

ORDINANCE NO. 2024 - 13
AMENDING REGULATING THE SALE AND DISTRIBUTION OF MOBILE VENDORS
(FOOD TRUCKS), PUSHCARTS, ICE CREAM TRUCKS AND MOBILE BUSINESS UNITS
WITHIN THE CITY LIMITS OF THE CITY OF CULLMAN, ALABAMA,
PROVIDING LICENSING PROCEDURES AND ESTABLISHING PUNISHMENT FOR VIOLATIONS

BE IT ORDAINED by the City Council of the City of Cullman, Alabama as follows:

Section 1. Short Title. This Ordinance shall be known and may be cited as the “Cullman Mobile Vendors Ordinance”.

Section 2. All locations are subject to the regulations and other requirements established by the Health Department. It shall be unlawful for any person to prepare, sell, offer or expose for sale, exchange, deliver, dispose of or have in possession, custody of control, in the City, with intent to sell, offer or expose for sale, exchange, or delivery, any meat, prepared food, vegetable, beverage, liquid or other article used or intended for use as food for human beings, without valid, unsuspended and unrevoked permit issued by the health officer, pursuant to regulations of the State Board of Public Health, a City license and permit in accordance with this Ordinance.

Section 3. This Ordinance shall only allow for mobile food vehicles, pushcarts, ice cream trucks, mobile carwashes/detail units, mobile auto-glass repair, mobile barbershops, hair salons, nail salons/cosmetology and mobile pet grooming. Nothing in this Ordinance shall be construed to allow for any other mobile operations of any businesses within any zones which the Zoning Ordinance may allow as a permitted or conditional use, permanent, “brick-and-mortar” structures/establishments.

Section 4. This Ordinance is enacted for the purposes, among others of promoting the health and general welfare of the community, of establishing reasonable standards for regulation and control of the licensing and sale of food from mobile vendors and goods and services of mobile business units, by preserving certain areas through reasonable consideration among others, to the character of the areas and their peculiar suitability for particular uses, to the congestion in roads and streets, to promoting a general view of desirable living conditions, sustaining stability of neighborhoods, property and prevention of unqualified persons from engaging in or having an interest in said business. This Ordinance shall be construed as an exercise by the City of the Police Powers of the State delegated to the City in the regulation of health and welfare. Nothing in this Ordinance shall be construed to restrict charitable dispensing of free food to the poor, homeless, or persons in need.

Section 5. Definitions.

1. “Business licenses” are the licenses required of any business to operate within the City pursuant to the City license code.
2. “Building Department” shall mean the City of Cullman Building Department and its Officers, Inspectors, and Employees.
3. “City Building Inspection Department” shall mean the City of Cullman Building Department. Such terms shall be construed to include the City of Cullman Building Department and any officer or agent of the department authorized to act for and on behalf of the department with respect to the enforcement and administration of this code and other city, county, state ordinances or laws.
4. “Commissary” shall mean a permitted food establishment to which a mobile food establishment, pushcart, or transportation vehicle returns daily for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.
5. “Cullman Fire and Rescue” shall mean the Cullman Fire Department. Such terms shall be construed to include the Cullman Fire Department and any officer or agent of the department authorized to act for and on behalf of the department with respect to the enforcement and administration of this code and other city, county, state ordinances or laws.
6. “Cullman Police Department” shall mean the City of Cullman Police Department. Such terms shall be construed to include the City of Cullman Police Department and any officer or agent of the department authorized to act for and on behalf of the department with respect to the enforcement and administration of this code and other city, county, state ordinances or laws.

7. "Food Zone" shall mean an area approved by the City of Cullman for the specific operation of a mobile food vehicle or pushcarts as described in Zoning Ordinance and as amended from time to time by the City Council.

8. "Mobile Business Units Zone" shall mean an area approved by the City of Cullman for the specific operation of a mobile business unit as described in Zoning Ordinance and as amended from time to time by the City Council.

9. "Health Department" shall mean the state and county health department. Such terms shall be construed to include the County Health Department and any officer or agent of the department authorized to act for and on behalf of the department with respect to the enforcement and administration of this code and other city, county, or state ordinances.

10. "Ice Cream Trucks" shall mean vendors who only sell frozen, yogurt, dairy, or iced refreshments that are sold in single servings and whose product is not prepared on site.

11. "Lunch Wagon" shall mean a small bus, truck, or other vehicle outfitted for selling or for serving light meals and snacks to the public.

12. "Mobile food vehicle" shall mean, except for pushcarts but including ice cream trucks and lunch wagons, a unit mounted on or pulled by a self-propelled vehicle where food including prepackaged foods, for individual portion service is prepared or dispensed; is a self-contained with its own drinking water tank and wastewater tank; is designed to be readily movable; and is moved daily to return to its commissary.

