

ORDINANCE NO. 21-4441

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DECATUR,
ALABAMA**

Section 1. That the district boundaries of the City of Decatur Official Zoning Map, heretofore adopted by Section 27-1, Code of Decatur, Alabama, 1956, now Section 25-1, Code of Decatur, Alabama, as thereafter amended, are further amended, changed and modified as follows:

Zoning Text Amendment 246-20

The effect of the proposed amendments will be to amend *section 25-2. - Definitions* and Article X, sections *25-197. - Applicability* and *25-198 - Requirements*, of Decatur City Code, Chapter 25.

Section one: “That the Code of Decatur Alabama is hereby amended by changing the title of Chapter 25, Article X. – *Requirements Applicable to All Mobile Food Kiosks, Units or Sites* to read as follows:

Article X. – Mobile Food Vending”

Section two. “That the Code of Decatur Alabama is hereby amended by changing the subparagraphs in section 25-2 numbered (6b), (20b) and (20c) to read as follows:

(6b) *Caterer, catering, or catering service.* a person operating from a permitted food service establishment who contracts with one individual or firm to provide a predetermined menu and quantity of food at a specific site, off the premises of the food establishment, which is generally different for each event; the site or event not being open to the general public. Such person, business or service is not a home occupation, is in possession of a health department permit, has a permanent fixed location, and has obtained a city business license.

(20b) *Mobile Food Vending Site.* A collection of one or more mobile food vending units clustered together on a single lot or parcel of land under common ownership or control. Mobile food vending sites shall have a site coordinator who will maintain a list of licensed vendors with the City of Decatur Revenue Department. Mobile Food Vending Sites may be allowed during a special event or as specified under the provisions of Section 25-197 of the Code of Decatur Alabama.

(20c) *Mobile food vending unit.* A trailer, pushcart, or motorized vehicle authorized by the Morgan County Health Department as a mobile food establishment, designed to be portable and not permanently attached to the ground from which only prepared food or beverages are peddled, vended, sold, offered for sale or given away. No other goods, wares, alcohol, controlled substances or other items may be sold.”

Section three: “That the Code of Decatur Alabama is hereby amended by removing the subparagraphs in section 25-2 numbered (6c) and (20a).”

Section four: “That the Code of Decatur Alabama is hereby amended by adding subparagraphs in section 25-2 numbered (7a), (16a), (27a), (33a) and (33b) to read as follows:

(7a) *Commissary.* A permitted food establishment to which a mobile food establishment or transportation vehicle returns daily for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and boarding food.

(16a) *Jobsite mobile food vending unit.* A person, business or service that provides food only at the request of a land owner of a construction or manufacturing site, uses only commercially licensed vehicles equipped for the purpose of transporting or preparing food to be sold directly from such vehicle and only to those employees of the construction site or manufacturing site where the vehicle is located. The vehicle shall be located on the site and shall not sell from the public right-of-way without a franchise agreement from the City of Decatur. Such person, business, service is not a home occupation, is in compliance with all Morgan County Health Department requirements, has a permanent fixed location where the food is prepared, and has obtained a city business license.

(27a) *Pushcart.* A non-motorized, wheeled mobile food unit that is designed and intended to be moved manually by one person. A pushcart can be used to prepare and serve only:

- (i) foods that are not time/temperature control for safety such as popcorn, lemonade, flavored ice; or
- (ii) foods pre-wrapped at the commissary and maintained at the required temperatures; or
- (iii) foods that meet the Morgan County Health Department's definition of "Priority Category 2."

(33a) *Temporary event, Health Department.* As defined by the Alabama State Board of Health Bureau of Environmental Services: a special occurrence or celebration that is community wide, such as a fair, carnival, public exhibition, festival, or similar occasion that lasts no more than 14 days. A temporary event does not include ongoing commercial activities, such as a sale at a retail store.

(33b) *Temporary food kiosk.* A stand designed to be transported and not permanently attached to the ground from which prepared food or beverages are peddled, vended, sold, displayed or offered for sale or given away. No other goods, wares, alcohol, controlled substances or other items may be sold. Temporary food kiosks are subject to all Health Department rules for temporary events, and must have a valid business license."

