and after the date of its approval by the City Council of Daphne and publication as required by law.

**APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF DAPHNE, ALABAMA, THIS 4<sup>th</sup> day of April 2022.**

  
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Robin LeJeune, Mayor

ATTEST:

  
Candace G. Antinarella, CMC, City Clerk