

Having previously been introduced at the October 10, 2016 council meeting, Council Member

Bodsole moved the adoption of the following Ordinance, which was seconded by Council

Member Rakostraw :



ORDINANCE NO. 161128-037

**AN ORDINANCE TO PROVIDE FOR AND REGULATE MOBILE FOOD
UNITS WITHIN THE CITY OF ALABASTER**

The public good requiring it, BE IT ORDAINED by the City Council of the City of Alabaster as follows:

Section 1. ADDITION TO CHAPTER 8 inserting the following Article:

ARTICLE VII. -MOBILE FOOD UNITS

Sec. 8-162. - Definitions.

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

Event Food Vendors means Mobile Food Unit gathered for a specialized event sponsored by the City, a non-profit group, or a home owners' association.

Food(s) means any type of edible substance meant to be eaten by any living creature, including but not limited to, natural persons, dogs, cats, etc.

Meal Stops means a Mobile food unit that remains at a fixed location for the purposes of attracting customers.

Mobile Food Unit or Unit means a motorized or non-motorized self-contained vehicle, trailer or pushcart that is designed to be mobile and serves prepared foods or prepares and serves food in various locations of the city. Mobile food units shall include ice cream vendors.

Mobile Food Unit Permit or Permit means a Permit to operate a mobile food unit within the City as issued by the City's Zoning Inspector and/or his/her designee under the authority of this Article.

Park Food Vendors means a Mobile Food Unit operating in city parks.

Traveling Food Vendor means a Mobile Food Unit that travels the streets and roads of the city making brief stops to serve customers. Ice cream trucks and snow cone trucks are examples of traveling food vendors.

Sec. 8-163.-License and Permit Required; Compliance with Laws.

(a) **Business License Required.** All mobile food unit operators shall annually obtain and maintain a business license issued by the City's Revenue Department prior to commencing any food sales in the city.

(b) **Mobile Food Unit Permit Required.** After obtaining a business license, all mobile food unit operators shall obtain an annual operating Permit for each unit to be issued by City's zoning official or his/her designee. It shall be unlawful to operate a mobile food unit within the City of Alabaster without possessing a valid and unexpired Permit issued by the city pursuant to this Article.

1. **Permit Duration.** Permits shall be issued for the period beginning January 1 and ending December 31 of each year. In the event that the Permit holder fails to obtain and maintain a business license from the city, any Permit issued to the holder will be automatically revoked without the need for any action by the city or any right of appeal by the Permit holder.

2. **Health Department and City Approvals Required before Permit Issuance.** In order to obtain said Permit, operators shall submit with their Permit application copies of all required and current health department approvals for a mobile food unit as well as a current city business license. Applicant shall be responsible for having a unit inspected and approved by the city's fire marshal prior to issuance of Permit.

3. **Application Process for Permit.**

A. Any person desiring to obtain a Permit to operate a mobile food unit within the city shall make application therefor, in person, to the city's zoning official or his/her designee.

B. Such application shall be made on a form to be furnished by the zoning official and shall provide, at a minimum, for the following information:

1. Applicant's name and physical address (to be verified through the presentation of the applicant's U.S. state issued driver's license, U.S. state issued identification card, U.S. passport, or foreign passport with U.S. Visa certification), telephone number, email address;
2. Name, physical address, telephone number of the applicant's employer or principal, if any;
3. Type of mobile food unit applicant is seeking to operate within the city, a description thereof, and a requirement that a photograph of such mobile food unit be submitted to the city along **With** the application; and
4. The applicant's signature.
5. Any other information deemed necessary to carry out the intent of this Ordinance.

In the event that further information is needed by the city to make a determination on an application submitted, the city may request specific information and/or documentation to be required to be provided by supplementation after application is made.

C. The applicant shall fully complete the Permit application and, together with the application, submit to the city's zoning official (i) such applicant's U.S. state issued driver's license, U.S. state issued identification card, U.S. passport, or foreign passport with U.S. Visa certification, (ii) a photograph of mobile food unit, and (iii) a copy of all

required and current health department approvals for such mobile food unit, and (iv) a copy of a current city business license ((i) through (iv) (collectively referred to herein as the "Application Documents").