Section five: "That Chapter 25 of the Code of Decatur, Alabama is hereby amended by changing Article X. Requirements applicable to all Mobile Food Kiosks, Units, or Sites, Sections 25-197 and 25-198, to read as follows:

Section 25-197: Applicability

Mobile Food Vending Sites containing one or more Mobile Food Vending Units may be allowed in the following instances. Caterers and *jobsite mobile food vending units* shall be exempt from these requirements.

- (1) If on public or semipublic property as designated by building director or their representative, or on a temporarily closed public right of way during a special event.
 - a. Mobile Food Vending Sites not in a city park shall obtain administrative approval from the City Planning Department with concurrence from the Building Department, Revenue Department, Fire Department, and Police Department at the request of the property owner or the site coordinator.
 - b. Mobile Food Vending Sites in the established Public Space Usage Area as established by City Council Resolution 13-338 adopted December 3, 2013 shall be approved by the Public Space Usage Committee.
 - c. Mobile Food Vending Sites contained within a City Park, and not on any public right of way shall obtain administrative approval from the Parks and Recreation Department and which shall be communicated to the City Planning Department, Revenue Department, Fire Department, and Police Department. The Planning Department will review the proposal for ease of access and impact on parking in the area.
- (2) If on private property in any zone other than residential, mobile food vending sites may be allowed at the request of the business owner on the property. The intent of this section is to allow food vending sites on private property when they are clearly ancillary to the business at that location. The following additional conditions apply:

- a. All mobile food vending sites on private property shall get administrative approval from the City Planning Department or a designated representative of the Planning Department, which shall be communicated to the Building Department, Revenue Department, Fire Department, and Police Department at least 48 hours before they begin.
 - b. The mobile food vending site may be an ongoing part of the business with the same or less business hours and may be planned on a weekly, monthly, or yearly basis with approval of the City Planning Department or a designated representative of the City Planning Department with concurrence from the Building Department, Revenue Department, Fire Department, and Police Department.
- (3) There are hereby created *Special Mobile Food Vending areas*, which shall be defined as public property not subject to the control of the Department of Parks and Recreation, limited to areas outlined in the Special Mobile Food Vending Area Map. (Map to be kept updated and on file with the Planning Department) Within each area so designated, a specified number of mobile food vending sites may be permitted. Mobile food vending units shall be permitted to operate in this area subject to all requirements outlined in *Section 25-198*.
- a. The Special Mobile Food Vending Area Map shall be adopted with the adoption of this ordinance. Any request to alter the boundaries of the Special Mobile Food Vending Area shall be brought to the Planning Department for consideration by the Planning Commission.
 - i. The Technical Review Committee shall review the requested Special Mobile Food Vending Area Map Amendment for appropriateness, then provide a recommendation to the Planning Commission. The Planning Commission, based on the information and recommendation provided by the Technical Review Committee, shall vote to recommend, not recommend, or recommend with changes to the City Council. With a recommendation or conditional recommendation, the City Council shall be sent the proposed updated boundaries to the special mobile food vending area for consideration.
 - 1. Revenue department shall also be sent a copy of the proposed Special Mobile Food Vending Area Map Amendment prior to the technical review committee meeting on said amendment. If they choose to submit comments, their comments shall be taken into consideration by the technical review committee.
 - ii. After conducting a public hearing on the proposed Special Mobile food Vending Map Amendment, the City Council shall vote on whether to adopt it, taking into account the consideration given to said amendment by the Planning Commission. Each location designated as within the Special Mobile Food Vending Area, either by adoption of this ordinance or by Special Mobile Food Vending Area Map Amendment, shall specify the exact location being added to the Special Mobile Food Vending Area, as well as how many Mobile Food Vending Units will be permitted in the additional area.
 - b. Mobile Food Vending Units seeking to operate in one of the designated sites within the *Special Mobile Food Vending Area* shall request administrative approval from the City Planning Department or a designated representative of the Planning Department at least 48 hours before they begin operating, and approval may be granted by the Planning Department with concurrence from the Building Department, Revenue Department, Fire Department, and Police Department. No unit shall operate on any site within the *Special Mobile Food Vending Area* for more than four days out of seven. Along with a request for

administrative approval, proof of all necessary permits and licenses must be furnished to the Planning Department.

