

Ordinance 08-2021

An Amendment to the City Code or Ordinances

Chapter and Purpose: Norcross Code of Ordinances, Article IX, Temporary Outdoor Activity and Retail Sales Display, Sec 8-320 and Sec 8-321.

Enacting Clause; The Mayor and City Council of the City of Norcross, Georgia hereby ordains that the adopted Code of Ordinance is hereby amended as more particularly set forth below. It is the intention of the Mayor and City Council, and it is hereby ordained that all following provisions shall become and be made part of the Code of the City of Norcross.

- I. Amendment to edit the language as noted below, to delete both Sec 8-320 and Sec 8-321 in their entirety and replace with a new Sec 8-320 as shown below in underline and to reserve Sec 8-321

Sec 8-320 Mobile Food Vendors

Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them:

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.

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

Menu change shall mean a modification of a food establishment's menu that requires a change in the food establishment's food preparation equipment or storage requirements previously approved by the Gwinnett County Health Department. The term "menu change" shall include, but is not limited to, the addition of potentially hazardous food to a menu, installation of new food preparation or storage equipment, or increasing storage capacity.

Mobile food truck vendors see mobile food vendor.

Mobile food vendor shall mean a retail food establishment that reports to and operates from a commissary and is readily movable. A mobile food vendor may be a motorized wheeled vehicle or a towed wheeled vehicle designed and equipped to serve food or may be a mobile pushcart designed to be moved by hand.

Mobile food vendor permit ("vendor permit") shall mean a document indicating the owner of an established mobile food vendor operation has met the requirements of this ordinance and is licensed to operate within the City of Norcross.

Mobile food vendor site ("vendor site") shall mean a location where one or more mobile food vendors are located at any one time specifically for the purpose of selling merchandise in accordance with the provisions set forth within this section.

Mobile pushcart vendors see mobile food vendor.

Solicit or soliciting shall mean taking orders, selling, or seeking orders or clients for the purchase of goods, wares, merchandise, foodstuffs, products, subscriptions, or services of any kind, character, or description whatsoever. The terms "solicit" or "soliciting" shall not include transient merchants.

1. Regulation of mobile food vendors operating pushcarts

Each temporary mobile pushcart vendor shall comply with all state, federal and local health and safety regulations and requirements and shall obtain and maintain any and all license and permits required by any other health organization or governmental organization having jurisdiction over this subject matter.

- (a) No operator, employee, or representative of the operator of a temporary mobile pushcart vendor activity shall solicit directly from the motoring public.

2. Regulation and licensing of all mobile food vendors.

- (a) It shall be unlawful for any person to sell, or offer for sale, food of any type from a mobile food vendor without a permit first having been granted under this section and associated with a temporary event sponsored by a local business or property owner.

- (b) An application for a permit hereunder shall be submitted to the Community Development Department setting forth all information required hereunder and in compliance with this ordinance. The Community Development Department shall develop a form application for the purpose of compliance with this article. The application shall be accompanied by an executed indemnity agreement indemnifying and releasing the city, its agents, employees and elected officials from any and all liability against any and all claims, actions and suits of any type whatsoever arising in connection with the activities of the mobile food vendor pursuant to the permit issued hereunder.

Mobile food vendors may participate in more than one temporary event with multiple local businesses or property owners.

(c) The following information shall be provided with each application for a single event mobile food vendor permit, along with an application fee of \$50.00 for a three consecutive day permit, and an executed release and indemnification agreement provided by the city:

(1) Name of the mobile food vendor;

(2) Make, model and license plate number of vending unit when applicable;

(3) Owner's contact information;

(4) Operator's contact information;

(5) Copy of approved permit from the county health department and fire safety certificate of inspection or in the case of a mobile push cart an approved permit from the Georgia Department of Agriculture;

(6) List of operating location and times including map detailing the position of the vehicle, and current zoning in said locations;

(7) Notarized signatures from property owners on the approved City Form for such authorizations indicating consent for the use of their property; and

(8) Signature of applicant indicating agreement to the listed requirements.

(d) A waiver of the application fee may be requested at the time of application by the applicant if:

(1) The event is a 501(c) non-profit event and proof is submitted thereof; or

(2) The event is a city-sponsored event as determined by the city manager. However, all mobile food vendors must fill out an application form, execute an indemnification agreement, and provided the city with all necessary documentation required by the city.

