

STATE OF GEORGIA
COUNTY OF FULTON

First Reading: February 13, 2012
Second Reading: March 12, 2012

**AN ORDINANCE TO AMEND CHAPTER 10 OF THE CITY OF ROSWELL CODE OF
ORDINANCES REGARDING LICENSING AND REGULATION OF
MOBILE FOOD VENDORS.**

WHEREAS, the City of Roswell now desires to amend ~~its~~the Code of Ordinances to provide specific provisions for the licensing and regulation of mobile food vendors; and

WHEREAS, the Mayor & City Council have determined that ~~the~~ regulations for the operation, location and licensing of mobile food vendors are needed to protect the health, safety and welfare of the residents of Roswell:

NOW, THEREFORE, pursuant to their authority, ~~The~~the Mayor & City Council adopt the following ordinance:

1.

Chapter 10 *Licenses, Taxes & Business Regulations*, of the *Roswell Code of Ordinances* is hereby amended by adding Section 10.15 Mobile Food Vendors, to read as follows:

10.15.1 - Definitions.

A. Commissary shall mean an approved catering establishment, restaurant, or other approved place in which food, containers or supplies are kept, handled, prepared, packaged or stored.

B. Mobile Food Vendor shall mean a retail food establishment that reports to and operates from a commissary and is readily moveable, is a motorized wheeled vehicle, or a towed wheeled vehicle designed and equipped to serve food.

C. Pushcart shall mean a non-self-propelled vehicle limited to serving commissary prepared or prepackaged food and non-potentially hazardous food, unless the equipment is commercially designed and approved to handle food preparation and service. Pushcarts shall not be required to comply with mobile vehicular safety requirements.

D. Temporary food establishment shall mean a retail food establishment, other than a licensed mobile food vendor or pushcart, that is not intended to be permanent and that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

E. Ice cream truck shall mean a motor vehicle in which ice cream, popsicles, ice sherbets or other frozen desserts of any kind are carried for the purpose of retail sale on the streets of the city.

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10.15.2 - License required.

A. It shall be unlawful for any person to sell, or offer for sale, food of any type from a commissary, mobile retail food establishment, pushcart or temporary food establishment without a license first having been granted under this section, except for city-sponsored events.

B. An application for a license or a permit hereunder shall be submitted to the Community Development Director or his or her designee setting forth all information required hereunder and in compliance with this ordinance. The Community Development Director or his or her designee shall develop a form of application for the purpose of compliance with this article.

C. The following information shall be provided with each application for a mobile food vendor permit:

1. Name of the Mobile Food Vendor
2. Make, model, and license plate number of vending unit
3. Owner's contact information
4. Operator's contact information
5. Type of vendor (street vending unit or sidewalk vending unit)
6. Copy of approved permit from the Fulton County Health Department
7. List of operating locations and times
8. Signatures from property owners indicating consent for the use of their property
9. Signature of applicant indicating agreement to the listed requirements

10.15.3 - Prohibited conduct and requirements.

A. Except for ice cream trucks, The no mobile food vendor shall ~~not~~ conduct business or operate ~~under this article on in~~ the public right-of-way ~~except for ice cream trucks~~.

B. ~~The A~~ mobile food vendor shall not operate on any private property without the prior consent of the owners.

C. ~~The A~~ mobile food vendor shall maintain a \$1,000,000.00 liability insurance policy. Proof of current liability insurance, issued by an insurance company licensed to do business in ~~the state~~ Georgia, protecting the licensee mobile food vendor, the public and the city from all claims for damage to property and bodily injury, including death, which may arise from operation under or in connection with the permit. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration dated ~~d~~ without 30 days' advanced written notice to the city.

D. ~~The Except for ice cream trucks, a~~ mobile food vendor shall not ~~emit, outery, speaker, amplifier or announcements make sounds or announcements to call attention to the mobile food vehicle either~~ while traveling on the public rights-of-way or when stationary, ~~and at At~~ all times said mobile food ~~vendor~~ vendor shall be in compliance with the City of Roswell noise ordinance.

FE. The license under which a mobile food vendor is operating must be firmly attached and visible on the mobile food vendor or pushcart at all times.

GF. In addition, the Roswell Police Department may refuse to issue any permit to any applicant whose record shows one or more convictions for an alcohol related offense within the previous 12-month period or a drug related offense within the previous 36-month period or a pattern of convictions for

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traffic violations. Any driver of a mobile food vendor motorized vehicle must possess a valid Georgia driver's license.

HG. The business use must be a use that is otherwise allowed within the zoning district in which the vendor proposes to operate except for ice cream trucks. Except for ice cream trucks, mobile food vendors are allowed only in commercial zoning districts.

IH. Mobile food vendors shall not be located within 15 feet of any street intersection or pedestrian crosswalk or 10 feet of any driveway.

II. No sale or offer for sale shall be made by any licensee-mobile food vendor between 9:00 pm and 6:30 am unless such sale is in conjunction with a City approved special event or film production permit.

IJ. Vending structures shall not be left unattended or stored at any time on the open vending site when vending is not taking place or during restricted hours of operation.

IK. No sale or offer for sale of ice cream, frozen milk, frozen dairy or ice confection products shall be made from a mobile food vendor unless each side of the vehicle is marked, in letters and numbers at least three inches in height, with the name and address of the mobile food vendor licensee.

IL. The mobile food vendor shall comply with all state, federal and local health and safety regulations and requirements and shall obtain and maintain any and all licenses required by any other health, organization or governmental organization having jurisdiction over this subject matter.

IM. The following safety regulations shall apply to any and all vehicles operating under this article or used for mobile retail food establishments:

1. Every vehicle shall be equipped with a reverse gear signal alarm with a sound distinguishable from the surrounding noise level.

2. Every vehicle shall be equipped with two rear-vision mirrors, one 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 highway to the rear, along both sides of the vehicle.

IN. The mobile food vendor may sell food and non-alcoholic beverage items only.

10.15.4 - Indemnity.

As part of the permitting process set forth herein, any person or entity receiving a permit set forth herein shall execute an indemnity agreement indemnifying and releasing the City of Roswell, its agents, employees and elected officials from any and all liability against any and all claims, actions and suits of any type whatsoever.

10.15.5 - Revocation and suspension.

The city shall have the right to revoke or suspend any license granted hereunder.

10.15.6 - Fee.

The fee for every application for license under this section shall be set by resolution.

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2.

All ordinances, parts of ordinances, or regulations in conflict herewith are repealed.

3.

Severability. Should any court of competent jurisdiction declare any section of this Ordinance invalid or unconstitutional, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof, which is not specifically declared to be invalid or unconstitutional.

4.

It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the City of Roswell Zoning Ordinance, Georgia and the sections of this Ordinance may be renumbered to accomplish such intention.

5.

This Ordinance shall take effect and be in force from and after the date of its adoption, the public welfare demanding it.

6.

The above Ordinance was read and approved by the Mayor and Council of the City of Roswell, Georgia on the ____ day of _____, 2012.

Jere Wood, Mayor

Attest:

Marlee Press, City Clerk
(Seal)

Councilmember Jerry Orlans

Councilmember Rebecca Wynn

Councilmember Betty Price

Councilmember Richard Dippolito

Councilmember Kent Igleheart

Councilmember Nancy Diamond