

Ordinance No. 21-2009

Chapter 8 Business and Business Regulations

CHAPTER AND PURPOSE. Chapter 8, Business and Business Regulations.

ENACTING CLAUSE. THE COUNCIL OF THE CITY OF NORCROSS, GEORGIA HEREBY ORDAINS that the provisions of Article IX, Transient, Temporary Retail Sales, Chapter 8, “BUSINESS AND BUSINESS REGULATIONS”, of the Code of Ordinances of the City of Norcross are more particularly amended as set forth herein. It is the intention of the Mayor and the Council, and it is hereby ordained that the following provisions shall become and be made a part of the Code of the City of Norcross, and the Sections of the Code in the Ordinance may be renumbered to accomplish that intention.

Article IX, Sections 8-316 through 8-326 shall be deleted in its entirety.

Ordinance No. 07-2006 – Peddler’s Ordinance shall be superceded by the following in its entirety.

Article IX, Sections 8-316 through 8-326 shall be replaced to read as set forth below:

PART I

Section 8-316. Title

This article shall be known as the “Temporary Outdoor Activity and Retail Sales Display Ordinance of the City of Norcross”

Section 8-317. Purpose and Intent

- (a) *Purpose and Intent.* The purpose and intent of this section shall be to regulate: special temporary outdoor events associated with holidays and special events which are not intended to serve the primary use of the lot; temporary outdoor display and sale of merchandise associated with an established business; limited outdoor display on-site, and mobile vending activities, which are held in open areas or within temporary structures in association with a temporary outdoor event. Such uses shall be limited in time and thus their impacts on surrounding properties are not permanent. A temporary outdoor retail sales event or temporary outdoor display of merchandise shall not be held unless the

necessary permit is obtained from the Community Development Department and any other applicable agency which may require review prior to issuance of permits.

(b) *Definitions.* As used in this Article, the phrases used herein shall be defined as follows:

Goods and Merchandise means tangible or movable personal property, other than money.

Holiday Activities means seasonal activities associated with federally recognized holidays and Halloween.

Temporary means for a period of time not to exceed a specified number of consecutive days.

Temporary Mobile Pushcart Vending means a mobile, hand pushed cart selling only pre-packaged, non-hazardous individual refreshment items, sold only in association with a permitted Temporary Outdoor Activity, as defined, permitted in the commercial designations. Handling of raw foodstuff, preparation or cooking of food, other than heating of pre-packaged or pre-assembled items, is prohibited. Subject to both a Temporary Mobile Vending Permit and a Temporary Outdoor Activity Permit for each activity attended.

Temporary Mobile Pushcart Vending Permit is issued by the General Government Administration Department with written authorization by the Community Development Director, or designee, for the applicant to engage in temporary outdoor sale of pre-packaged, non-hazardous individual food items from a mobile pushcart or similar device, within the commercial designations, only in association with a temporary outdoor activity, for a period commensurate with the approved terms of the temporary outdoor activity permit.

Temporary Outdoor Retail Display means activities involving the temporary outdoor display of retail goods and merchandise in association with an existing business located on the premises of the principal use, limited to properties within the C-1, C2 and C3 commercial land use districts. Display items may be sold. Sales shall be conducted by employees of the principal use and owned by the owner of the principal use, not a consignment operation or transient vendor/merchant. Temporary Outdoor Retail Display activities are subject to a Temporary Outdoor Activity Permit, limited to a continuous period of 7 days, and shall not occur more than 3 times per calendar year, with a minimum separation of 7 days between each permitted period.

Temporary Outdoor Activity means the sale of retail merchandise associated with seasonal/holiday activities, the operation of a carnival, or sale of farm produce, occurring on a commercially zoned lot with a minimum of 2 acres in size, which is vacant or which contains a separate and distinct primary use from the merchandise being sold. Temporary outdoor activities shall occur in non-enclosed areas or utilize a temporary open air portable structure such as a tent, awning, or sunshade. Temporary Outdoor Activity shall

be subject to a Temporary Outdoor Activity Permit, limited to a continuous period of 20 days within a 6 month period, unless specified otherwise in this section.

Temporary Outdoor Activity Permit is issued by the General Government Administration Department with written authorization by the Community Development Director, or designee, for the applicant to engage in temporary outdoor activities at a specified, fixed, location for a specified period of consecutive days within each calendar year. Such permit is required for Temporary Outdoor Activities, Mobile Pushcart Vendors in association with a specified Temporary Outdoor Activity, and Temporary Outdoor Retail Display.

