

**CITY OF DALTON  
ORDINANCE**

**Ordinance No. 22-20**

AN ORDINANCE OF THE CITY OF DALTON PROVIDING FOR THE SALE OF FOOD AND BEVERAGES FROM MOBILE FOOD VEHICLES IN DESIGNATED AREAS OF THE CITY OF DALTON AND DURING DESIGNATED HOURS; TO PROVIDE FOR PERMITTING, INSPECTION, AND ENFORCEMENT; TO PROVIDE PENALTIES FOR VIOLATION; TO PROVIDE FOR AN EFFECTIVE DATE; TO PROVIDE FOR SEVERABILITY; AND FOR OTHER PURPOSES

WHEREAS, the sale of food and beverages from mobile food vehicles sometimes called “food truck” or “foodcarts” has been a recognized and publicly accepted form of commerce in cities around the country and provides a public benefit; and

WHEREAS, health and safety considerations for mobile food vehicle sales apply the same as public health regulations for restaurants and other fixed location public food purveyors along with fairness and compatibility with other models of food service to the public; and

WHEREAS, it is deemed in the interest of the health, safety, and welfare of the City of Dalton and the public to permit sales of food and beverages from mobile food vehicles in designated areas of the City of Dalton and during designated hours subject to permitting regulations that require public health certifications and food, beverage, and safety inspections and enforcement as hereinafter specified;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Dalton and by authority of same IT IS HEREBY ORDAINED as follows:

**-1-**

The clauses above are hereby adopted as findings of fact by the Mayor and Council and are published to set forth the purposes underlying the provisions hereof.

DEFINITIONS.

- a. "City-sponsored event" shall mean a public activity or event, festival, or similar outdoor gathering conducted by the City of Dalton or any of its departments, agencies, authorities, or commissions.
- b. "Clerk" shall mean the City Clerk of the City of Dalton or her designated employees or agents.
- c. "Department of Health" shall mean the Whitfield County Department of Health and the Northwest Georgia Public Health District under the auspices of the Georgia Department of Human Resources.
- d. "Fire Department" shall mean the City of Dalton Fire Department under the direction of its Fire Chief or his designated officers, employees, or agents.
- e. "Food" shall mean a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
- f. "Health license" shall mean an official document issued by the Department of Health.
- g. "Mobile food vehicle" (MFV) shall mean either a "food truck" propelled by an engine which has been designed or used for mobile food vending or a "food trailer" without motive power that is designated to be drawn by a motor vehicle and is specifically designed or used for food vending operations. For purposes of these definitions "food vending operation" shall mean a place, location, site, or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation. As used here, "served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking, or

additional preparation and “prepared” means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.

- h. “Mobile food vending license” shall mean an official written permit of the City of Dalton over signature of the City Clerk authorizing operation within the corporate limits of the City of Dalton in accordance with its terms and this Ordinance. This license is not the same as a license from the Department of Health.
- i. “Mobile food vendor” (MFV) shall mean every person, corporation, association, joint stock association, firm, partnership, or individual, limited liability company, limited liability partnership, or other entity, their lessees, directors, officers, employees, receivers, trustees, appointees by any court whatsoever, or the beneficiaries, executors, administrators, or personal representatives or assignees of any deceased owner, owning, controlling, operating or managing any MFV.
- j. “Operator” shall mean the individual who manages any MFV unit whether as owner, employee, or independent contractor.
- k. “Public event” shall mean any public activity or gathering or assemblage of people in a public place that is open to the general public sponsored by or under the auspices of the City of Dalton or any of its departments, agencies, authorities, or commissions, as well as any festival or special event in a public place of the City of Dalton sponsored by or under auspices of the City of Dalton or any of its departments, agencies, authorities, or commissions.
- l. “Revoke” shall mean to terminate all rights or privileges under the City’s MVF permit for a period not to exceed ninety (90) days after which the licensee must reapply. This action

is the same as “suspend.” “Permanent revocation” is where the licensee has violated this Ordinance to such an extent as to render the licensee ineligible for re-application.

- m. “Rule” or “rules” shall mean those promulgated under Sections 6 of this Ordinance.

-3-

LICENSE REQUIRED.

