

**ORDINANCE NO. 16-2309**

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

**BE IT ORDAINED** by the City Council of the City of Hoover at a regular meeting, duly assembled, a quorum being present, as follows:

**Section 1. AMENDMENT TO CHAPTER 8, ARTICLE XIII OF THE MUNICIPAL CODE OF THE CITY OF HOOVER.** Chapter 8, Article XIII currently noted as “Reserved” in the Municipal Code of the City of Hoover is amended by deleting the “Reserved” notation and replacing with the following:

**ARTICLE XIII. – MOBILE FOOD UNITS**

**Sec. 8-400. - 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:

*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.

*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 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.

**Sec. 8-401. – 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 Hoover 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.

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. At the time of filing the application with the zoning official, the applicant shall pay to the Department a non-refundable Three Hundred and no/100 (\$300.00) fee to defray the costs of administering this Article.
  - 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 8-401(b) 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.

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. 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:

- Any violation of this Article;
  - Conviction by Permittee of any crime involving moral turpitude;
  - 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
  - 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.
- a. 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.
  - b. The decision to permanently suspend, revoke or refuse to renew any Permit issued under this Article may be appealed to the Hoover 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.
  - c. 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.
  - d. 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.
- (c) 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 Jefferson or Shelby County Health Department, as applicable.

- (d) 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. 8-402. - Standards and Requirements for Mobile Food Unit operation.**

(a) Location of Mobile Food Unit; Other Requirements.

1. Location and/or operation of all mobile food units shall be only in areas and/or districts zoned nonresidential. 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. 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.
2. No mobile food unit shall operate on more than two (2) individual sites within the city per day.
3. No mobile food unit shall be allowed to operate in excess of three (3) consecutive days in any one location. During days of nonoperation and/or at night, the mobile food unit and all associated vehicles, etc., must be removed from the location premises.
4. No more than three (3) mobile food units shall operate on the same site per day unless operating at a festival, celebration, community event, organized civic event, nonprofit event or any other public event with the prior written approval of the city's zoning inspector or his/her designee.
5. 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.
6. 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.

7. 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.
  8. All mobile food units must meet the zoning district setbacks for the premises in which the mobile food unit is operating.
  9. 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.
  10. Tables, chairs, benches, etc. shall not be utilized as part of the operation of a mobile food unit.
- (b) 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.
- (c) Hours of Operation. Hours of operation for all mobile food units shall be limited to the hours of 6:00 a.m. to 5:00 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.
- (d) Disposal of Waste and Trash Required.
1. 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.
  2. 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.
- (e) Signage: Noise and Flashing Lights.
1. No excessive distraction(s) shall be permitted as a part of the mobile food unit's operation.

- 2. Signage is limited to signage located on mobile food unit. No portable signage is allowed.
- (f) 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.

**Sec. 8-403. - Penalties.** Violations of this section shall be punished in accordance with the provisions of sections 1-5 or 1-6 of this Code or as otherwise provided by law.

**Section 2. ADDITION TO CHAPTER 8, ARTICLE II, SECTION 8-16(6) OF THE MUNICIPAL CODE OF THE CITY OF HOOVER.** Chapter 8, Article II, Section 8-16(6) is hereby amended by adding the following thereto as Section 8-16(6)r:

- r. Mobile food units. All mobile food units as hereinafter defined by Chapter 8, Article XIII, Section 8-400 shall pay a license based on the following schedule:

If anticipated sales are:

\$10,000 or less .....	100.00
More than \$10,000 but less than \$25,000 .....	200.00
More than \$25,000 but less than \$50,000 .....	300.00
More than \$50,000 but less than \$100,000 ....	400.00
Over \$100,000 .....	500.00

Plus one-tenth (1/10) of one (1) percent of gross receipts, less returns, over \$100,000.00.

**Section 3. MODIFICATION OF APPENDIX I, ARTICLE VII, SECTION 13.0 OF THE MUNICIPAL CODE OF THE CITY OF HOOVER.** Appendix I, Article VII, Section 13.0 is hereby deleted and replaced as follows:

The principal building of a permanent or temporary business shall be a permanent building which has a roof supported by columns or walls, with walls constructed of wood, metal, glass, brick or masonry materials, which completely enclose the principal building area. The permanent building and premises shall conform in all respects to the applicable land and building development codes and ordinances of the city. The principal building of any permanent or temporary business shall not be a tent, shelter, mobile building or other structure which does not comply with the intent of this section. This section shall only apply to entities to which the provisions of Chapter 8 of the Hoover Municipal Code are applicable. Further, this section

shall not apply to mobile food units as defined in Chapter 8, Article XIII, Section 8-400.

**Section 4. ORDINANCE CUMULATIVE; OTHER ORDINANCES IN CONFLICT REPEALED.** All other provisions of the *Municipal Code of the City of Hoover, 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 Hoover, Alabama that are inconsistent with the provisions of this Ordinance are hereby expressly repealed.

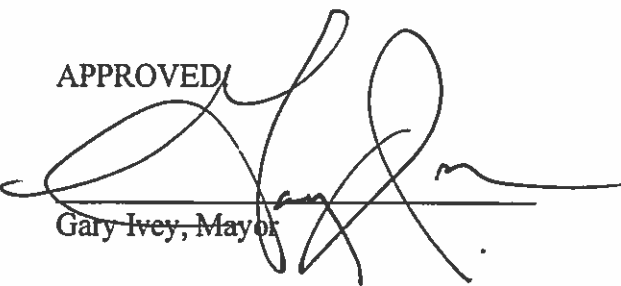
**Section 5. SEVERABILITY.** If any part, provision, or section of this Ordinance is declared to be unconstitutional or invalid by any court of competent jurisdiction, all other parts, provisions or sections of this Ordinance not thereby affected shall remain in full force and effect.

**Section 6. 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. For the 2016 calendar year only, holders of current business licenses for the operation of mobile food units within the City are exempt from compliance with the provisions of Section 1 of this Ordinance (specifically, only those provisions set forth in Chapter 8, Article XIII, Section 8-401(b) (Permit)), and Section 2 of this Ordinance (specifically, only those provisions set forth in Chapter 8, Article II, Section 8-16(6)(Business License Amounts)). Beginning January 1, 2017, all persons, firms, corporations and/or other legal entities operating a mobile food unit within the city shall be required to comply with each and every provision of this Ordinance. 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 Hoover does hereby enact the foregoing Ordinance for the City of Hoover.

DONE this the 18th day of July, 2016.

APPROVED

  
Gary Ivey, Mayor

ATTEST:

  
Margie Handley, City Clerk

  
Jack Wright, President of City Council