

Mobile Food Vendor Ordinance

The general purpose of this article is to promote the health, safety, and general welfare of the citizens of Washington, Georgia by requiring that new and existing mobile food vendors provide residents and customers with a level of cleanliness, quality and safety. It is also the intent of this article to establish reasonable guidelines and restrictions for mobile food vendors in relationship to established restaurant businesses and ensure the safe and convenient use of the public rights-of-way.

Definitions.

City shall mean the City of Washington or one of its duly appointed representatives.

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

Ice cream truck means a motor vehicle in which pre-packaged 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. For the purpose of this article, the term "ice cream truck" shall not include vendors who prepare ice cream, popsicles, ice sherbets or other frozen desserts of any kind, nor shall it include vendors who serve ice cream products as part of a menu of other foods, i.e. pie a la mode.

Mobile food vendor means any person selling food from a mobile food vendor vehicle.

Mobile food vendor vehicle means 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 prepare and serve food.

Pushcart means 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.

Restaurant means an establishment where food and drink are prepared, served, and consumed primarily within the principal building.

Temporary food establishment means 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 fourteen (14) consecutive days in conjunction with a single event or celebration.

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 vendor, ice cream truck, pushcart or temporary food establishment without a license first having been granted under this section, except as part of a city-sponsored or sanctioned special event.
- (b) An application for a license or a permit hereunder shall be submitted to the City setting forth all information required hereunder and in compliance with this article. The City shall develop an appropriate application form(s) for the purpose of compliance with this article.

- (c) The following information shall be provided with each application for a mobile food vendor vehicle, or push cart permit:
 - (1) Name of the mobile food vendor;
 - (2) Make, model, and license plate number of vending vehicle;
 - (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 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.
- (d) The following information shall be provided with each application for an ice cream truck permit:
 - (1) Name of the mobile food vendor;
 - (2) Owner's contact information;
 - (3) Operator's contact information;
 - (4) Type of vendor (street vending unit or sidewalk vending unit);
 - (5) Copy of approved permit from the state department of agriculture;
 - (6) Signatures from property owners indicating consent for the use of their property, if applicable;
 - (7) Signature of applicant indicating agreement to the listed requirements.
- (e) Every license issued under the provisions of this article shall expire on December 31 each year.

Prohibited conduct and requirements.

- (a) Operation on public property. Except for ice cream trucks, no mobile food vendor vehicle shall conduct business or operate on any street, sidewalk, alley, trail or other right-of-way or on any city-owned property, including plazas and parks, except:
 - (1) As part of a city-sponsored or city-sanctioned special event;
 - (2) Through a contract with the City; or
 - (3) When parked in a city-designated mobile food vendor vehicle parking space within the assigned dates and times. Approved locations include the Public Parking Lot bound by Toombs Avenue, Spring Street and Allison Street; The Edward B Pope Center Parking Lot located at 48 B Lexington Ave., Gordon Street School located at 304 Gordon St.
 - (4) Except as may be allowed as part of a city-issued special event permit or by contract with the City, mobile food vendors are permitted in a city-designated mobile food vendor vehicle parking space no more than Twelve (12) days in any calendar month. A minimum of two (2) calendar days must transpire between operating periods on any given parking space.
- (b) Operation on private property where usage is allowable per zoning code
 - (1) A mobile food vendor shall not operate on any private property without the prior written consent of the property owner.
 - (2) In the C-3 Downtown Business District only, and except as may be allowed as part of a city-issued special event permit, mobile food vendors are permitted on a given property no more than

Twelve (12) days in any calendar month. A minimum of two (2) calendar days must transpire between operating periods on any given property.

- (3) Except as may be allowed as part of a city-issued special event permit, no more than two (2) mobile food vendors may operate on any single property at any one (1) time.
 - (4) Except as may be allowed as part of a city-issued special event permit, mobile food vendors may occupy no more than ten (10) percent of the designated parking spaces on a given property, and at no time shall the operation of a mobile food vendor reduce the number of parking spaces on a property below the minimum required by city Code or ordinance.
 - (5) 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.
- (c) A mobile food vendor who prepares food shall maintain a one million dollar (\$1,000,000.00) liability insurance policy. Proof of current liability insurance, issued by an insurance company licensed to do business in the state, protecting the mobile food vendor and the public 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 provide that the policy shall not terminate or be canceled prior to the expiration date without thirty (30) days' advanced written notice to the city.
 - (d) Except for ice cream trucks, a mobile food vendor shall not make sounds or announcements to call attention to the mobile food vehicle either while traveling on the public rights-of-way or when stationary. At all times said mobile food vendor, ice cream truck, or push cart shall be in compliance with the city noise ordinance.
 - (e) The license under which a mobile food vendor vehicle, ice cream truck, or push cart is operating must be firmly attached and visible on the vehicle or pushcart at all times.
 - (f) Any driver of a mobile food vendor vehicle or ice cream truck must possess a valid state driver's license.
 - (g) Each licensed mobile food vendor must maintain for patrons' use, a litter receptacle of sufficient size to accept the litter being generated by the sales from the vendor's vehicle at the point of sales. City receptacles shall not be utilized for this purpose. Each vendor shall pick up litter which is associated with the vendor's sales in the vicinity of the vendor's place of business prior to departing the sales location. A pattern of leaving excessive litter shall be a basis for suspension or revocation of the license.
 - (h) Liquid waste and grease shall only be disposed of in a container approved for such substances.
 - (i) Mobile food vendors shall not operate within twenty-five (25) feet of any street intersection, pedestrian crosswalk or driveway except as part of a city-sponsored or sanctioned special event.
 - (j) Mobile food vendors shall not operate within two hundred fifty (250) feet of the door of a lawfully established eating establishment that is actively open for business serving customers, unless the mobile food vendor provided documentation, which is signed by the eating establishment owner, that the eating establishment owner interposes no objection to a closer proximity. If an eating establishment opens within the two hundred fifty-foot zone after the mobile food vendor is licensed, the mobile food vendor may remain in that location until the following annual permit is due.
 - (k) Mobile food vendors shall not be located within one thousand (1,000) feet of any city-sponsored or sanctioned special event.
 - (l) Hours of operation shall not be limited, except as part of a city-sponsored event permit or by contract with the City. When operating in the C-3 Downtown Business District, and not part of a city-sponsored event, a mobile food vendor may operate only between the hours of 7:00 a.m. and 10:00 p.m. At the end of each business day's operation, the vendor shall remove from the premises the mobile food vendor vehicle and all materials associated with the business.