Section 8-318. Temporary Outdoor Activities

Temporary outdoor activities shall be governed by the following regulations:

- (a) Temporary outdoor activities shall include the sale of retail merchandise associated only with: recognized seasonal federal holiday activities; Halloween; the sale of farm produce; and carnivals; from a property which is vacant or which contains a separate and distinct primary use from the merchandise being sold.
- (1) Mobile food services and the preparation of raw foodstuff onsite shall not be permitted as a temporary outdoor sales activity, with the following exemptions:
 - a. Food and concessions associated with carnivals shall be conducted under the liability umbrella of the operator's license;
 - 1. Sale of pre-prepared and pre-packaged items, or other non-hazardous food items and food service typically associated with a seasonal/holiday activity requiring minimal handling and preparation, shall be permitted subject to review on a case by case basis, and licensing requirements as set forth in Sections 8-320(a)(3), and 8-320(b)(1-5),
 - 2. Retail sales of beverages, prepared and prepackaged foods, individually wrapped ice cream and snack type edibles, or other commissary-wrapped food maintained at proper temperatures is permitted.
 - 3. Cooking of food from a raw state shall not be allowed. The heating of preassembled, prepackaged and/or precooked food is allowed.
- (2) All proposed food service is subject to review and approval by Gwinnett County Environmental Health Department.
 - a. The Food and Drug Administration has published laws and regulations regarding approved food and beverage items which may be sold by pushcart operators and temporary outdoor activity vendors. No items of any kind, other than those food and beverage items allowed in Food and Drug Administrative regulations shall be sold or dispensed by pushcart operators and/or temporary outdoor activity vendors.
 - b. Each temporary outdoor activity or mobile pushcart vendor shall meet the Food and Drug Administration Food Service Sanitation standards and State of Georgia applicable rules and/or regulation for food storage and dispensing.
- (3) Sale of goods and services not customarily associated with seasonal holiday activities, Halloween, farm produce, or carnivals is prohibited.

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

(b) Permit Required.

- (1) A Temporary Outdoor Activity Permit shall be required, issued and approved by the Community Development Department. The issuance of such a permit shall require an initial fee of \$50.00.
 - a. Applicant shall be required to submit, as a condition of the application, a dimensioned site plan or legal survey clearly showing: building location; striped parking spaces; distances of building to right-of-way and parcel lines;
 - b. Applicant shall be required to submit, as a condition of the application, the following information: parcel acreage; linear dimension of building and/or suite frontage; square footage of building and/or suite, whichever is applicable.
 - c. Applicant will be required to submit, as a condition of the application, proof of insurance.
 1. Proof of insurance can be satisfied by documentation of an insurance policy issued by an insurance company licensed to do business in the State of Georgia, protecting the licensee and the city from all claims for damages to property and bodily injury which may arise from operations in connection with the temporary outdoor activity.
 2. Such insurance shall provide that the policy shall not terminate or be cancelled prior to the expiration date without two weeks advance notice to the city.
 - (2) A valid business license shall be required in conjunction with the Temporary Outdoor Activity Permit.
 - (3) Written notarized permission from the property owner shall be obtained and submitted by the applicant to the City of Norcross Community Development Department prior to issuance of a Temporary Outdoor Activity Permit.
 - (4) A Temporary Outdoor Activity license shall be issued by the licensing and revenue manager of the City of Norcross General Government Administrative Department, and must be displayed in a visible location at all times during the period of the event.
 - (5) Temporary signage is not permitted unless a separate Temporary Sign Permit is acquired per Section 115-188 of the Norcross Zoning Code.
 - a. The 15 day limitation on temporary signage associated shall be waived to allow temporary signage to run concurrently only with the specific temporary outdoor activity, subject to Community Development Director approval.
 - (6) Events associated with charitable or non-profit organizations are subject to the following additional requirements:
 - a. Submittal of a notarized affidavit identifying a bona fide non-profit organization status.
 - b. Exempt from the fee requirements as set forth herein.
- (c) Special annual events which are conducted on public property, and City sponsored activities, are coordinated through the Cultural Arts and Community Center Department.

(d) Temporary outdoor activities shall be permitted only within the city's C-2 and C-3 zoning districts.