D. In addition to any required business license fees, at the time of filing the application with the zoning official, the applicant shall pay to the City a one-time non-refundable Fifty and no/100 Dollar (\$50.00) fee per Mobile Food Unit to defray the costs of administering this Article. The Permit shall expire one year after issuance and a new application will be required.

E. Upon receipt of the fully completed Application Documents, the zoning official or his/her authorized representative shall review the application.

F. Upon approval of the Application Documents, the zoning official shall issue a Permit to the applicant. The Permit shall show the name and address of the Permittee, the photograph of the mobile food unit and the date of Permit expiration. Any denial of a Permit application shall be in accordance with Section 8-163(4) hereof.

4. Denial of Permit. A Permit, as provided in this Article, may be denied for any of the following reasons:

- a) An investigation reveals that the applicant falsified and/or provided inaccurate information on the application;
- b) The applicant fails to provide proof of possession of any license or permit which, under federal, state, or local law or regulations, the applicant is required to have in order to conduct the proposed business;
- c) There is no proof as to the authority of the applicant to serve as an employee/agent to the employer/principal; and/or
- d) Failure by the applicant to provide all information required by Permit application.
- e) Failure by the applicant to have a business license.
- f) Failure of the applicant to fail to timely file all sales and use tax returns.
- g) The denial and the reasons for Permit denial shall be noted on the application form, and the applicant shall be notified in writing of the Permit application denial. Notice shall be mailed to the applicant at the address designated for notices pursuant to this Article as shown on the application form.

5. Posting of Permit and Business License. The mobile food unit's Permit and city business license shall be posted in a visible location on the mobile food unit at all times while in operation.

6. Permit Non-transferable. Each Permit issued is non-transferable to another owner and/or operator and applies to only one Mobile Food Unit. A separate Permit shall be required for each additional mobile food unit.

7. Revocation of Permit.

A. The Chief of Police, zoning official, or their designee may immediately suspend or revoke any Permit issued under this Article for just cause or in the interest of public safety, for any of the following reasons:

1. Any violation of this Article;
2. Conviction by Permittee of any crime involving moral turpitude;

3. Operating a mobile food unit in such a manner as to create a public nuisance, constitute a breach of the peace, or endanger the health, safety, or general welfare of the public; and/or
 4. Any violation by the Permittee of any provision of this Code or any statute of the state relating to the business for which the Permit is issued.
- B. The conditions hereinabove set forth as grounds for the revocation of a Permit shall also constitute grounds for the City to refuse to renew a Permit.
- C. The decision to permanently suspend, revoke or refuse to renew any Permit issued under this Article may be appealed to the Alabaster City Council. There is no right to appeal from temporary suspension of a Permit under this Article. Any Permittee aggrieved by a Permit permanent suspension, revocation or any applicant aggrieved by the refusal to renew a Permit shall file a written notice of appeal with the City Clerk within seven (7) days following the date of the issuance of the permanent suspension, revocation or refusal to renew a Permit. While an appeal is pending, the Permit holder may continue to operate under the Permit unless the chief of police and/or zoning inspector determines that the Permit should be suspended pending the outcome of the appeal in order to protect the public's health, safety and/or welfare or to prevent damage to or destruction of public property.
- D. After receiving the appeal, the City Council shall set a time within a reasonable time thereafter for a hearing on the matter. A written notice of such hearing shall be given to the applicant/Permittee in writing at least one (1) day before the day set for said hearing. At the hearing, the City Council shall hear evidence offered by any party and evidence that may be presented bearing upon the question of suspension, revocation or the refusal of renewal, as the case may be.
- E. A Permit holder shall acquire no vested right to a Permit and/or the provisions of this section. Any rights granted hereunder, in whole or in part, are subject to appeal or amendment, at any time or from time to time.

8. **Compliance with Laws.** All mobile food unit operators shall comply in all respects with all applicable 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 and licensing of mobile food units in general. Except as otherwise may be provided by law, no mobile food truck operator shall acquire any grandfather rights in current law, rule or practice. Food preparation will be regulated by the Shelby County Health Department, as applicable. In the event a Health Department food handling permit is revoked or suspended for any reason, the Permit issued hereunder shall likewise be suspended.

