

PUBLIC HEARING
APALACHICOLA CITY COMMISSION
TUESDAY, APRIL 6, 2021 – 5:00PM
BATTERY PARK COMMUNITY CENTER
1 BAY AVE., APALACHICOLA FLORIDA 32320

Agenda

You are welcome to comment on any matter under consideration by the Apalachicola City Commission when recognized to do so by the Mayor. Once recognized please rise to the podium, state your name for the record and adhere to the five minute time limit for public comment. Comments may also be sent by email to the City Manager or to Commissioners.

I. Call to Order

- Invocation
- Pledge of Allegiance

II. Agenda Adoption

III. Public Hearing – Ordinance 2019-03 “Mobile Food Dispensing Vehicles” – Second reading

IV. Public Comment

V. Adjournment

Any person who desires to appeal any decision at this meeting will need a record of the proceeding and for this purpose, may need to ensure that a verbatim record of the proceeding is made which includes testimony and evidence upon which the appeal is based. Persons with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk’s Office 48 hours in advance of the meeting.

Ordinance 2019-03

CITY OF APALACHICOLA, FLORIDA ORDINANCE 2019-03 “MOBILE FOOD DISPENSING VEHICLES” AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA, PROVIDING REGULATIONS FOR MOBILE FOOD DISPENSING VEHICLES OPERATING WITHIN THE CITY; ESTABLISHING PROHIBITIONS; ESTABLISHING OPERATING REQUIREMENTS; ESTABLISHING PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the mobile food dispensing industry has expanded and provides the service of convenient and diverse food choices; and

WHEREAS, the City Commission recognizes the need for reasonable regulations intended to provide economic development and entrepreneurial opportunities for mobile food dispensing businesses while protecting public health, safety, and welfare, minimizing visual impacts to the public realm and mitigating fiscal impacts to site-built restaurants and businesses; and

NOW THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA, THE FOLLOWING ORDINANCE PROVISIONS FOR THE CITY OF APALACHICOLA:

SECTION 1. Chapter XI, “Mobile Food Dispensing Vehicles,” of the Code of Ordinances is hereby created as follows:

CHAPTER XI - MOBILE Food Dispensing Vehicles

Section 1. Definitions.

- (a) *Commissary* means an approved facility that provides support services for specific required functions of a mobile food dispensing business. Any food establishment permitted or licensed by a regulatory agency, such as a catering operation, restaurant, grocery store or similar establishment or any otherwise approved facility by Florida Department of Agriculture and Consumer Services in which food, containers, or supplies are kept, handled, prepared, packaged, or stored can be considered for approval as a commissary. When not required at the mobile food dispensing operation, commissaries may provide a three compartment sink for washing, rinsing, and sanitation of equipment in addition to hand wash and restroom facilities. A private residence may not be used as a commissary.

(b) *Mobile Food Dispensing Vehicle* “means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including but not limited to, gas, water, electricity, or liquid waste disposal.”

Or, a vehicle which is used to vend food and beverage products and is classified as one of the following:

1. *Class I – Mobile Kitchens*. These vehicles may cook, prepare and assemble food items on or in the unit and serve a full menu. These vehicles may also vend the products permitted for Class II Mobile Food Dispensing Vehicles.
2. *Class II – Canteen Dispensings*. These vehicles vend pre-cooked foods, pre-packaged foods, prepackaged drinks and incidental sales of pre-packaged frozen dairy or frozen water-based food products, fruits and vegetables. No preparation or assembly of food or beverage may take place on or in the vehicle; however, the heating of pre-cooked food is permitted.

(c) *Mobile Food Vendor* means a person who prepares, dispenses or otherwise sells food from a mobile food dispensing.

Section 2. Mobile Food Dispensing Vendor Permit Requirements

- (a) Mobile Food dispensing Vendor Permits must be obtained from the Florida Division of Hotels and Restaurants of the Department of Business and Professional Regulation, pursuant to Florida Statute § 509.241, in compliance with Florida Statute §509.102.