- (m) 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 (3) inches in height, with the name and address of the mobile food vendor licensee.
- (n) 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.
- (o) Except as otherwise allowed and described within this section, a mobile food vendor must operate from a motorized, wheeled vehicle that may lawfully be driven upon streets and roadways within the state.
 - (1) The owner of a licensed restaurant located within the city may, with a valid city mobile food vendor permit, engage in mobile food vending from a wheeled mobile trailer, pushcart, or motorized vehicle as an ancillary location of said restaurant, provided that all other provisions of this article are met and adhered to.
 - (2) As allowed by a city-issued special event permit, a mobile food vendor that holds a valid city mobile food vendor permit may operate from a wheeled mobile trailer, pushcart, or motorized vehicle.
- (p) The following safety regulations shall apply to any and all vehicles operating under this article or used for mobile retail food establishments:
 - (1) Every self-propelled vehicle shall be equipped with a reverse gear signal alarm with a sound distinguishable from the surrounding noise level.
 - (2) Every self-propelled vehicle shall be equipped with two (2) rear-vision mirrors, one (1) 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.
- (q) The mobile food vendor may sell food and non-alcoholic beverage items only. The sale of nonfood and drink items shall be limited to merchandise displaying the mobile food vendor company logo and/or branding. No items shall be displayed outside of the vehicle.

Indemnity

As part of the permitting process set forth herein, any person or entity receiving a permit set forth herein agrees to indemnify the city and hold the city harmless from any and all claims, demands, actions, damages, liability and expenses in connection with loss of life, personal injury and/or damage to property arising from or out of any occurrence in, upon, or on any property in the city, and occasioned wholly or in part by any act or omission of vendor or those acting or failing to act in the right of the vendor.

Revocation and suspension

- (a) The City shall have the right to suspend or revoke a mobile food vendor license under the conditions set forth in this section. In the event the City seeks to suspend or to revoke a license, the City shall give written notification to the licensee of such action and such notice shall contain a specification of the violation or violations for which cause the action is being taken.
- (b) The City shall be authorized to suspend or revoke a license in the event of any one (1) or more of the following:
 - (1) A licensee gave false or misleading information in the original application or renewal process;
 - (2) A licensee has knowingly allowed a violation of this mobile food vendor ordinance to occur or did not make a reasonable effort to prevent any such occurrence;

- (3) A licensee fails to pay any fee, license fee, or other amount of money due to the city under this article or any other licensing ordinance of the city.
- (c) In the event that the City determines that a license violation has occurred, such license shall be suspended for thirty (30) days for the first violation. For a second violation occurring within any consecutive twelve-month period, the license shall be suspended for ninety (90) days. Any license that has been suspended two (2) times within any consecutive twelve-month period that is determined to have committed a subsequent license violation with twenty-four (24) months of the second suspension shall be revoked. Provided, however, that the licensee shall be authorized to continue its business operations until the date of the hearing scheduled in accordance with subsection (e) hereafter. Should a license be revoked, the owner and/or operator shall not be eligible to apply for a mobile food vendor license for a period of three (3) years from the date of revocation.
- (d) In the event of a revocation by the City, the licensee may appeal the decision of the City to the city administrator by filing a written notice of appeal with the City within ten (10) business days from the date of the written notice issued to licensee in accordance with subsection (a) of this section. The notice of appeal shall be accompanied by a written document fully stating the grounds for such appeal and all arguments in support thereof. The City may submit a memorandum in response to the document filed by the licensee on appeal to the city administrator. The City's decision shall be final unless an appeal is timely filed. An appeal shall stay the City's decision until the appeal is heard or withdrawn.
- (e) When an appeal is received, the city administrator shall, within ten (10) business days from the date on which the notice of appeal is received by the City take either of the following actions:
- (1) Set a hearing date before the city administrator and instruct the City to give such notice of hearing as may be required by law; or
 - (2) Appoint a hearing officer and fix the time and place of hearing. The City shall assume responsibility for such publication of notice as may be required by law.
- In either event, the hearing shall be held within thirty (30) calendar days of the date the appeal is filed, unless a continuance of such date is agreed to by the licensee and the City.
- (f) The city administrator or assigned hearing officer may sustain, overrule, or modify the action of the City. The decision of the city administrator or hearing officer shall be final.

Fees

License fees for Wilkes County Residents are \$175. Fees for out of county residents are \$275. Licenses are valid for up to twelve months and expire on December 31st.

