

ORDINANCE NO. 2023-06

**AN ORDINANCE TO PROVIDE FOR AND REGULATE MOBILE
VENDOR UNITS WITHIN THE CITY OF IRONDALE**

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

Section 1. AMENDMENT TO CHAPTER 5 OF THE MUNICIPAL CODE OF THE CITY OF IRONDALE. Chapter 5 in the Municipal Code of the City of Irondale is amended by adding Section X – Mobile Food Units as follows:

ARTICLE X. – MOBILE FOOD UNITS

Sec. 5-280. - 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 Clerk and/or his/her designee under the authority of this Article.

Sec. 5-281. – 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 Mobile Food Unit Permit (“Permit”) for each unit to be issued by the City Clerk and/or his/her designee. It shall be unlawful to operate a mobile food unit within the City of Irondale 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. Each Permit will begin on the date of issuance and expire on December 31st of that year.
 - 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 Clerk and/or his/her designee.
- b. Such application shall be made on a form to be furnished by the City Clerk and/or his/her designee and shall provide, at a minimum, the following information:
 1. Applicant's name and physical address, telephone number, and 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 Clerk or his/her designee may require specific information and/or documentation 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 Clerk and/or his/her designee (i) a photograph of mobile food unit, and (ii) a copy of all required and current health department approvals for such mobile food unit, and (iii) a copy of a current city business license ((i) through (iii) collectively referred to herein as the "Application Documents").
- d. At the time of filing the application with the City Clerk and/or his/her designee, the applicant shall pay 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 City Clerk and/or his/her authorized representative shall review the application.
- f. Upon approval of the Application Documents, the City Clerk and/or his/her designee 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 5-281(b)(4) 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 provided by the applicant 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 so as to be easily visible by customers.
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, City Clerk, 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 Clerk or his/her designee 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 by the Permit holder to the Irondale City Council. There is no right to appeal from temporary suspension of a Permit under this Article. Any Permittee aggrieved by a Permit's 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 City Clerk 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 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. 5-282. - Standards and Requirements for Mobile Food Unit operation.

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

1. All mobile food units must be located off the public roadway. 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 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.
 3. 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 Clerk and/or his/her designee.
 4. 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 (200) feet from the restaurant, to not serve certain types of food, or other reasonable considerations.
 5. 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.
 6. 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.
 7. All mobile food units must meet the zoning district setbacks for the premises in which the mobile food unit is operating.
 8. 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.
- (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 8:00 p.m. local time, except that during Daylight Savings Time, the hours of operation shall be extended from 6:00 a.m. to 9:00 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 the 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 without prior written approval.

Section 2. ORDINANCE REPEALED. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 3. SEVERABILITY. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Irondale hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4. LEGAL RIGHTS NOT IMPAIRED. Nothing in this ordinance or in the code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under

any act or ordinance hereby repealed as cited in this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. ORDINANCE CUMULATIVE; COMPATIBILITY WITH OTHER REGULATIONS. This ordinance shall not be construed to modify or to repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this Ordinance are in addition to and cumulative to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 6. PUBLICATION OF ORDINANCE. The City Clerk of the City of Irondale is hereby ordered and directed to cause this Ordinance to be published and that a copy of this Ordinance be entered upon the minutes of the meeting of the City Council.

Section 7. EFFECTIVE DATE OF ORDINANCE. That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall be in full force and effect upon adoption and 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 Irondale does hereby enact the foregoing Ordinance for the City of Irondale.

ADOPTED & APPROVED: this the 7th day of February, 2023.

David Spivey, President of City Council

APPROVED:

James D. Stewart, Jr., Mayor

ATTESTED:

Leigh Ann Allison, City Clerk

CERTIFICATION

I, Leigh Ann Allison, City Clerk of the City of Irondale, Alabama, hereby certify that the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Irondale at its regular meeting held on the 7th day of February, 2023, as the same appears in the minutes of record of said meeting.

Leigh Ann Allison, City Clerk