13. "Mobile business unit" shall mean any commercial business without a fixed location or which is operating in the from a self-propelled vehicle or which can be pushed or pulled on a sidewalk, street, or highway on which licensed (permitted) personal or professional services or goods, are then provided, sold or dispensed to the public, in which the point of sale is located within the interior of the unit or the immediate exterior. Uses include barbershop, hair salon, nail salon, cosmetology, pet grooming, and mobile car detailing and washing. This shall not include businesses that provide services directly to a customer's home and/or business and perform some sort of service like landscaping, cleaning, HVAC, mobile auto-glass repair etc.

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

15. "Pushcart" shall mean a non-self-propelled mobile food unit that is light weight enough, designed, and intended to be moved by a single person on foot. A pushcart shall be used to prepare and serve only:

- a. potentially non-hazardous food such as popcorn, lemonade, hotdogs, flavored ice or ice cream;
- b. foods pre-wrapped at a commissary and maintained at the required temperatures per the County Health Department regulations.

16. "Restaurant" shall mean a brick-and-mortar establishment where meals are generally prepared, served, and eaten on the premises or prepared and serves food and/or drink to customers for consumption on premises in return for money, with permanent bathroom, electrical power, plumbing permanently affixed to land. A restaurant does not mean a food vending truck, ice cream truck, lunch wagon or a pushcart.

Section 6. Requirements

1. The permitted mobile food vending and mobile business operation in which the vendor proposes to operate are allowed in all zoning districts except residential as limited herein. Ice cream trucks may operate in residential areas.

2. All permitted mobile food vendors, including ice cream trucks, and mobile businesses are required to purchase a business license.

3. Except as herein provided, it shall be unlawful for any ice cream truck, while engaged in the business of selling, to stop or stand or permit or suffer any vehicle to do so upon any street of the City except during the actual sale of its ice cream product. In no event shall an ice cream truck be or remain upon any street or sidewalk longer than is reasonable to conduct a sale (such time not to exceed 30

minutes). Special events locations excepted if the ice cream truck is authorized as a participant by the event organizer and located within the permitted area of the special event or private property.

4. All mobile food vehicle units and mobile businesses units locations must meet the zoning district setbacks.

5. Mobile food vehicle units and mobile business units are not permitted to operate in loading zones, on street parking spaces, public rights-of-way, public off-street parking without a permit issued by the City not to exceed five (5) consecutive business days, nor may they obstruct or impede the flow of traffic for neighboring businesses. Exceptions may be made by the City for permitted special events in the appropriate zoning district(s).

6. (a) No mobile food vehicle shall operate within three hundred (300) feet of the front door of any restaurant or like business in current operation. Distance shall be measured to the nearest public entrance for any brick and mortar restaurant. (b) No mobile business unit may operate within three hundred (300) feet of the front door of any like business in current operation. Exception may be made with a waiver signed by the restaurant or business owner. (c) No pushcarts shall operate within one hundred (100) feet of the front door of any restaurant or business in current operation. Distance shall be measured from any exterior door leading into a dining area to the closest point of the pushcart. Exceptions may be made by the City for permitted special events in appropriate zoning district(s).

7. No mobile food vehicle, mobile business unit and/or pushcart shall make or solicit any sales to occupants of vehicles or engage in any activities which impede vehicular traffic.

8. No mobile food vehicle or mobile business unit shall have a drive-through service.

9. No mobile food vehicle shall have any indoor or covered seating, and in no case shall a mobile food vehicle or mobile business unit have more than one temporary picnic table or equivalent seating for more than six (6) patrons. All tables and chairs shall be removed at the close of business each day at the location in which the mobile food vehicle or mobile business unit operated said day and shall be located within the approved space for permitted area.

10. No mobile food vehicle or mobile business unit shall have any generator with a decibel level over seventy (70) decibels from a distance measured from twenty-five (25) feet from the generator. All generators shall comply with fire codes and in no case shall a generator be located further than twelve (12) feet from the mobile unit.

11. Private property owner approval. Mobile food vending units and mobile business units shall not be allowed to consume otherwise necessary parking spaces of existing tenant within the same property without the approval of the property owner, all tenants and the Building Department.

12. The proposed mobile food vehicle, mobile business operation and/or pushcart vending activity shall comply with all applicable federal, state and local laws and ordinances including, but not limited to, the Alabama Department of Environmental Management and Americans with Disabilities Act.

13. All signage and advertisement, whether on private or public property, must be attached to the mobile food vending unit and mobile business unit, not located within the right-of-way and in no way may it impede or interfere with foot and/or vehicular traffic and/or create hazard for foot and/or vehicular traffic.