- i. A request for administrative approval from the Planning Department for operation on a site within the Special Mobile Food Vending Area shall be considered a request to reserve the specified site. If all of the sites within an area designated as a *Special Mobile Food Vending Area* are reserved, the vendors may request to be put on a wait list for the next available opening at that location. Administrative approval may be granted on these sites for a period of no more than fourteen days (eight days of operation) per approval.

Section 25-198: Requirements

Mobile Food Vending Units or sites shall be subject to the following requirements:

- (1) A City of Decatur Business License shall be required and displayed so that it can be easily seen. On a Mobile food Vending Site each unit shall have its own license.
- (2) Shall be a minimum of 100 feet from the closes exterior wall of any existing business licensed as a restaurant, café, deli, or cafeteria as defined in sub-section 14-38 (62) of The Code of Decatur, AL.
- (3) May be allowed to operate between the hours of 6:00 am to 12:00 am Monday through Sunday.
- (4) Shall be removed from the premises each night unless during a multi-day special event where security and safety provisions are in place and on file.
- (5) Food preparation shall be regulated by the applicable County Health Department and a written permit or letter of authorization and proof of inspection shall be posted at all times
- (6) Written permission of the property owner shall be provided to the City of Decatur Revenue Department with the list of vendors provided by the site coordinator. When the property is a closed or barricaded public Right of Way, a singed and approved Temporary Street Barricade Permit will be required.
- (7) When operating in one location for two hours or more, adequate toilet facilities in accordance with the health department rules shall be required.
- (8) Mobile Food Vending Units shall not be located in any required setback or required parking. They shall not be located over any public rights of way or easements except: as part of a special event, if the right of way is closed for its normal operation, or within the Special Mobile Food Vending Area pursuant to Section 25-197(3). Mobile Food Vending units or sites shall not be located in any manner that impedes and exit or entrance of an operating building.
- (9) Mobile Food Vending Units shall provide a trash receptacle within three feet of the front or back of the unit and shall keep the area within a ten foot radius of the unit free of trash and clean during operation and upon ceasing operation.
- (10) Shall provide sufficient artificial lighting during non-daylight hours. Lighting shall be properly shielded to prevent spillage onto adjacent property or rights of way.
- (11) The only signage allowed shall be attached to the mobile food vending unit and no third party signage shall be displayed.
- (12) No outdoor loudspeaker, public address system, music, or other form of entertainment shall be audible from a stationary mobile food vending unit and/or site.
- (13) Any on-site preparation of food shall be performed inside the primary vending unit only. There shall be no grills or other cooking facilities allowed outside the primary mobile food vending unit.
- (14) Mobile Food Vending Units shall maintain and have available current inspection and/or test records of fire suppression hood systems on the mobile food vending unit if applicable and if a pressurized fuel system or container is used they shall comply with fire and explosion safety standards.
- (15) Mobile Food Vending Units and Sites shall have a fire inspection by Decatur's fire Marshall prior to use in a mobile food vending site.

- (16) Wastewater shall be subject to the applicable Federal, State, and Local requirements and disposal of as specified. Preapproval from Decatur Utilities will be required.
- (17) No mobile food vendor may rent, lease, sublet, or otherwise permit other vendors to use a site or space for which the original vendor has received approval from the City of Decatur.
- (18) Any mobile food vending unit which receives permission to operate in street parking along an active public right of way must be oriented in such a way that all business is conducted on the side of the unit facing the curb.
- (19) All operations must be in conformity with City code Section 16-9.1 – Standard for sound control.”

“**Section six:** This ordinance shall take effect immediately upon its approval and publication as provided by law.”

ADOPTED this the 1st day of February, 2021.

Authenticated:

Stephanie Simon, Assistant City Clerk

APPROVED this the 2nd day of February, 2021.

Tab Bowling, Mayor