

**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 trucks” or “food carts” has been a recognized and publicly accepted form of commerce in cities around the country and provides a public benefit; and

WHEREAS, health, sanitation, and safety regulations applicable to restaurants and other fixed location food service are also applicable to mobile food vehicle sales as well as considerations of 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:

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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 Department of Health for the county of origin of a licensee under this Ordinance.
- d. "Designated food truck area" shall mean a geographic area designated by the City of Dalton as "Public property and public space" wherein permitted "mobile food vendors" may vend pursuant to this Ordinance which sites shall be valid vendor locations.
- e. "Fire Department" shall mean the City of Dalton Fire Department under the direction of its Fire Chief or his designated officers, employees, or agents.
- f. "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.
- g. "Health permit" shall mean an official document issued by the Department of Health.
- h. "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" or "food cart" 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.

- i. “Mobile food vending license” (MFV 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 permit for food service from the Department of Health.
- j. “Mobile food vendor” (MFV vendor) 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.
- k. “Operator” shall mean the individual who manages any MFV unit whether as owner, employee, or independent contractor.
- l. “Public property and public space” shall mean for purposes of this Article any property owned by the City of Dalton within street rights-of-way, including any roadways, alleys, sidewalks, and green space including parks.
- m. “Revoke” shall mean to terminate all rights or privileges under the City’s MFV license 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.

- n. "Rule" or "rules" shall mean those promulgated under Section 7 of this Ordinance.

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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 without holding a current and valid MFV license issued by the City of Dalton unless excepted under Section 13 of this Ordinance. Upon obtaining such a license from the City of Dalton as provided herein an MFV may operate within the municipal limits of the City in either a "designated food truck area" or upon private property as provided by the terms of the Ordinance.
- 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," in any "Designated food truck area," or upon any private property within the City of Dalton when it is selling food other than as excepted under Section 12 hereof, without a current and valid permit for food service from the Department of Health as well as a documentation of a current inspection of the Whitfield County Department of Health.
- c. No separate itinerant vendor license shall be required for the operation of a properly licensed 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 or the Department of Agriculture in the conduct of their responsibilities for MFV vendors and MFV's.

- e. Nothing in this Ordinance shall be construed as superseding, supplanting, or otherwise replacing any duty of the City of Dalton and its departments, officers, agencies, and employees, or its rules and 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 to extent that they apply.

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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 unless:
- i) the MFV is located on private property;
 - ii) not a City-sponsored event or from a designated food truck area; and
 - iii) not selling food to individual consumers.
- 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 and the operator(s) who will be driving the vehicle;
 - (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 registration 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, manage or work in the MFV unit in the City of Dalton 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 including but not limited to the MFV vendor's Georgia Sales and use Tax identification number.

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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 vendor (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) No mobile food vending license shall be issued to any person who has been convicted under any federal, state or local law of any misdemeanor involving sexual misconduct, dishonesty, possession or use of a controlled substance, or possession of drug paraphernalia within ten (10) years prior to the filing of the application for such license; or convicted of a felony under any federal, state or local law within ten (10) years prior to the filing of the application for such license.
- (g) If the application is not approved for any reason, the City Clerk shall notify the MFV applicant in writing.
- (h) 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.

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DESIGNATED FOOD TRUCK AREA(S).

- a. The City of Dalton may, in its sole discretion, designate specific geographic areas or locations in the City as a "Designated food truck area." Such area or space may be designated so as to accommodate one or more MFV's for food vending operation.

- b. Any MFV vendor shall pay the City Clerk a rental fee as set by the City uniformly assessed and for such period of time as the City may uniformly set for all MFV vendors.
- c. The City may in its discretion terminate previously “Designated food truck areas” and decline to renew any existing space rental.

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RULES OF OPERATION OF MFV UNIT.

- (a) No MFV or MFV unit shall release any grease or related substance from its MFV unit into the environment or upon any street, alley, curb, or sidewalk 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) Any driver of an MFV unit must hold a current and valid driver’s license recognized by the State of Georgia.
- (d) A MFV vendor and his MFV unit(s) shall comply with all State, federal, and local laws and environmental, health, and safety regulations.
- (e) 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.
- (f) An MFV unit may sell or serve only food and non-alcoholic beverages.
- (g) An MFV unit must make arrangements to dispose of all trash, refuse, or litter generated by its operation.

EXPIRATION AND RENEWAL OF LICENSE

- (a) Each license issued under this Chapter shall expire on the 31st day of December following the date of issue.
- (b) Each licensee must comply with the application, permitting and inspection requirements of this Chapter to receive a renewal license each succeeding licensing period.
- (c) Each Department of Health permit shall expire on the date established by State law and must be maintained as a current and valid permit in order to maintain an MFV unit license under this Ordinance unless vending solely on private property as described in Section 13. or exempt pursuant to Section 14.

SUSPENSION, REVOCATION, OR PERMANENT REVOCATION 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:
 - 1. Obtaining a license by a false statement in the application;
 - 2. Failing to comply with the MFV Unit operation health and safety standards;
 - 3. Failing to perform and maintain criminal background checks on all employees or independent contractors operating an MFV Unit and retaining the records as required;
 - 4. Failing to post and maintain a required decal(s) and information;

5. Failing to offer receipts to customers or supplying a receipt when the customer answers affirmatively;
 6. Receiving three (3) citations within a twelve (12) months period for traffic violation of an MFV unit;
 7. Receiving two (2) unsanitary conditions citations within a twelve (12) months period, or suspension or revocation of Department of Health permit for operation;
 8. 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;
 9. Violating any of the operational requirements of this Chapter;
 10. 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.
- (b) Permanent revocation shall be issued by the City for violation of subsections (a) 1. and 6. as well as two (2) or more violations of subsections (a) 8., 9., 10. within any twelve (12) months period.
- (c) Revocation or suspension shall be issued by the City for violation of subsections (a) 2., 3., 4., 5., 6., 7., 8., 9., or 10.

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APPEALS.

- (a) Any individual or MFV licensee who has 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.

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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.

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A violation of this Chapter shall be subject to citation by Code Compliance 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.

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Nothing in this Ordinance shall be applicable to:

- (a) 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 unit's service is being compensated by a sole source sponsor. (If MFV unit is selling food to the individual consumers it must have a city license as provided hereinbefore).
- (b) Temporary food service vendors exempt from Department of Health permitting and inspections under Senate Bill 345 of the 2020 General Assembly of Georgia except at a "City-sponsored event" which shall require a "mobile food vending license."

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 3rd day of October, 2022.

ADOPTED AND APPROVED on the 3rd day of October, 2022 at the regular meeting of the Mayor and Council of the City of Dalton.

The foregoing Ordinance received its first reading on 09-05-22 and a second reading on 10-03-22.

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

and upon the question the vote is 4 AYES, 0 NAYS and the Ordinance

DOES/DOES NOT pass.

CITY OF DALTON

By: [Signature]
Mayor

ATTEST:

[Signature]
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 8th day of October, 2022.

[Signature]
City Clerk
City of Dalton