

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

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

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

NOW, THEREFORE, pursuant to their authority, the Mayor and City Council adopt the following ordinance:

1.

Chapter 10 *Licenses, Taxes & Business Regulations*, of the ***Roswell Code of Ordinances*** is hereby amended by amending **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.

F. *Mobile retail vendor* shall mean any business selling clothing, jewelry, shoes and other fashion accessories from a motorized vehicle such as a truck or from a towed vehicle that may be moved from location to location. Sales of any tangible item from an automobile, to include, but not be limited to “trunk sales,” are prohibited. A mobile retail vendor may be operated by a brick-and-mortar business, but must possess and pay for the applicable mobile retail vendor license, separately from the occupational license fee required for its permanent location. A mobile retail vendor shall not sell any food item.

10.15.2 - License required.

For mobile food vendor:

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

For mobile retail vendor:

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

E. 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.

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

1. Name of the Mobile Retail Vendor

2. Make, model, and license plate number of vending unit
3. Owner's contact information
4. Operator's contact information
5. List of operating locations and times
6. Signatures from property owners indicating consent for the use of their property
7. Signature of applicant indicating agreement to the listed requirements

10.15.3 - Prohibited conduct and requirements.

- A. Except for ice cream trucks, no mobile food vendor or mobile retail vendor shall conduct business or operate in the public right-of-way.
- B. A mobile food vendor or mobile retail vendor shall not operate on any private property without the prior consent of the owner.
- C. A mobile food vendor or mobile retail 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 Georgia, protecting the mobile food vendor or the mobile retail 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 date without 30 days advanced written notice to the city.
- D. Except for ice cream trucks, a mobile food vendor or mobile retail vendor shall not make sounds or announcements to call attention to the mobile food or mobile retail vehicle either while traveling on the public rights-of-way or when stationary. At all times said mobile food vendor or mobile retail vendor shall be in compliance with the City of Roswell noise ordinance.
- E. The license under which a mobile food vendor or mobile retail vendor is operating must be firmly attached and visible on the mobile food vendor or mobile retail vendor or pushcart at all times.
- F. Any driver of a mobile food or retail vendor motorized vehicle must possess a valid Georgia driver's license.
- G. Except for ice cream trucks, mobile food vendors are allowed only in commercial zoning districts. Mobile retail vendors shall be allowed in residential districts, but only upon private property owned by either a homeowners association or a condominium association, and only after gaining written permission from the governing entity of the homeowner's association or the condominium association, which written permission must be prominently displayed upon the vehicle from which sales are made.
- H. Mobile food or retail vendors shall not be located within 15 feet of any street intersection or pedestrian crosswalk or 10 feet of any driveway.
- I. No sale or offer for sale shall be made by any mobile food or retail 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.

J. 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.

K. 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.

L. 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.

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

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.

N. 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.

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 _____, 2014.

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