

## **ORDINANCE No. 2024-08**

AN ORDINANCE TO AMEND CODE OF ORDINANCES, CITY OF CLANTON,  
ALABAMA, ORDINANCE No. 8-07, SECTION 22, SUBSECTION 207 –  
RESTAURANT, CAFES AND LUNCH STANDS

**WHEREAS**, the City of Clanton has determined that it is in the best interest of the City to amend the Code of Ordinances, City of Clanton, Alabama, Ordinance No. 8-07, Section 22, Subsection 207, as herein provided, to further provide for Mobile Food Units thereto as hereinafter set out; and

**WHEREAS**, the City of Clanton unanimously voted to adopt Ordinance No. 2022-06 on February 28, 2022 and has determined it is necessary to repeal and replace said Ordinance.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLANTON, ALABAMA THAT THE CODE OF ORDINANCES, CITY OF CLANTON, ALABAMA, ORDINANCE No. 8-07, SECTION 22, SUBSECTION 207 IS HEREBY AMENDED TO READ AS FOLLOWS:**

Section 22, Subsection 207 is hereby amended to read as follows:

### **(722) RESTAURANT, CAFES, AND MOBILE FOOD UNITS**

**(Merchants General Rates Apply) No license shall be issued under this subdivision except upon presentation to the City Clerk/Treasurer (or their designee) a valid fire inspection certificate and a valid certificate from the Chilton County Health Department, or an accredited Alabama Public Health Department, as required by Alabama State Law.**

License shall be location specific:

- (a) For each place at which any business is carried on, a separate license shall be paid, and any person desiring to engage in any business for which a license is required shall designate the place at which business is carried on, and the license to be issued shall designate such place, and such license shall authorize the carrying on of such business only at the place designated except for Mobile Food Units as provided for under Merchants General Rates of this Ordinance.
- (b) Every person dealing in two or more of the articles, or engaging in two or more of the businesses, vocations, occupations, or professions scheduled herein, shall take out and pay for a license for each line of business.
- (c) A taxpayer subject to the license authorized by this Ordinance that is engaged in business in other municipalities may account for its gross receipts so that the part of its gross receipts attributable to its branch offices will not be subject to the business license tax imposed on the principal business office required to obtain a business license. Branch office gross receipts are those receipts that are the result of business conducted at or from a qualifying branch office. To establish the existence of a qualifying branch office, the taxpayer must demonstrate proof of all the following criteria:

- (1) The taxpayer must demonstrate the continuing existence of an actual physical facility located outside the City of Clanton such as a retail store, outlet, business office, showroom, or warehouse, to which employees or independent contractors, or both, are assigned or located during regular normal working hours.
  - (2) The taxpayer must maintain books and records which reasonably indicate a segregation or allocation of the taxpayer's gross receipts to the particular facility or facilities.
  - (3) The taxpayer must provide proof that separate telephone listings, signs, and other indications of its separate activity are in existence.
  - (4) Billing or collection activities, or both, relating to the business conducted at the branch office or offices are performed by an employee or other representative of the taxpayer who has such responsibility for the branch office.
  - (5) All business claimed by a branch office, or offices, must be conducted by and through said office or offices.
  - (6) The taxpayer must supply proof that all applicable business licenses with respect to the branch office or offices have been issued.
  - (7) The taxpayer must provide (1) valid identification (Driver's License), (2) valid vehicle and trailer title registration, (3) valid liability insurance.
- (d) Nothing herein shall be construed as exempting businesses from payment of a license on the basis of a lack of physical location.
  - (e) Refunds for business licenses are prohibited.
  - (f) All business license applications must be received by City staff as soon as practically possible and prior to the first day of operation. Failure to comply with this section shall not constitute a burden or hindrance on City staff.

**Mobile Food Units** - \$50.00 plus 0.0075 percent of gross receipts between \$100,000.00 and \$15,000,000.00. No additional license for gross receipts over \$15,000,000.00. All current issuance fee(s) shall apply.

The following standards and a definition for the operation of Mobile Food Units within the City of Clanton are established as follows:

Section 1. Definitions.

Mobile Food Unit – A self-contained vehicle, trailer or pushcart that serves prepared foods or prepares and serves food in various locations of the City.

Section 2. Standards and Requirements for Operation.

