

**CITY OF APALACHICOLA, FLORIDA
ORDINANCE 2019-03 “MOBILE FOOD TRUCKS”**

AN ORDINANCE OF THE CITY OF APALACHICOLA, FLORIDA, AMENDING THE APALACHICOLA LAND DEVELOPMENT CODE OF ORDINANCES BY CREATING CHAPTER XI, MOBILE FOOD TRUCKS; PROVIDING REGULATIONS FOR MOBILE FOOD TRUCKS OPERATING WITHIN THE CITY; REQUIRING MOBILE FOOD TRUCK VENDOR PERMITS FOR OPERATION OF MOBILE FOOD TRUCKS; ESTABLISHING A ZONE FOR OPERATION OF MOBILE FOOD TRUCK BUSINESSES; ESTABLISHING PROHIBITIONS; ESTABLISHING OPERATING REQUIREMENTS; ESTABLISHING PENALTIES FOR VIOLATIONS; AMENDING CHAPTER II OF THE LAND DEVELOPMENT CODE TO CREATE DEFINITIONS FOR MOBILE FOOD TRUCKS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

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

WHEREAS, the people have a right to and should be ensured that food purchased from mobile food trucks is safe for consumption; and

WHEREAS, the City Commission recognizes the need for reasonable regulations intended to provide economic development and entrepreneurial opportunities for mobile food truck 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

WHEREAS, the City Commission has determined that it is in the best interest of the residents of Apalachicola that minimum regulatory standards of conduct be enacted to permit Mobile Food Trucks to operate within the City of Apalachicola.

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 Trucks,” of the Code of Ordinances is hereby created as follows:

CHAPTER XI - MOBILE FOOD TRUCKS

Section 1. Definitions.

- (a) *Commissary* means an approved facility that provides support services for specific required functions of a mobile food truck 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 truck 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 Truck* means 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 Trucks.
2. *Class II – Canteen Trucks.* These vehicles vend pre-cooked foods, pre-packaged foods, pre-packaged 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 truck.

Section 2. Mobile Food Truck Vendor Permit Requirements.

- (a) Any person engaged in the selling, preparation or dispensing of food from a mobile food truck must purchase an annual mobile food truck vendor permit in accordance with this Chapter.
- (b) An applicant for a Class I Mobile Food Truck Vendor Permit shall make their mobile food truck available for inspection by the City of Apalachicola Volunteer Fire Department at a location determined by the City. The City of Apalachicola Volunteer Fire Department shall ensure compliance with all applicable federal, state and local fire safety statutes, regulations, ordinances and codes. Subsequently, every Class I Mobile Food Truck must undergo an inspection by the City of Apalachicola Volunteer Fire Department annually.
- (c) All mobile food truck vendors must display the mobile food truck vendor permit issued by the City in a prominent and visible manner.

Section 3. Permit Application and Administrative Rules and Regulations.

Applications for mobile food truck vendor permits must include the following information:

- (a) The name, address, telephone number, and email address of the applicant.
- (b) Address of proposed location to store the mobile food truck when not in use.
- (c) A description or menu of the type of food and/or beverages to be sold.
- (d) Color photograph of the mobile food truck depicting its current condition.
- (e) A copy of all permits and business licenses required by the State of Florida, Franklin County and the City of Apalachicola.
- (f) A notarized commissary agreement confirming the mobile food truck vendor is operating in conjunction with a licensed commissary in accordance with Florida Statutes, where applicable. ~~All commissaries must be pre-approved by the City prior to issuance of mobile food truck vendor permit.~~
- (g) Address of proposed operation site(s), including the property address, property owner's name and telephone number, and the name of the principal business located on the property.