14. Attached. Mobile food vehicles, mobile business units and/or pushcarts shall be responsible to provide and maintain their own trash receptacles. Permittee shall contain all refuse, trash, and litter within the mobile food vehicle or a small moveable trash can maintained by the permittee, and located adjacent to the mobile food vehicle and/or pushcart in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The permittee of the mobile food vehicle, mobile business unit and/or pushcarts shall be responsible for properly disposing of such refuse, trash, and litter as would any business, and shall not place it in any public trash container, or in any private container without proper permission.

15. (a) No mobile food vehicle, mobile business unit and/or pushcart shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles or similar devices to attract customers. A mobile food vehicle and/or pushcart

may use battery-operated lights with appropriate protective shields for the purpose of illuminating merchandise, so long as it is not a distraction to passing motorists. The decision of such distractions shall be determined by the Cullman Police Department or the Building Inspection Department of the City of Cullman. (b) Ice cream trucks may use amplified outside single tune music. "A" weighted tune not to create a noise nuisance.

16. No person or business entity, including religious or charitable organization, shall operate a mobile food vehicle, mobile business unit and/or pushcart selling food or beverages within the City without a permit.

17. All mobile food vendors, ice cream trucks, pushcarts, lunch wagons and mobile business units must have a valid City business license.

18. All mobile food vendors, ice cream trucks, pushcarts, lunch wagons and mobile business units must provide a signed statement that the applicant shall hold harmless the City and its officers and employees, and shall indemnify the City, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit with an active liability insurance policy as set out herein insuring the vehicle and its operators.

19. Each permit issued under this Ordinance shall be displayed at all times on the rear of the mobile food vehicle or mobile business unit and conspicuously on the pushcart.

20. The permit shall be subject to additional limitations on hours and days of operation that the City determines are appropriate to prevent conflict with special events. Examples of special events include, but are not limited to, construction, parades, outdoor concerts, sponsored marathons and blocked streets to allow licensed events.

21. No mobile food vehicle, ice cream truck, lunch wagon and/or pushcart vending within the City shall operate within five hundred (500) feet of any fair, stadium, carnival, circus, festival, special event, civic event, sports complex, water park, ball fields, entertainment district or other like sponsored event that is licensed or authorized by the City, unless they are authorized by the organizer to be participants in such event.

22. Persons conducting business from a mobile food vehicle and mobile business unit on private property shall not be permitted to operate in the following manner:

- a. Vending may not obstruct the use of any street intersection or pedestrian crosswalk.
- b. Vending shall not impede the ingress or egress of any driveway.
- c. Vending shall not obstruct pedestrian space.
- d. Vending shall not impede or obstruct the ingress or egress of any building.
- e. Vending structures shall not be left unattended or stored at any time on the open vending site when vending is not taking place or during restricted hours of operation.
- f. Any and all signage must be contained on the vehicle and not on the private property. At no time shall any signage be placed within the public right-of-way.

23. Any power required for the mobile food vehicle, mobile business unit and/or pushcart located on a public way shall be self-contained or immediately adjacent to the mobile food vehicle and/or mobile business unit. The mobile food vehicle, mobile business unit and pushcart shall not draw its power from the public rights-of-way or other businesses without a written waiver from the property owner granting permission. No power cable or equipment shall be extended at grade or overhead across any public street, alley, or sidewalk. Special events sites excepted.

24. For any location where the mobile food vending unit or mobile business unit is proposed to stay for two (2) or more hours, vendors shall provide toilet facilities for persons operating the unit, including employees, in accordance with the requirements of the Cullman County Health Department. Special Events sites excepted if toilet facilities are provided by organizer. An exception may be made if an adjacent business owner allows for restroom usage within his/her place of business for the mobile food vehicle or mobile business unit while on site.

25. Food preparation will be regulated by the Cullman County Health Department. The business license application must be accompanied by a food permit issued by the Cullman County Health Department.

26. Any on-site preparation of food shall be performed inside the primary vending unit only. Special Events sites are excepted on approval of preparation or serving area by the Cullman County Health Department.

27. A fire inspection of the vehicle, trailer, or concession apparatus shall be at least annually inspected by Cullman Fire Rescue prior to issuance of business license, inspection form or permit. All business licenses, inspection forms and/or permits shall be renewed annually. Nothing herein shall preclude inspection more often than once a year.

28. The vehicle, trailer, or concession apparatus shall meet all requirements for safety including, but not limited to the following or as hereafter amended:

- a. *International Fire Code*, 2021 Edition;
- b. *International Mechanical Code*, 2021 Edition
- c. *International Fuel Gas Code*, 2021 Edition
- d. NFPA 96 – *Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations*, 2021 Edition
- e. NFPA 10 – *Standard for Portable Fire Extinguishers*, 2018 Edition
- f. NFPA 17A – *Standard for Wet Chemical Extinguishing Systems*, 2021 Edition
- g. NFPA 58 – *Liquefied Petroleum Gas Code*, 2021 Edition

29. A list of requirements and scheduling of inspections, including but not limited to fire extinguishers, fire extinguishing systems, compressed gas/LPG, generators, electrical/extension cords and vehicle/trailer location can be coordinated through Cullman Fire Rescue.