- a. No individual, person, organization or entity shall operate, or cause to be operated, any MFV unit within the corporate limits of the City of Dalton in a public place except in conjunction with a “City-sponsored event” and holding at any “City-sponsored event” a current and valid MFV license issued by the City of Dalton.
- b. No individual, person, organization, or entity shall operate, or cause to be operated, any MFV unit within the corporate limits of the City of Dalton at any “City-sponsored event” without a current and valid health license of the Department of Health.
- c. No separate itinerant vendor license shall be required for the operation of a MFV unit.
- d. Nothing in this Ordinance shall be construed as superseding, supplanting, or otherwise replacing any duty imposed under the health and sanitation laws and regulations of the State of Georgia or of the Department of Health in the conduct of its responsibilities to MFV units.
- e. Nothing in this Ordinance shall be construed as superseding, supplanting, or otherwise replacing any duty of the City of Dalton and its departments, offices, agencies, and employees, or rules or regulations, imposed by Chapter 6 “Alcoholic Beverages” or Chapter 10 “Amusements And Entertainments” of the 2001 Revised Code of Ordinances of the City of Dalton.

LICENSE APPLICATION.

- a. A license application for a MFV license must be submitted to the City of Dalton, care of the City Clerk on forms provided. With such license application the applicant must provide proof of a current and valid license of the Department of Health.
- b. Application for the MFV license shall be made under oath and shall contain the following:
  - (1) Name, permanent address, telephone number, electronic mail address, date of birth, and driver's license number of the MFV unit owner;
  - (2) Business name including DBA if applicable, permanent address, and telephone number, if different from owner information;
  - (3) A physical description of the unit proposed to be licensed for mobile food vending and current and valid state vehicle registrations for the MFV unit.
  - (4) Proof of City of Dalton occupational license tax number or exemption if applicable;
  - (5) Affirmation that, upon issuance of a license, the applicant will conduct a criminal background check prior to allowing any person to operate the MFV unit in the public right-of-way and maintain such record on file for three (3) years after termination of employment;
  - (6) Affirmation that, upon issuance of the license, the applicant will provide the City Clerk written documentation of any change in the information required by this Chapter; and
  - (7) Any other information reasonably required by the City in implementation and enforcement of this Ordinance.

CONSIDERATION AND REVIEW OF APPLICATION.

- (a) The MFV unit applicant shall pay to the City such fees as may be set by the City from time to time for consideration and review of the license application at the time of filing of the application.
- (b) The MFV unit shall be inspected by the Fire Department for such public health and safety considerations as fall within its jurisdiction.
- (c) Any application must be accompanied by an indemnity agreement of the MFV unit license applicant indemnifying and releasing the City of Dalton, its officers, employees, and agents from any and all liability, claims, action or suits of any type arising out of the activities of the MFV unit licensee under the permit issued.
- (d) Accompanying the MFV unit application the MFV license applicant must provide a current and active general liability insurance declaration of coverage in the amount of not less than \$1,000,000.00 for any occurrence of bodily injury and \$300,000.00 for any occurrence of property damage. The City of Dalton must be shown as an additional insured on the policy.
- (e) The City Clerk shall examine all applications for a MFV license for completeness and accuracy and make or cause any further investigation into the application as is deemed necessary to make a timely determination regarding the application.
- (f) If the application is not approved for any reason, the City Clerk shall notify the MFV license applicant in writing.
- (g) If an applicant is aggrieved by the denial of its license application, it may appeal same to the Public Safety Commission by written notice of appeal filed with City Clerk within

thirty (30) days of the City Clerk's written notice of denial. Decision of the Public Safety Commission shall constitute the final administrative action of the City of Dalton.

~~-6-~~

#### RULES OF OPERATION OF MFV UNIT.

- (a) NO MFV unit may engage in the sale of good or beverages on a public right-of-way or on public property of the City of Dalton or Whitfield County without a special event permit issued under Chapter 10 of the 2001 Revised Code of Ordinances of the City of Dalton.
- (b) NO MFV unit shall make amplified sounds or announcements calling attention to the MFV unit while traveling the public right-of-way or stationary in the City of Dalton.
- (c) The City's license decal under which the MFV unit operates must be firmly attached and visible on the MFV unit at all times.
- (d) Any driver of an MFV unit must hold a current and valid Georgia's driver's license.
- (e) A MFV vendor and his MFV units shall comply with all State, federal, and local laws and health and safety regulations.
- (f) Every MFV unit that is a motorized vehicle shall be equipped with: (i) a reverse gear signal alarm with a sound distinguishable from the surrounding noise level; and (ii) two (2) rear-vision mirrors, one (1) at each side, firmly attached to the outside of the motor vehicle and so located as to reflect to the driver a view of the roadway to the rear and along both sides of the vehicle.
- (g) An MFV unit may sell or serve only food and non-alcoholic beverages. To sell or serve alcoholic beverages the MFV vendor must hold a City of Dalton Alcoholic Beverage License or permit.