1. All Mobile Food Unit operators shall obtain an annual business license issued by the City of Clanton Revenue Department prior to commencing any sales in the City. Said license shall be assigned the NAICS code 7223 and shall be subject to Merchants General Rates. Said license shall be provided for the Mobile Food Unit.
2. Business licenses shall be issued for the period beginning January 1 and ending December 31 of each year. This license shall be posted in a visible location on the Mobile Food Unit at all times while in operation. In order to obtain said license, operators shall submit copies of all required and current health department approvals for each Mobile Food Unit. Applicant shall be responsible for having each unit inspected and approved by the City Fire Marshal (or their designee) and the Chilton County Health Department, or an accredited Alabama Public Health

Department. Fire and health inspections should be valid (non-expired) for the date(s) of operation. Businesses are responsible for maintaining valid (non-expired) inspections while operating in the City of Clanton. All inspections shall be completed during normal business hours on weekdays, but prior to 3:30 p.m. and prior to the first day of operation. Inspection delays should be coordinated with City staff. No business shall be permitted to operate without first having had an inspection by City personnel. Depending on when the inspection occurs within the calendar year, an additional inspection may be required to ensure compliance. The City of Clanton retains the right to allow for exceptions to the inspection requirements if deemed necessary by the Mayor and/or their designee.

3. Mobile Food Units shall only be located and operated in areas and/or districts zoned non-residential unless they are temporarily operated for specific events held at a church that is located on a parcel zoned for residential use. Authorized Mobile Food Units are allowed in R-1, R-2, R-G, PR-1 and PR-2 Residential zones with approval of the Homeowners Association. Non-HOA neighborhoods shall obtain approval from local churches for permission to host a Mobile Food Unit in church parking lots. All other regulations in this Ordinance shall apply.
4. Mobile Food Unit operators shall have approval of the business owner(s) for each location at which the Mobile Food Unit operates. This approval should be in writing, signed by the business owner(s) and must be made available for inspection upon request of any City Official at any time during the operation of the Mobile Food Unit.
5. No Mobile Food Unit shall be allowed to operate in excess of three (3) consecutive days in any one location, unless they have the Mayor's written approval to operate at one location for an extended period of time related to special events lasting more than three (3) days. If an exception request is denied by the Mayor, the applicant has the right to appeal to the city council. During the time of non-operation, the Mobile Food Unit, and all associated vehicles, including any tables, chairs, umbrellas, etc., must be removed from the premises.
6. At the conclusion of the three (3) days, Mobile Food Units must vacate the property and not conduct business of any kind for a minimum of three (3) consecutive days before being allowed to return.
7. All Mobile Food Units will be required to purchase a permit for an amount and duration specified below:
 

One (1) Day	\$ 10.00
Three (3) Days	\$ 20.00
One (1) Month	\$ 40.00
Three (3) Months	\$ 125.00
Six (6) Months	\$ 250.00
One (1) Year	\$ 500.00
- 7a. All permits shall expire on December 31 of each year, regardless of their date of issuance.
- 7b. All permit applications must be received by City staff as soon as practically possible but prior to the first day of operation.
8. Hours of operation for all Mobile Food Units shall be limited to 6:00 a.m. until the business at the location is closed, but no later than 11:00 p.m. local time unless they have the Mayor's approval to operate for extended hours related to special events. If an exception request is denied by the Mayor, the applicant has the right to appeal to the city council.
9. No Mobile Food Unit shall operate on more than two (2) individual sites within the City per day.
10. No more than one (1) Mobile Food Unit shall operate on the same site per day unless the Mayor provides approval for an exception to this related to specially approved festivals, celebrations,

or any other reason deemed necessary and appropriate so long as it is in the best interest of the City. If an exception request is denied by the Mayor, the applicant has the right to appeal to the city council.

11. Mobile Food Units shall not hinder, block, or obstruct the entrance(s) of the nearest restaurant during the restaurant's posted hours of operation.
12. Mobile Food Units shall not hinder, block, or obstruct any fire hydrant, utility box, handicap ramps and/or building entrances.
13. Mobile Food Unit operators are responsible for the proper disposal of waste and trash associated with the operation. Operators shall remove all waste and trash as needed but no less than every eight (8) hours to maintain the health and safety of the public and to prevent any adverse odors. City-owned trash receptacles shall not be used for this purpose.
14. All associated equipment, including trash receptacles, must be located within three (3) feet of the Mobile Food Unit.
15. No fire lanes, vehicular access ways, or pedestrian walkways may be obstructed or encroached upon by the Mobile Food Unit.
16. No amplified microphones or bull horns, no flashing lights or any other distraction shall be permitted as a part of the Mobile Food Unit operation. Any variance to this requirement must have approval from the Mayor. If an exception request is denied by the Mayor, the applicant has the right to appeal to the city council.
17. Mobile Food Units shall not occupy parking spaces required to fulfill the minimum requirements of a principal use unless they have the approval of the Fire Marshal and/or Zoning Official (or their designee) or the hours of operation of the principal use do not coincide with those of the Mobile Food Unit.
18. Signage is limited and shall be located on the Mobile Food Unit. No portable signage is allowed, e.g., sandwich boards, etc.