Section 3. Permitted Zoning Districts for Operation of a Mobile Food Dispensing.

Unless authorized or exempted by this Ordinance, mobile Food Dispensing Vehicles may only be permitted to operate within the following zoning districts.

- (a) C-1 – General Commercial
- (b) C-2 – Neighborhood Commercial
- (c) C-3 – Highway Commercial
- (d) C-4 – Riverfront Commercial
- (e) RF – Riverfront

Section 4. Prohibitions.

Mobile food dispensing vendors are prohibited from the following:

- (a) Selling or distributing alcoholic beverages.
- (b) Operating in a City park or City parking lots, public rights-of-way, municipal cemetery or residentially zoned neighborhoods except in compliance with Section 8.
- (c) Operating outside of the permitted zoning districts listed in Section 4 or in any location except in compliance with the requirements of this Chapter.
- (d) Operating on vacant lots with no Water, Sewer or electric, or at abandoned business locations.
- (e) On public property, providing or allowing a dining area, including but not limited to tables, booths, bar stools, benches, standup counters, and tents. Tables, booths, bar stools, benches, and standup counters are allowed on enclosed private property, but on vacant lots only tables, benches, standup counters and tents are allowed.
- (f) Creating amplified sounds in violation of the noise limitation requirements of the City of Apalachicola.
- (g) Installing signage in violation of the Sign Ordinance requirements of the City of Apalachicola. This section will not preclude the use of portable signage, which is no larger than five feet in height and no larger than three feet in width, and which is placed within five feet of the mobile food dispensing vehicle.
- (h) Selling or dispensing food to customers in a moving vehicle or otherwise engaging in drive up sales.
- (i) Parking a mobile food dispensing vehicle: 1) Within twenty (20) feet of a crosswalk; (2) Within fifteen (15) feet of any fire hydrant or storm drainage structure; 3) In an area that impedes the ingress or egress of other businesses, building entrances or driveways; 4) In an area that functions as an emergency entrance or exit.

Section 5. Food Dispensing General Regulations.

- (a) Mobile food dispensing vendors shall remove all waste and trash at the end of each day.
- (b) Mobile food dispensing vendors are liable for all damages and repairs to the streetscape, trees and vegetation, sidewalks, streets, or other public amenities that are caused by its operation.
- (c) Under no circumstances shall grease be released into the City's sanitary sewer system. No liquid waste or grease is to be disposed in tree pits or onto sidewalks, streets or other public spaces.
- (d) In accordance with the Florida Department of Business and Professional Regulation guidelines, all necessary control measures shall be used to effectively minimize, or eliminate when possible, the presence of rodents, roaches and other vermin and insects on the premises of all mobile Food Dispensing Vehicles. Each mobile food dispensing vendor shall maintain a log containing a written record of the control measures performed on the mobile food dispensing. This log shall be open to inspection by City Code Enforcement Officers.
- (e) Mobile food dispensing vendors must not engage in food preparation if the vehicle does not meet sanitation and safety requirements as required by the Florida Department of Business and Professional Regulation.
- (f) All food service equipment utilized by the mobile food dispensing vendor shall be maintained in good repair and a clean condition.

Section 6. Operating Requirements.

- (a) Mobile Food Dispensing Vehicles shall be permitted to operate between 6:00 a.m. and 12:00 a.m. Sunday through Thursday and between 6:00 a.m. and 1:00 a.m. on Friday and Saturday, not including set up and takedown.
- (b) A mobile food dispensing vehicle may operate on public property for a Special Event authorized by the City for the duration of the Special Event. For the remainder of the week, the mobile food dispensing must be removed from the site.

