

Derrick Mostella  
Mayor



P.O. Box 70  
211 8<sup>th</sup> Street  
Ashville, AL 35953

Chrystal St. John  
City Clerk

Phone 205-594-4151  
Fax 205-594-4292

County Seat of St. Clair County

---

**ORDINANCE 2021-003**

**AN ORDINANCE PROVIDING FOR THE REGULATION OF MOBILE FOOD VEHICLES**

**WHEREAS**, the City of Ashville (the "City") has the authority to promulgate laws and regulations for the general health, safety and welfare of the citizenry as well as to prohibit and abate nuisances and regulate business within the City; and

**WHEREAS**, the City desires to regulate the sale of food by way of mobile food vehicles (as hereinafter defined) within its corporate limits pursuant to Alabama Code §11-47-130, *et. seq* and other applicable law*seq*.

**NOW THEREFORE, BE IT ORDAINED** by the City Council of Ashville, Alabama, as follows:

Section I. - Definitions.

*Business licenses* shall mean an annual license required of any business to operate within the City pursuant to the City license Ordinance.

*Commissary* means a permitted food establishment to which a mobile food vehicle or transportation vehicle returns for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and preparing or boarding food and beverages.

*Mobile food vehicle* shall mean a vehicle, trailer, or pushcart that serves prepared foods and beverages or prepares and serves food, beverages or any item to be consumed by a person.

*Mobile food vendor* shall mean the entity that is legally responsible for the operation of the mobile food vehicle such as the permittee, the permittee's agent, or other person; and possesses a valid permit to operate a mobile food vehicle.

*Street Vendor license* shall mean a one-day license issued by the city to operate on a day-to-day basis not to exceed 4 days per calendar year.

---

Council Members

---

Robin L. Bowlin - Edward Roscoe Lane - Sue Price - Shirley Smith - R. Denise Williams

*Permit* shall mean the written authorization to operate a mobile food vehicle or pushcart (hereinafter defined) within the City limits which is required for the operation of a mobile food vehicle pursuant to this article.

*Person* shall mean any natural person, firm, partnership, association, or corporation. Whenever the word “person” is used in any section in this Article prescribing a penalty or fine as applied to a partnership or association, the word shall include the partners or members thereof; such word as applied to corporations shall include the officers, agents, or employees thereof who are responsible for any violation of such section.

*Pushcart* shall mean a mobile food unit that is not self-propelled and is designed or intended to be moved by one person. A pushcart shall be used to prepare and serve only:

- i. potentially non-hazardous foods such as popcorn, lemonade, hot dogs, or flavored ice; or
- ii. foods pre-packaged at a commissary and maintained at the required temperatures per the County Health Department regulations.

*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.

*Special event* shall mean any city-sanctioned event (whether by proclamation or otherwise) or any pre-approved event open to the general public for the purpose of entertainment, education or celebration and that benefits the citizens of the City of Asheville.

*Common Open Space* shall mean any greenbelt, park, or area which is owned in common or private and located in or maintained by a homeowners' association or other neighborhood association.

## Section 2. - License required: license fees: compliance with laws.

(a) No person shall operate a mobile food vehicle or commissary servicing a mobile food vehicle operating within the City limits of the City of Asheville without first having obtained a business or Street Vendor's license from the City. A Street Vendor's license shall be required when an annual license is not purchased.

(b) All mobile food vehicles must display a current food service permit issued by the St. Clair County Health Department. In the case of special events, a temporary food service permit obtained by the event organizer from the St. Clair County Health Department will be accepted.

(c) A business license fee in the amount of \$50.00 per Mobile Food Vehicle will be charged.

(d) Business Licenses for mobile food vehicles are non-transferable and may be revoked in accordance with the City's Business License Ordinance and for non-compliance with this Ordinance.

(e) A Street Vendor's license may be issued for a single day or special events. Mobile food vehicles that possess a city business license are not required to obtain a Street Vendor's license. All other provisions of this Ordinance shall apply.

(f) All mobile food vehicles and vendors are responsible for obtaining and following all procedures for the remittance of any and all applicable sales tax.