Section 7. Food Zones. Food trucks, pushcarts, and ice cream truck zones Monday through Saturday except during special events, festivals, tournaments, games or private functions without approval of Cullman Parks, Recreation and Sports Tourism (for those properties managed by it) and the City in the form of a permit issued by the Clerk’s office which shall be displayed at all times when in operation located in 1-5 below. Mobile food units and mobile businesses must remain within the permitted area when permitted by the City.

1. City Park south of the Police Station, known as Depot Park;
2. The Old Farmers Market, the lot directly across from the Police Station (PIN 44702);
3. Art Park
4. Nesmith Park;
5. Heritage Park parking areas (as designated by special marking);
6. Private property which does not lie within the restrictive areas as set out in this Ordinance.

Section 8. Required by Financial Responsibility of Operator. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect vendor, property owners, and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than One Hundred Thousand Dollars (\$100,000.00) per person and Three Hundred thousand Dollars (\$300,000.00) per accident or occurrence or more if necessary to meet state or federal minimums. The policy shall further provide that it shall not be canceled except upon thirty (30) days written notice served upon the City of Cullman, Office of the City Clerk, 204 2nd Avenue, NE, Cullman, AL 35055. A permit issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the City Clerk. Proof of insurance must be shown on each mobile food vehicle and pushcart in operation.

Section 9. Denial, Revocation, Suspension of Permit. An application or approved permit may be denied, revoked, suspended, or not renewed for any of the following reasons:

1. Revocation, Suspension, Modification. A permit may be revoked, suspended, modified, or not renewed by the City for failure to comply with the provisions of this Ordinance, or any provision of this Code or other ordinance of the City enacted in the exercise of its police power. A permit may also be revoked whenever, in the judgment of the City, it deems it necessary for the protection of the public good or for the prevention of disorders, provided however, that the City shall first give reasonable notice to the permittee of a public

hearing, time and date on the matter of such revocation. The hearing shall be held before the City Council and shall be governed by all laws and ordinances as to any other licensee or permit issued by the City of Cullman.

2. The permittee or any of its principals fails to satisfy any qualification or requirement imposed by this Ordinance, or other local, state or federal laws or regulations that pertain to the particular license or use.
3. The mobile food vehicle, ice cream truck, pushcart, and/or mobile business unit on which the business is conducted does not satisfy all local, state or federal laws or regulations which relate to the activity that is to be licensed after a notice and opportunity to cure; or
4. The permittee or any of its agents is in default on any payments owed to the City; or
5. The application contains material omissions or false, fraudulent, or deceptive statements; or
6. The mobile food vehicle and/or pushcart is operated in such a manner as constituting a public nuisance per the Cullman City Code or state statutes; or
7. The proposed operation is in violation of any federal, state or local laws including, but not limited to, the provisions of the Ordinance pertaining to public health or safety.
8. The permittee or his agents or employees interfere with an inspection of the mobile food vehicle and/or pushcart by a Health Department inspector; City official or
9. The permittee or his agents have repeatedly violated applicable portions of this Article; or
10. There are repeated violations of City, federal or state food laws regulating mobile food vehicles and/or pushcarts' or
11. The County Health Department denies, revokes or suspends the license of the mobile food vehicle and/or pushcart.
12. Any mobile food vehicle and/or pushcart being operated without a valid permit issued by the City Council shall be deemed a public safety hazard and may be ticketed and impounded.
13. No mobile food vehicle and/or pushcart shall be parked on the street overnight, or left unattended and unsecured at any time. Any mobile food vehicle and/or pushcart which is found to be unattended shall be considered a public safety hazard and may be ticketed and impounded. Exceptions may be made for authorized vendors at special events.
14. A mobile food vehicle and/or pushcart operating at any unauthorized location or beyond the hours for which the operation has been permitted shall be deemed operating without a permit in violation of this section and may be subject to enforcement.

Section 10. The severability provisions of any section of the Code of Ordinances of the City of Cullman, Alabama are specifically included herein by reference as if fully set forth, which is not in direct conflict with this Ordinance.

Section 11. This Ordinance shall become effective upon its adoption and approval.

ADOPTED BY THE COUNCIL this the 12th day of February, 2024.

ATTEST:

President of the City Council

City Clerk

APPROVED BY THE MAYOR this the 12th day of February, 2024.

Mayor