### Section 3. Penalties.

Any person (means any person, firm, partnership, association, corporation, company, or organization of any kind) violating any provision of this Ordinance or Ordinance No. 8-07 may be issued a citation by the Clanton Police Department or issued a summons and shall be required to appear in the Clanton Municipal Court. Upon conviction, any person shall be subject to any fines and other applicable court costs which may be assessed by the Clanton Municipal Court.

### Section 4. Exceptions.

The Mayor, or their designee, shall, at their discretion, be authorized to issue a business license and permit exemption to any Mobile Food Unit who is operating in an organized civic event, festival, celebration, non-profit event, fundraiser, or any other occasion where it is deemed as being in the public's interest to exempt the operator of the Mobile Food Unit from business license and/or permit fees; however, all operators are still responsible for the collection and timely remittance of sales taxes associated with the sale of said inventory, as well as inspection of food preparation facilities by the City of Clanton Fire Marshal (or their designee) and the Chilton County Health Department or an accredited Alabama Public Health Department.

If a business has a physical presence within the City, said business shall be authorized to operate a Mobile Food Unit within the city limits so long as the business license and inspection requirements are met. A Mobile Food Unit permit shall not be required if these conditions have been met.

All Mobile Food Units currently operating in a permanent location shall be grandfathered in this Ordinance; however, if said Unit moves from their current location for any reason, they shall adhere to all provisions of this Ordinance.

Any business offering or selling pre-packaged inventory (e.g., ice cream truck), or operating in a non-cooking capacity (e.g., shaved ice truck) shall not be subject to a permit fee but shall still be required to meet all business license and inspection requirements, as previously specified herein.

No person, firm, or corporation shall be licensed under this schedule to avoid paying a license on gross receipts from sales or services required by any other schedule of this Ordinance.

Section 5. Each of the provisions of this Ordinance is severable; and if any provision shall be declared to be invalid, the remaining provisions shall not be affected but shall remain in full force and effect.

Section 6. All ordinances, including Ordinance No. 2024-08, or parts of ordinances, in any manner conflicting herewith are hereby repealed.

Section 7. This Ordinance shall become effective upon its passage and posting as required by law, but no later than May 20, 2024.

Councilmember Singleton moved that all rules which would prevent the immediate consideration of Ordinance No. 2024-08 be suspended and immediate consideration given. The motion was seconded by Councilmember Agee. The roll call vote on said motion was recorded by the City Clerk/Treasurer as follows:

Jeff Mims, Mayor	<u>Yes</u>
Billy Singleton, Councilmember	<u>Yes</u>
Phillip Giles, Councilmember	<u>Yes</u>
Don Driver, Councilmember	<u>Yes</u>
Awlahjaday Agee, Councilmember	<u>Yes</u>
Mary Mell Smith, Councilmember	<u>Yes</u>

Mayor Mims announced that all rules which would prevent the immediate consideration of Ordinance No. 2024-08 be suspended and immediate consideration given passed unanimously by roll call vote.

**THEREUPON** Awlahjaday Agee, a councilmember, moved and Don Driver, a councilmember, seconded the motion that Ordinance No. 2024-08 be given vote. The roll call vote on said motion was as follows:

Jeff Mims, Mayor	<u>Yes</u>
Billy Singleton, Councilmember	<u>Yes</u>
Phillip Giles, Councilmember	<u>Yes</u>
Don Driver, Councilmember	<u>Yes</u>
Awlahjaday Agee, Councilmember	<u>Yes</u>
Mary Mell Smith, Councilmember	<u>Yes</u>

Ordinance No. 2024-08 passed by a unanimous vote of those members of the council present and the mayor declared the same passed.

**ADOPTED** this 13th day of May 2024.

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Jeff Mims, Mayor

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Billy Singleton, Councilmember

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Phillip Giles, Councilmember

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Don Driver, Councilmember

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Awlahjaday Agee, Councilmember

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Mary Mell Smith, Councilmember

[SEAL]

ATTEST

\_\_\_\_\_  
Jonathan Seale, CMC, City Clerk/Treasurer

\_\_\_\_\_  
Jeff Mims, Mayor                      Date

## POSTING AFFIDAVIT

I, the undersigned qualified City Clerk/Treasurer of the City of Clanton, Alabama, do hereby certify that the above and foregoing Ordinance No. 2024-08 was duly ordained, adopted, and passed by the City Council of the City of Clanton, Alabama at a regular called meeting of such Council held on the 13th day of May 2024, and duly published by posting an exact copy thereof on the 14th day of May 2024, at three public places within the City of Clanton, Alabama, including City Hall, Clanton Recreation Center, and the Clanton Police Department. I further certify that said Ordinance is on file in the office of the City Clerk/Treasurer and a copy of the full Ordinance may be obtained from the office of the City Clerk/Treasurer during normal business hours.

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Jonathan Seale, CMC, City Clerk/Treasurer

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