(g) 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.

(h) All mobile food vehicles must comply with any setback regulations of the city.

Section 3. - Permit required.

(a) All mobile food vehicles shall be permitted by the City of Ashville to operate within the city limits.

(b) Prior to commencement of operations within the City, all mobile food vehicles with heat source or electrical connections must be inspected by the City's Fire Chief and Building Inspector. Inspections are required annually for the term of the license and each mobile food vehicle is subject to reinspection at any time. Mobile food vendor is responsible for maintaining proof of inspection on every mobile food vehicle.

(c) Permits shall include the applicant's name, address and, where applicable, its trade name, the address of commissary. The application for the permit shall include a picture of the mobile food vehicle and tag number, if applicable, a copy of St. Clair County Health Department food service permit, copy of City Fire Chief Inspection Report and proof of applicable insurance coverage as required. The City shall be notified within ten days of any address change.

(d) Permits shall be renewed annually (for those vehicles applying for a one-year license) or on a per-event basis. This is done by filing a renewal application at business license renewal time. Permits are non-transferrable.

(e) The City has the right at any time and from time to time to suspend a permit issued hereunder in order to accommodate a city-sanctioned special event, parade, marathon or run, city project or public works activity.

(f) A permit fee in the amount of \$100.00 per Mobile Food Vehicle will be charged. per inspection.

(g) A permit issued pursuant to the provisions of this section shall be invalid at any time the insurance, food service permit, or other requirement hereunder expires.

Section 4 - Rules and regulations.

(a) Mobile food vehicles shall display all required permits, licenses, and private property permissions in a manner easily visible to the public while operating within the City.

(b) All mobile food vehicles shall offer at least one waste container for public use that the operator shall empty at his/her expense. Said container must be within three feet of the mobile food vehicle. The mobile food vendor shall keep the permitted premises and adjacent public property clean and free from all trash, litter, debris, or waste generated from the operation of the business. Mobile food vendors are responsible for the proper disposal of waste and trash associated with the operation of the mobile food vehicle. Trash, litter, debris, and waste in areas not designated for the proper disposal of same are a public nuisance for which the mobile food vendor shall be liable if resulting from the operation of the mobile food vehicle. City maintained trash receptacles may not be used for this purpose.

- (c) Mobile food vehicles shall not emit, cause to be emitted, or allow the emission of unpleasant or noxious odors.
- (d) Any auxiliary power, water or sewer utilities required for the operation of the mobile food vehicle shall be self-contained.
- (e) Mobile food vehicles must have the following fire extinguisher on board during operation: minimum 2A10BC rated extinguisher for non-propane mobile food vehicles or pushcarts using propane, minimum 4A40BC rated extinguisher for mobile food vehicle that use propane, and minimum 1A5BC rated extinguisher for mobile food vehicles without propane. If food preparation involves deep-frying, 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. Where applicable and required by fire code, an exhaust hood vent and fire suppression system will also be required. The City's Fire Inspection shall be inspect and ensure the appropriate fire and life safety resources are in place.
- (f) No mobile food vehicle shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and stand-up counters, unless for such purposes of a special event.
- (g) 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.
- (h) No mobile food vehicle or mobile food vendor shall:
- create or maintain a public nuisance,
  - damage or alter public property or infrastructure, and/or
  - erect or utilize any permanent or fixed structures in any public place pursuant to the license issued hereunder.
- (i) 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 vehicle or within five feet (5') of the same. Menu boards or other signs indicating pricing, etc. may be used.
- (j) Hours of operation for any mobile food vehicle shall be 8:00 a.m. to 9:00 p.m. CST. A maximum set up and break down time of 30 minutes before and after these allotted hours is allowed. The hours of operation may be altered by the permit issued hereunder and the city reserves this right.
- (k) Mobile food vehicles and vendors shall not operate in the public rights of way, except during special events or as otherwise approved by the City Council.
- (l) The sale of alcohol is prohibited from any mobile food vehicle.