- (c) A mobile food dispensing vehicle may operate at a single private property location for seven (7) days a week, but must be removed from the site for 24 hours at least once every 180 days, in order to comply with Federal Emergency Management Agency regulations for mobile trailers and Flood Hazard Areas.
- (d) All mobile Food Dispensing Vehicles must be fully licensed and ready for highway use. Mobile Food Dispensing Vehicles may not be permanently attached to water, sewer, or electric hook-ups. All mobile Food Dispensing Vehicles must completely detach from utilities and leave the site for 24 hours at least once every 180 days. Any mobile food dispensing that remains on a site for more than 180 consecutive days shall be in violation of this ordinance and then must immediately re-apply for permission to operate subject to all applicable building, zoning and flood zone elevation standards for the location.
- (e) Mobile Food Dispensing Vehicles shall not exceed ten (10) feet in width, including any side extensions of awnings, thirty (30) feet in length, including the length of any trailer hitch, the trailer or other extensions.
- (f) Mobile Food Dispensing Vehicles must have the ability to be self-contained when operating (including all utilities: power, water, cooking fuel sources), except for the required trash and/or recycling receptacles, which shall not impeded free movement of automobiles or pedestrians. The mobile food dispensing vendor shall keep all areas within five (5) feet of the mobile food dispensing clean of grease, trash, paper, cups or cans associated with the vending operation. The foregoing does not preclude a mobile food dispensing vehicle from using of an external power source, where available.
- (g) No more than one mobile food dispensing vehicle shall operate on any one lot at any one time.

Section 7. Food Service Provided to Persons Engaged in Construction

Class II Mobile Food Dispensing Vehicles that are being used to provide food and drink to persons engaged in construction in the City of Apalachicola are exempt from the provisions of Section 4 above, provided such vehicles are only parked for a maximum of ninety (90) minutes.

Section 8. Special Events.

The City of Apalachicola may authorize Food Dispensing Vehicles in the public right-of-way, park, parking lots, or residentially zoned neighborhoods as part of a special event. Food Dispensing Vehicles must be ancillary to the special event. The City may also authorize mobile food vendors at special events for schools, religious institutions and nonprofit organizations.

Section 9. Penalty.

- (a) A Code Enforcement Officer or a Law Enforcement Officer may issue a civil citation for a violation of this Chapter pursuant to the procedures and amounts listed in Chapter 3 of the City's Code of Ordinances. Each violation shall constitute a separate instance for which a separate penalty may be imposed. Upon a mobile food dispensing vendor's third offense within a twelve month period, the City may petition the Florida Department of Business and Professional Regulation to suspend or revoke the vehicle's mobile food dispensing operation license.
- (b) For the purposes of this Section, "offense" shall mean a finding of violation by the Court or payment of the non-contested civil penalty in Section 3 of the City's Code of Ordinances. An offense shall be deemed to have occurred on the date the violation occurred. An offense occurring twelve (12) months after the last offense shall be treated as a first offense for purposes of incurring new fines and penalties.
- (c) If, at any time, the Florida Department of Business and Professional Regulation revokes or suspends the mobile food dispensing vendor's license, the City may prohibit unlicensed food dispensing vehicles from operating.

SECTION 2. Severability.

If any portion of this Ordinance is declared invalid or unenforceable, then to the extent it is possible to do so without destroying the overall intent and effect of this Ordinance, the portion deemed invalid or unenforceable shall be severed here from, and the remainder of this Ordinance shall continue in full force and effect as if it were enacted without including the portion found to be invalid or unenforceable.

SECTION 3. Conflicts.

All Ordinances or parts of Ordinances in conflict herewith, to the extent of such conflict, are hereby repealed.

SECTION 4 . Effective Date.

This Ordinance shall take effect immediately upon adoption by the City of Apalachicola, Florida.

This Ordinance was first read in open session on the ___ day of _____, 2021. This Ordinance was read for the second time and full adopted in open session after Public Hearing on the ___ day of _____, 2021. The final adoption and motion were made by Commissioner _____, and seconded by Commissioner _____. Voting Aye: _____ Voting Nay: _____

FOR THE CITY COMMISSION OF THE CITY OF APALACHICOLA BY:

_____ Kevin Begos, Mayor

ATTEST: _____ Deborah Guillotte City Clerk APPROVED AS

TO FORM: _____ Daniel Hartman, Attorney