(e) Except for ice cream trucks, no mobile food vendor shall conduct business or operate in the public right-of-way except as part of a city-sponsored or sanctioned special event.

(f) A mobile food vendor shall operate on any private property in conjunction with an approved temporary event sponsored by a local business or property owner and only with the prior notarized written consent of the owner. A mobile food vendor shall not be allowed to park overnight on any private property.

(1) A local business or property owners may apply for an annual mobile food vendor site license to host any number of events during each calendar year for a fee of \$500 instead of individual mobile vendor permits being pursued. All requirements for mobile vendors shall be met and provided to the City at least one week prior to each mobile vendor being on site.

(g) A mobile food vendor may operate on city-owned property, if:

(1) The mobile food vendor has received permission to do so from the city manager or his/her designee as part of a City sponsored event; and

(2) Has indicated the appropriate city-owned location, date, and times of use on the application. At no time shall a mobile food vendor be allowed to park temporarily or overnight on any city-owned property.

- (h) 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, protecting the 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, shall be provided to the city as part of its permit application. If the mobile food vendor does not have insurance, the mobile food vendor may be under the umbrella of an existing business with the business' permission to do so. Such arrangement documentation shall be included with the application to the city.
- (i) 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 unless the vendor is an ice cream truck as defined in this ordinance. At all times said mobile food vendor shall be in compliance with the city's noise ordinance.
- (j) The permit under which a mobile food vendor is operating must be firmly attached and visible on the mobile food vendor at all times.
- (k) Any driver of a mobile food vendor motorized vehicle must possess a valid Georgia driver's license.
- (l) Mobile food vendors shall provide a diagram of the set up for all events showing locations of driveways, streets and sidewalks. No set ups are allowed within 10 feet of a residential driveway. Set up locations shall be subject to the approval of the Community Development Department.
- (m) A mobile food vendor shall not sell or offer to sell any goods, foods, products, or services except between the hours of operation for the local business sponsoring the event or the established and published hours for the special event in which the mobile vendor is participating, unless otherwise approved and extended by the city manager.
- (n) 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.
- (o) 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 known as an ice cream truck 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.
- (p) Mobile food vendors shall comply with all state, federal and local health and safety regulations and requirements and shall obtain and maintain any and all license and permits required by any other health organization or governmental organization having jurisdiction over this subject matter.
- (q) The following safety regulations shall apply to any and all motor vehicles operating under this article or used for mobile retail food establishments:
- (1) Every motor vehicle shall be equipped with a reverse gear signal alarm with a sound distinguishable from the surrounding noise level.
 - (2) Every motor 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.

(r) A mobile food vendor may only sell food and non-alcoholic beverage items.

3. Revocation of Permits

a. Failure to follow the above rules and regulations with respect to mobile food vendors may be cause for sanction or revocation by the City of Norcross.

b. The first instance of failure to follow the above rules and regulations will result in a warning notice being issued to both the mobile food vendor and business associated with the temporary event.

c. The second instance of failure to follow the above rules and regulations will result in a revocation of mobile food vendor privileges for both the mobile food vendor and business associated with the temporary event for six months in the City of Norcross.

d. More than two instances of failure to follow the above rules and regulations will result in a permanent revocation of mobile food vendor privileges for both the mobile food vendor and business associated with the temporary event in the City of Norcross.

e. Appeals of the sanction or revocation action may be made to the City Manager for adjudication.

- II. Severability: If the provisions of any section, subsection, paragraph, subdivision or clause of his ordinance shall be judged invalid by a court of competent jurisdiction, such order of judgement shall not affect or invalidate the remainder of any ordinance, section, subsection, paragraph, subdivision or clause of this ordinance.
- III. Repealer: All ordinances or parts thereof which are in conflict with any provision or any section, subsection, paragraph, subdivision or clause of this ordinance are hereby repealed to the extent of the conflict.

IN WITNESS WHEREOF, I have hereunto set my hand and cause this seal to be affixed this ____ day of _____, 2021

Craig Newton, Mayor

ATTEST:

Monique Lang, City Clerk