- (h) A notarized statement by each property owner indicating that the applicant has permission to operate on the site. The affidavit must also indicate that the property owner acknowledges the following requirements:
1. The property owner shall comply with all ordinances regarding solid waste disposal and must provide the mobile food truck vendor access to solid waste collection on the subject property.
 2. The property owner shall require that the mobile food truck vendor meets all applicable Federal, State and Local statutes, regulations, laws, Ordinances, Rules and Codes; including but not limited to permitting requirements regarding the specific business.
 3. The property owner shall acknowledge that they understand the regulations regarding mobile food truck vendors and operation of mobile food trucks and will be held responsible, along with the mobile food truck vendor for any code violations.
- (i) A site plan for each proposed operation site, drawn to scale, depicting the following information:
1. Total square footage of the property.
 2. Location and square footage of the existing principal and accessory use(s).
 3. Proposed location for the mobile food truck.
 4. Location of ingress/egress to the site.
 5. Table demonstrating the minimum setbacks in compliance with the underlying zoning district.
 6. Information demonstrating compliance with the 80% maximum impervious lot coverage requirements.
- (j) Proof of business insurance, issued by an insurance company that is licensed to do business in the State of Florida, protecting the applicant from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with mobile food truck vending. Such insurance shall name the City of Apalachicola as an additional insured party and shall be in at least the amount of \$500,000 for occurrence for injury and \$200,000 per person. The permittee, owner or operator shall notify the City within three (3) business days of any changes in the insurance coverage. Upon the cancellation or lapse of any policy of insurance as required by this Section, the permit shall be immediately revoked unless, prior to the expiration or cancellation date of the insurance policy, another insurance policy meeting all the requirements of this Section is obtained and a new certificate of insurance is provided to the City.
- (k) Application fee as outlined in the City of Apalachicola adopted fee schedule.

Section 4. Permitted Zoning Districts for Operation of a Mobile Food Truck.

Unless authorized or exempted by this Ordinance, mobile food trucks 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 5. Prohibitions.

Mobile food truck 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 and Section 10.
- (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 unimproved surfaces, vacant lots and abandoned business locations.
- (e) Providing or allowing a dining area, including but not limited to tables, chairs, booths, bar stools, benches, standup counters, shade canopies, umbrellas, and tents.
- (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.
~~Installing signage other than what is painted on or flatly affixed to the surface of the mobile food truck.~~
- (h) Selling or dispensing food to customers in a moving vehicle or otherwise engaging in drive up sales.
- (i) Parking a mobile food truck: 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 6. Food Truck General Regulations.

- (a) Mobile food truck vendors shall remove all waste and trash at the end of each day.
- (b) Mobile food truck vendors are liable for all damages and repairs to the streetscape, trees and vegetation, sidewalks, streets, or other public amenities that relate to 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 trucks. Each mobile food truck vendor shall maintain a log containing a written record of the control measures performed by exterminators or other pest control businesses on the mobile food truck. This log shall be open to inspection by City Code Enforcement Officers.

- (e) Mobile food truck vendors must not engage in food preparation if the vehicle does not provide water and waste systems as required by the Florida Department of Business and Professional Regulation or otherwise fails to meet sanitation and safety requirements.
- (f) All food service equipment utilized by the mobile food truck vendor shall be maintained in good repair and a clean condition.
- (g) A mobile food truck vendor shall use only single-service food utensils. All single-service food utensils such as cups, straws, knives, forks, spoons and stirrer shall be individually wrapped, kept in a clean place, properly handled and shall be used only once. All cups and containers for bulk drinks shall be stored in closed cartons and served from dispensers which protect their rims from contamination by customers, dust, dirt or flies.
- (h) All pre-packaged food must be individually wrapped and must comply with the labeling requirements provided in 21 CFR Part 101, as amended. No person shall keep or offer for sale individual portions of perishable food products which have been rewrapped or repackaged or portions of which the identifying date on the wrapper has been altered, disfigured or changed in any manner.

Section 7. Operating Requirements.

