

ORDINANCE NO. 604-2022

AN ORDINANCE ESTABLISHING REGULATIONS FOR MOBILE FOOD UNITS OPERATING IN THE CITY OF SPANISH FORT, ALABAMA

WHEREAS, the Mayor and City Council have determined that it is in the public interest to establish standards for the operation of Mobile Food Units which are intended to promote the public health, safety and welfare; 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 Spanish Fort finds it in the interest of public health, safety, welfare and convenience to authorize the operation of Mobile Food Units within the City of Spanish Fort, subject to regulations to protect the safe and convenient use of public rights-of-way, among other regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SPANISH FORT, ALABAMA, AS FOLLOWS:

SECTION 1. 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 Unit 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 2. License and Permit Required.

- a. All Mobile Food Unit operators shall obtain an annual business license issued by the City of Spanish Fort prior to commencing any food sales within the corporate limits of the City of Spanish Fort. Said license shall be assigned the NAICS Code 722330 and shall be subject to the Schedule A as detailed in Section 20 of Ordinance No. 476-2014, as amended. Each business license for a Mobile Food Unit is non-transferable and may be revoked in accordance with the City's Business License Ordinance and/or applicable law. Any Mobile Food Unit 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. In addition to an annual business license, all Mobile Food Unit operators shall obtain an annual operating permit for each unit to be issued by City of Spanish Fort City Clerk, unless otherwise exempted in this Chapter. Permits shall be issued for the period beginning January

1 and ending December 31 of each year. There shall be a cost of Forty Dollars (\$40.00) to cover the cost of fire inspection and permit issuance. This permit shall be posted in a visible location on the Mobile Food Unit at all times while in operation. In order to obtain said permit, operators shall submit copies of all required and current health department approvals for both commissary and each Mobile Food Unit and current City business license. Applicant shall be responsible for having each unit inspected and approved by the City of Spanish Fort Fire Department prior to issuance of permit. Copies of the inspection report/approval shall be available at all times. Annual inspections are required, and each Mobile Food Unit is subject to re-inspection at any time.

- c. Sales within the city limits of the City of Spanish Fort are subject to applicable taxes. All Mobile Food Units and mobile food vendors are responsible for obtaining and following all procedures for the remittance of any and all applicable sales taxes. Mobile food vendors operating in any special tax district within the City, such as a Cooperative Improvement District, shall be responsible for paying any special district fees, levies or taxes applicable to such district.

SECTION 3. Inspections and Compliance with Applicable Laws

- a. All Mobile Food Units 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 Unit.
- b. All Mobile Food Units 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 or licensing of Mobile Food Units in general.
- c. Mobile Food Vendors shall submit copies of all required and current health department approvals for both commissary and each Mobile Food Unit and current City business license. Applicant shall be responsible for having each unit inspected and approved by the City of Spanish Fort Fire Department prior to issuance of permit. Copies of the inspection report/approval shall be available at all times. Annual inspections are required and each Mobile Food Unit is subject to re-inspection at any time.
- d. Mobile Food Unit operators shall have approval of the property owner or business owner for each location at which the Mobile Food Unit operates. This approval shall be in writing, signed by the property owner or business 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.

SECTION 4. Regulations and Restrictions.

- a. Hours of operation for all Mobile Food Units shall be limited to 7:00 a.m. to 9:00 p.m. local time. Mobile Food Units or vendors shall not operate as a drive-through window.
- b. No Mobile Food Unit shall be allowed to operate in excess of three (3) consecutive days in any one location. During days of non-operation, the Mobile Food Unit and all associated vehicles and accessories including, but not limited to, tables, chairs, picnic tables, benches, tents, popups, tarps, waste receptacles, etc., must be completely removed from the premises.
- c. No Mobile Food Unit shall operate on more than two (2) individual sites within the City per day.
- d. No more than two (2) Mobile Food Units shall operate on the same site per day unless specially approved by the City for festivals, celebrations, etc. In residential subdivisions, no more than one (1) Mobile Food Unit shall operate within the subdivision per day.
- e. Mobile Food Unit operators are responsible for the proper disposal of waste and trash associated with the operation. Mobile Food Vendors shall remove all waste and trash every

24 hours 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.