#### Section 5 - Location of mobile food vehicles.

- (a) Mobile food vehicles shall not operate in the Residential or Agricultural Districts of the City as those districts are defined in the City of Asheville Zoning Ordinance, except during special events and with approval of the City.
- (b) Mobile food vehicles must maintain a 15-foot clearance from fire hydrants, driveway entrances, and handicap parking spaces/ramps.



- (c) Mobile food vehicles must maintain a five-foot clearance from any fire lane, sidewalk, utility box or building entrance.
- (d) Mobile food vehicles shall only operate on Common Open Spaces as defined herein, on private property with the written permission of and signed by the owner of the private property, or on public property as approved by the City.
- (e) Mobile food vehicles 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 vehicle.
- (f) No mobile food vehicle vendor may obstruct the use of any public right-of-way, street intersection or pedestrian crosswalk and may not obstruct pedestrian space.
- (g) No mobile food vehicle shall make or solicit any sales to occupants of vehicles or engage in any activities which impede vehicular traffic.
- (h) If the mobile food vehicle is operating within a parallel parking space; the service of food must be done on the side away from vehicular traffic.
- (i) No pushcart shall be authorized to operate within a parallel parking space.
- (j) No mobile food vehicle shall operate within 200 feet of the nearest public entrance of any restaurant in 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 200 feet as stated herein the permission may contain such reasonable conditions and restrictions upon which the parties agree.
- (k) No mobile food vehicle shall operate within 200 feet of a school unless at a special event sponsored / allowed by that school or approved by the City. Distance shall be measured to the nearest lot line of the school's campus.
- (l) Access to neighboring buildings or uses shall not be impeded.
- (m) Mobile food vehicles shall not be located on public property without prior approval from the City. This shall include property owned or leased by the City, City park property, and city rights-of-way.
- (n) 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.
- (m) Mobile food vehicles must provide sufficient artificial lighting during non-daylight hours.
- (n) All on-site food preparation shall be performed inside the primary vehicle only. Grills or other cooking facilities are not allowed outside the vehicle.

#### Section 6 - Operation of mobile food vehicles.

- (a) Any mobile food vehicle being operated without a valid City of Asheville business license and permit shall be deemed a public safety hazard and may be ticketed and impounded.

(b) No mobile food vehicle shall be parked on the street overnight or left unattended and unsecured at any time food is kept in the mobile food vehicle. Any mobile food vehicle found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

(c) Any 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 mobile food vehicle shall be allowed to operate in excess of three consecutive days in any one location, unless operating at mobile food vendor's principal place of business, nor more than three days within any seven (7) consecutive days.

(e) No mobile food vehicle shall operate on more than two individual sites within the city per day.

(f) No more than two mobile food vehicles shall operate on the same site per day unless operating at a special event and/or upon approval by the city.

(g) No mobile food vehicle shall operate a drive-through business without prior written approval from the City.

Section 7. Enforcement: penalties.

Any violation of this article shall, upon conviction, be subject to punishment by imprisonment of up to six (6) months or fine of up to Five Hundred and No/100 Dollars or both. Pursuant to this provision, an original action for enforcement of this ordinance may be commenced by citation by a law enforcement officer or by the issuance of a summons or civil citation commanding the appearance of the alleged offender in the Municipal Court of the City of Ashville, Alabama. These provisions shall not be deemed to otherwise limit or restrict any other legal remedy the City may have in ordinary course.

Section 8. - 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 8. - Effective Date.

These amendments to the above-described ordinance shall become effective upon its passage, approval, and publication as required by law.

ADOPTED and APPROVED this the 1 day of June, 2021.

CITY OF ASHVILLE, ALABAMA

By:   
Derrick Mostella, Mayor

ATTEST:   
Chrystal St. John, City Clerk

CERTIFICATION

I, the undersigned, City Clerk of the City of Ashville, Alabama, do hereby, certify that the above is a true and correct copy of an Ordinance duly adopted by the City Council at its meeting held on June 1, 2021 and as same appears of record in Minute Book of said City, and approved by the City Council on the 1 day of June, 2021.

GIVEN UNDER MY HAND AND CORPORATE SEAL of the City of Ashville, Alabama, this 1 day of June, 2021.



Chrystal St. John  
City Clerk