- (a) Mobile food trucks shall be permitted to operate between 6:00 a.m. and 11:00 p.m. Sunday through Thursday and between 6:00 a.m. and 12:00 midnight on Friday and Saturday each day of the week, including set up and takedown.
- (b) A mobile food truck may operate at a single location up to a maximum of three (3) days per week. For the remainder of the week, the mobile food truck must be removed from the site. If the mobile food truck is engaged in a Special Event as identified in Section 11, it shall not count toward the three (3) day per week allocation for a particular property.
- (c) Mobile food trucks shall not exceed ten (10) feet in width, including any side extensions of awnings, twenty-four (24) feet in length, including the length of any trailer hitch, the trailer or other extensions.
- (d) Mobile food trucks must be self-contained when operating (including all utilities: power, water, cooking fuel sources), except for the required trash and/or recycling receptacles, which must be attached to the mobile food truck, and shall not impeded free movement of automobiles or pedestrians. The mobile food truck vendor shall keep all areas within five (5) feet of the mobile food truck clean of grease, trash, paper, cups or cans associated with the vending operation.
- (e) No more than one mobile food truck shall operate on any property at any one time. A request for allowing more than one mobile food truck per lot shall be treated as a Special Exception pursuant to the Land Development Code.
- (f) Mobile food trucks operating at a site for a duration of more than three (3) hours shall have a written agreement, available upon request, which confirms that employees have access to a flushable permanent restroom ~~within one hundred fifty (150) feet of the vending location~~ during the hours of operation.

- (g) Mobile food trucks shall be operated only by the mobile food truck vendor permittee or by an authorized employee of such permittee.

~~Section 8. Refrigeration and Heating Equipment.~~

- ~~(a) All mobile food trucks shall have adequate mechanical refrigeration equipment that is capable of maintaining food or drink at a temperature of forty (40) degrees Fahrenheit or less, if any food or drink is required to be kept cold.~~
- ~~(b) All mobile food trucks shall have adequate mechanical heating equipment that is capable of maintaining food or drink at a temperature of one hundred forty (140) degrees Fahrenheit or more, if any food or drink is required to be kept hot, or capable of heating food or drink to a temperature of one hundred sixty five (165) degrees Fahrenheit or more, if any food or drink is required to be heated.~~
- ~~(c) All mechanical refrigeration and heating equipment shall be equipped with a thermometer.~~

Section 8 9. Food Service Provided to Persons Engaged in Construction

Class II Mobile Food Trucks 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 thirty (30) minutes.

Section 9 10. Permanent Food Trucks.

If a food truck, trailer, or other such installation wishes to permanently remain on a property, it shall do so as an “Eating and Drinking Establishment” or “Restaurant” use, only permitted in those zoning districts where such uses are allowed. All requirements (i.e. parking, building restrictions, setbacks, storm-water, signage, floodplain management) of the Land Development Code and Florida Building Code construction requirements shall apply.

Section 10 11. Special Events.

The City of Apalachicola may authorize food trucks in the public right-of-way, park, parking lots, or residentially zoned neighborhoods as part of a special event. ~~Food trucks 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 11 12. 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. Furthermore, this Ordinance may be enforced by the City of Apalachicola as a civil infraction under Apalachicola Ordinance No. 2017-02 as additional and supplemental means of enforcing this Ordinance. Upon a mobile food truck vendor’s second offense within a twelve month period, the mobile food truck vendor permit may be revoked.
- (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 truck vendor's license, the City's mobile food truck vendor permit shall be deemed to have been simultaneously revoked or suspended.

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. Codification.

It is the intent of the City Commission of the City of Apalachicola that the provisions of this Ordinance shall become and made a part of the City of Apalachicola Code.

SECTION 5. 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 _____, 2019. This Ordinance was read for the second time and full adopted in open session after Public Hearing on the ___ day of _____, 2019. 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: _____
Van W. Johnson, Sr., Mayor

ATTEST:

Deborah Guillotte
City Clerk

APPROVED AS TO FORM:

J. Patrick Floyd
City Attorney