- f. All associated equipment, with the exception of trash receptacles, must be located within three (3) feet of the Mobile Food Unit.
- g. All Mobile Food Units shall offer a trash receptacle for public use that the operator shall empty at its expense. Said receptacle must allow for ten (10) feet of clearance from the Mobile Food Unit. 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 Unit.
- h. All Mobile Food Units shall be located a minimum of fifteen (15) feet away from any fire hydrant, fire lane, sidewalk, utility boxes, handicap ramps and/or building entrances.
- i. No Mobile Food Unit 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.
- j. Access to neighboring buildings or uses shall not be impeded.
- k. Mobile Food Units must be located off the public rights-of-way. No fire lanes, vehicular access ways or pedestrian walkways may be obstructed or encroached upon by the Mobile Food Unit. For the safety of customers, all picnic tables, benches and chairs provided by the Mobile Food Unit shall be located a safe distance from the public rights-of-way and vehicular traffic.
- l. No amplified microphones or bull horns, no flashing lights, ground signs or any other distraction shall be permitted as a part of the Mobile Food Unit operation.
- m. Mobile Food Units shall not occupy parking spaces required to fulfill the minimum parking requirements applicable to a property, unless the hours of operation of the principal use of the property do not coincide with those of the Mobile Food Unit.
- n. Mobile Food Units 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 Unit. Fire extinguishers shall be maintained pursuant to National Fire Protection Association (NFPA) standard 10.
- o. No Mobile Food Unit 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.
- p. No Mobile Food Unit 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.
- q. No signs shall be used to advertise the conduct of the Mobile Food Unit at the premises other than that which is physically attached to the Mobile Food Unit. Detached menu boards or other signs indicating pricing, etc., may be used within ten (10) feet of the Mobile Food Unit, 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.
- r. Mobile Food Units shall not be located on public property without prior written approval from the City. This shall include, but not be limited to, property owned or leased by the City, City park property, and City rights-of-way.
- s. Mobile Food Units 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 Unit obstruct sight distance at any roadway intersection.

- t. No Mobile Food Unit 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 Spanish Fort. Any Mobile Food Unit found to be unattended shall be considered a public safety hazard and may be subject to enforcement as provided for herein.
- u. A Mobile Food Unit operating outside of an approved location shall be deemed in violation of this Ordinance and may be subject to enforcement as provided for herein.
- v. No mobile food vehicle shall operate within 500 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 unrevoked written consent of the owner or manager of such Restaurant has been obtained in advance and is 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 within 500 feet as stated herein, the permission may contain such reasonable conditions and restrictions upon which the parties agree.

SECTION 5. Enforcement.

Any person found guilty of violating any of the provisions of this Ordinance shall be fined in an amount not less than \$250.00 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 6. Severability Clause.

If any part, section or subdivision of this Ordinance shall be held unconstitutional invalid for any reason, such holding should not be construed to invalidate or impair the remainder of this Ordinance, which shall continue in full force and effect notwithstanding such holding.

SECTION 7. Repealer Clause.

Any ordinance heretofore adopted by the City Council of the City of Spanish Fort, Alabama, which is in conflict with this Ordinance is hereby repealed to the extent of such conflict.

SECTION 8. Amendment, Revocation, Repeal, No Continuing Property Rights or Interests.

The City Council expressly reserves the right, power and authority to amend, revoke or repeal this Ordinance in its discretion, and revoke or elect not to renew any licenses or permits if it elects to discontinue the operation of Mobile Food Units pursuant to this Ordinance. No person or entity shall obtain or have a right to continued operation of such Mobile Food Units in the City except pursuant to this Ordinance, which may be amended, revoked or repealed, in the discretion of the City Council.

SECTION 9. Effective Date.

This Ordinance shall become effective upon its adoption or as otherwise required by state law.

ADOPTED AND APPROVED this 3rd day of October, 2022.

 Michael M. McMillan
 Mayor

Attest:

 Rebecca A. Gaines
 City Clerk