- (h) An MFV unit must make arrangements to dispose of all trash, refuse, or litter generated by its operation.

-7-

#### EXPIRATION AND RENEWAL OF LICENSE

- (a) Each license issued under this Chapter shall expire on the 31<sup>st</sup> day of December following the date of issue.
- (b) Each licensee must comply with the application and inspection requirements of this Chapter to receive a new license for each succeeding licensing period.
- (c) Each Department of Health license or permit shall expire on the date established by State law and must be maintained as a current and valid license or permit in order to operate an MFV unit under this Ordinance.
- (d) NO MFV license or permit decal issued under this Chapter shall be transferred or assigned by the MFV licensee to any other individual, person, entity, or organization.

-8-

#### SUSPENSION, REVOCATION, OR PERMANENT REVOLATION OF LICENSE.

- (a) The City may suspend or revoke the MFV license of any MFV licensee for violations of the terms of this Chapter or other laws of the City of Dalton or laws of the State of Georgia which shall include but not be limited to:
  - (i) Obtaining a license by a false statement in the application
  - (ii) failing to comply with the MFV Unit operation health and safety standards;
  - (iii) failing to perform and maintain criminal background checks on all employees or independent contractors operating an MFV Unit;
  - (iv) failing to post and maintain a required decal(s) and information;
  - (v) failing to offer receipts to customers or supplying a receipt when the customer answers



affirmatively; (vi) receiving three (3) citations within a twelve (12) months period for traffic violation of an MFV unit; (vii) receiving two (2) unsanitary conditions citations within a twelve (12) months period, or suspension or revocation of Department of Health permit for operation; (viii) failing to maintain current and valid general liability insurance as required by this Chapter as evidenced by a current and valid Declaration of Coverage on file with the City Clerk. (ix) Violating any of the operational requirements of this Chapter; or (x) any other form of misconduct, which shall mean conduct apart from the generally accepted practices of mobile food vending unit owners and employees, which demonstrates corporate, managerial, ethical, or professional characteristics or disposition rendering a person unsuitable to own or work in an MFV Unit.

- (j) If the City seeks to permanently revoke the MFV license the City Clerk shall provide written notice thereof with stated cause of this action.

**-9-**

#### APPEALS.

- (a) Any individual or MFV licensee who has been suspended or had license suspended or revoked shall be entitled to appeal each action of the City Clerk by written appeal to the Public Safety Commission filed with the City Clerk within thirty (30) days of the City Clerk's written notice of action.
- (b) The Public Safety Commission shall hear such appeal within forty-five (45) days of the appeal and its decision shall constitute final action of the City of Dalton.

**-10-**

If any particular portion of this Chapter shall be declared by a court of competent jurisdiction to be invalid, such declaration of invalidity shall be limited to the particular portion

declared invalid. This declaration of invalidity shall not affect or impair the remainder of this Chapter, and to this end, the provisions are severable.

**-11-**

A violation of this Chapter shall be subject to citation by Code Enforcement or Dalton Police Department to the Municipal Court and upon adjudication of guilt subject to the general penalties provided under Section 6-4 of the Charter of the City of Dalton as published by Municipal Code Corporation.

**-12-**

Nothing in this Ordinance shall be applicable to MFV units operating on private property within the City of Dalton so long as food is not being sold to individuals being served but the MFV units service is being compensated by a sole source sponsor.

**-13-**

This Ordinance shall be effective after its passage and publication at two (2) public places in the City of Dalton for five (5) days after its passage.

SO ORDAINED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

ADOPTED AND APPROVED on the \_\_\_\_\_ day of \_\_\_\_\_, 2022 at the regular meeting of the Mayor and Council of the City of Dalton.

The foregoing Ordinance received its first reading on \_\_\_\_\_ and a second reading on \_\_\_\_\_.

Upon second reading a motion for passage of the Ordinance was made by Council member \_\_\_\_\_, second by Council member \_\_\_\_\_,

and upon the question the vote is \_\_\_\_\_ AYES, \_\_\_\_\_ NAYS and the Ordinance DOES/DOES NOT pass.

CITY OF DALTON

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

A true copy of the foregoing Ordinance has been published in two public places in the City of Dalton for five (5) consecutive days following its passage and its effective date is thereby the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
City Clerk  
City of Dalton