9. **Public Nuisance Prohibited.** No mobile food unit operator shall (i) create or maintain a public nuisance, (ii) damage or alter public property or infrastructure, and/or (iii) erect or utilize any permanent or fixed structures in any public place pursuant to a Permit issued under the provisions of this Section.

Sec. 8-164. - Standards and Requirements for Mobile Food Unit Operation.

- A. **General Requirements:** Unless otherwise expressly stated, all Mobile Food Units shall at all time adhere to the following general requirements:
- 1) Except for Traveling Food Vendors, and Event Food Vendors at events sponsored by an incorporated homeowners' association, Mobile Food Units shall not operate in residentially zoned areas. Mobile food units shall be located a minimum of five (5) feet away from any fire hydrant, sidewalk, utility boxes, handicap ramps and/or building

entrances. No fire lanes, vehicular access ways or pedestrian walkways may be obstructed or encroached upon by the mobile food unit.

- 2) Mobile food units shall not occupy parking spaces required to fulfill the minimum requirements of a principal use, unless the hours of operation of the principal use do not coincide with those of the mobile food unit.
- 3) Any on-site preparation of food shall be performed inside the mobile food unit only. There shall be no grills or other cooking facilities allowed outside the mobile food unit.
- 4) **Property Owner Prior Approval Required for Location.** Mobile food unit operators shall have approval of the property owner for each location at which the mobile food unit operates. This approval shall be in writing, signed by the property owner 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) **Disposal of Waste and Trash Required.**
 - a. Mobile food unit operators are responsible for the proper disposal of all waste and trash associated with the operation when leaving a site to maintain the health and safety of the public and to prevent any adverse odors. City trash receptacles shall not be used for this purpose.
 - b. All associated waste and/or trash equipment, including waste and/or trash receptacles, shall be located within three (3) feet of the unit in such a manner as not to block or otherwise obstruct pedestrian and/or vehicular traffic.
 - c. No waste or gray water shall be emptied or allowed to be discharged on the ground or into the storm water drainage system.
- 6) **Signage: Noise and Flashing Lights.**
 - a. No excessive distraction(s) shall be permitted as a part of the mobile food unit's operation.
 - b. Signage is limited to signage located on mobile food unit. No portable signage is allowed.
- 7) **Utilities.** Each mobile food unit shall use its own utilities and shall not utilize the city's and/or an adjacent building's utilities for operation of the unit:

B. Type Specific Mobile Food Unit Requirements. Any permittee under this chapter may operate as a Meal Stop Vendor, Traveling Food Vendor, Event Food Vendor, and/or Park Food Vendor by adhering to the following rules for each type of Vendor.

1) Meal Stops:

- a. The location and/or operation of all mobile food units intended for meal stops shall only be in areas and/or districts zoned nonresidential.
- b. All mobile food units must be located off the public rights-of-way and on private property. Mobile food units shall not be operated in such a way as to block or otherwise obstruct any motor vehicle or pedestrian traffic on any street, sidewalk, public way or public place.
- c. Access to adjacent buildings or uses shall not be impeded. Mobile food units shall not be located on public property, without prior written approval from the city.
- d. No mobile food unit shall operate on more than two (2) individual sites within the city per day, and no longer than two (2) hours at each site.
- e. No more than three (3) mobile food units shall operate on the same site per day.
- f. Mobile food units shall not be located within a two hundred (200) feet radius of any premises upon which is a licensed restaurant or other seller of prepared food is located, unless it is the operator of the mobile food unit's business or unless the unrevoked written consent of the owner or manager of all such restaurants is obtained in advance and is available for inspection, upon request. If the owner or manager of all such restaurants grants permission to the operator of the mobile food unit, the consent may contain reasonable conditions such as allowing such mobile food unit to locate at a specific distance less than two hundred feet (200) from the restaurant, to not serve certain types of food, or other reasonable considerations.
- g. Tables, chairs, benches, etc. shall not be utilized as part of the operation of a mobile food unit at meal stops.

- h. Hours of Operation. Hours of operation for all mobile food units shall be limited to the hours of 6:00 a.m. to 6:30 p.m. local time, except that during Daylight Savings Time, the hours of operation shall be extended from 6:00 a.m. to 8:00 p.m. local time. Provided however, these time limitations shall not apply if the mobile food unit is properly and lawfully lighted for use at night including compliance with any city ordinance, law, rule or regulation related thereto.

2) Traveling Food Vendors

- a. Traveling food vendors may operate on the streets and roads of the city, stopping only so long as needed to service customers, but in no event longer than ten (10) minutes.
- b. Traveling Food Vendors shall not stop on the right of way of Highway 31, Highway 119, or Thompson Road.
- c. Traveling Food Vendors may operate only between the hours of ten (10) am and nine (9) pm.
- d. Sounds, music and noise emanating from the Traveling Food Vendor shall not exceed 65 decibels.

3) Event Food Vendors

- a. Event Food Vendors must operate on property owned or solely controlled by the sponsor of the event and only with the written permission of the event sponsor.
- b. Event Food Vendors may set up and operate from a fixed location only during the official hours of the event.
 - c. A legally incorporated homeowners' association may host an association wide event where in Event Food Vendors are permitted by the association. Such events may be held no more than twice a year in the subdivision.
- d. Notwithstanding any other provisions of this ordinance, including the provision prescribing operating on City property other than at City parks, Event Food Vendors may operate at or within 1,000 feet of the weekly Farmer's Market only with the permission of the Farmers Market operator.

4) Park Food Vendors

- a. Park Food Vendors are permitted to operate on city property only in the city parks and only during official operating hours of the park, and must not enter the park or leave the park outside of official hours as set by Parks and Recreation Department.
- b. Park Food Vendors are permitted to operate in the city parks at any time the concessions stands are closed at that park, or with the express written permission of the concessions operators during the hours the concessions stands are open.
- c. Park Food Vendors are not permitted to advertise or otherwise invite customers who are not utilizing the park services or facilities, nor announce their location at the city parks on any broadcast or social media services (i.e. Facebook, Twitter, Instagram or other type social media service), handbills, flyers, posters, banners.
- d. Park Food Vendors must set up in official parking areas designated for the park in such a way as to not impede the flow of vehicular or foot traffic nor utilize more than two (2) parking spaces approved and designated by the Parks and Recreation Department. If such spaces are not available, the Park Food Vendors shall not set up at the park until and unless such spaces become available.
- e. No more than two (2) Park Food Vendors may operate from the same parking lot at the same time.

Sec. 8-165. Penalties. Violations of this section shall be punished in accordance with the provisions of Section 1-12 of this Code or as otherwise provided by law. Each and every person operating the Mobile Food Unit may be cited. Each day of operation shall be a separate violation.

Section 2. ORDINANCE CUMULATIVE; OTHER ORDINANCES IN CONFLICT REPEALED. All other provisions of the Municipal Code of the City of Alabaster, Alabama shall remain in full force and effect and shall not be affected by this Ordinance. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Alabaster, Alabama that are

inconsistent with the provisions of this Ordinance are hereby expressly repealed to the extent of any conflict herewith.

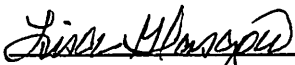
Section 3. SEVERABILITY. If any part, provision, or section of this Ordinance is declared to be unconstitutional or invalid by any court of competent jurisdiction, all other parts, provisions or sections of this Ordinance not thereby affected shall remain in full force and effect

Section 4. EFFECTIVE DATE OF ORDINANCE. This Ordinance shall become immediately effective upon its adoption by the city council and approval by the Mayor or as otherwise becoming law, except as provided in this section. This Ordinance shall continue in full force and effect from month to month and year to year from its effective date until repealed.

THEREFORE, BE IT ORDAINED, that the City Council of the City of Alabaster does hereby enact the foregoing Ordinance for the City of Alabaster.

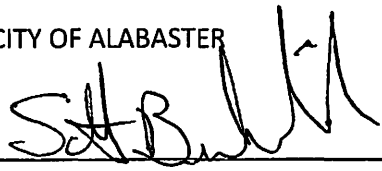
ADOPTED AND APPROVED THIS 28th DAY OF NOVEMBER 2016.

ATTEST:



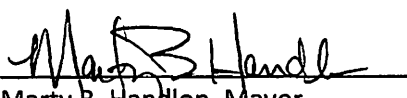
Lisa Glasgow, Acting City Clerk

CITY OF ALABASTER



By: Council President Scott Brakefield

APPROVED:



Marty B. Handlon, Mayor