(e) Lot and Parcel Restrictions

- (1) A minimum lot size of two (2) acres is required for any Temporary Outdoor Activity.
- (2) A Temporary Outdoor Activity may be held on a vacant parcel.
- (3) A Temporary Outdoor Activity may be held on parcels where the temporary outdoor activity is not associated with the principal use of the property.
- (4) On a parcel size of five (5) acres or larger, two (2) Temporary Outdoor Activities may be permitted simultaneously, to be determined by the Community Development Department on a case-by-case basis.
- (5) Temporary Outdoor Activities, other than the exemption of an activity held on a vacant, undeveloped lot, shall be conducted on a paved surface only.
- (6) Temporary Outdoor Activities shall be permitted only on property where such activities shall not disrupt controlled vehicular ingress and egress.
- (7) Temporary Outdoor Activities shall not occupy required off-street parking spaces in association with a principal building on the subject site. Required parking spaces shall be calculated on principal building square footage.
- (8) All exterior lighting utilized in conjunction with Temporary Outdoor Activities shall not be visible beyond the limits of the immediate site from which it originates.
 - a. Spotlights and/or high temperature process lighting is prohibited.

(f) Setback and Structure Requirements

- (1) All temporary outdoor activities, including installation or erection of associated temporary display and sales structures, must be set back 50 feet from a county or state right-of-way.
- (2) All temporary outdoor activities, including installation or erection of associated temporary display and sales structures, must be set back 30 feet from a local right-of-way.
 - a. Temporary structures and coverings, such as: umbrellas, shade structures; and open sided tents are permitted associated with seasonal and holiday activities.
 - b. Temporary mobile buildings are permitted only in association with a carnival, and are exempt from the requirements of Zoning Code Section 115-14 Modular or Mobile Buildings.
- (3) Carnivals may be permitted as a temporary outdoor activity so long as no structure or equipment is located within 500 feet from the closest boundary of a residential property.
- (4) Temporary outdoor activities may not be located within or encroach upon: any drainage easement; public sidewalk or right-of-way; fire lanes; designated loading areas; driveways; maneuvering aisles; or ADA minimum 4 foot sidewalk width within private sidewalks or other areas intended for pedestrian movement.

(g) Duration of Temporary Outdoor Activities

- (1) All temporary outdoor activities, with the following exemptions for Christmas tree sales and Halloween/pumpkin patch sales, are permitted for a period of 20 consecutive days from the date of initiation of the temporary outdoor activity.
 - a. Christmas tree sales shall be permitted between November 1st and December 31st due to the seasonal nature of such sales.
 - b. Pumpkin and Halloween seasonal sales shall be permitted between September 15th and October 31st due to the seasonal nature of such sales.
- (2) A second permit for a temporary outdoor activity on the same property within a calendar year may not be applied for or renewed within six (6) months from the date of a prior approval of a temporary outdoor activity.
- (3) Operations are limited to a maximum 12 hour period per day.
- (4) Operations must cease by 9:00 PM on weekday evenings (Sunday through Thursday) and 10:00PM on weekend evenings (Friday and Saturday).
- (5) The premises shall be cleaned and cleared of all litter, trash and debris and restored by the last day specified for such use.

Section 8-319. Temporary Outdoor Retail Display

Temporary outdoor retail display shall be governed by the following regulations:

- (a) Temporary outdoor retail display shall include the display and sale of retail merchandise associated only with the principal use of the primary business on the property for a limited period of time.
 - (1) Mobile food services and the preparation of food onsite shall not be permitted as a temporary outdoor retail sales display activity.
 - (2) Only the sale of goods and services customarily sold on a day-to-day basis by the on-site business which constitutes the principal use of the premises is permitted.
 - (3) Sales shall be conducted by employees of the principal use and goods shall be owned by the owner or tenant of the principal use, not a consignment operation or temporary arrangement with a transient merchant/vendor.
 - (4) Sales must be made inside of building housing principal use of site.
 - (5) Temporary signage is not permitted unless a separate Temporary Sign Permit is acquired per Section 115-188 of the Norcross Zoning Code.
 - a. The six (6) month interval limitation on temporary signage shall be waived to allow temporary signage to run concurrently only with the permitted temporary outdoor retail display, subject to Community Development Director approval.
 - (6) No operator, employee, or representative of the operator of a temporary outdoor retail sales display activity shall solicit directly from the motoring public.
- (b) Permit Required.
 - (1) A Temporary Outdoor Activity Permit shall be required and approved by the Community

Development Department for a temporary outdoor retail sales display. The issuance of such a permit shall require an initial fee of \$50.00.

- a. Applicant shall be required to submit, as a condition of the application, a dimensioned site plan or legal survey clearly showing: building location; striped parking spaces; distances of building to right-of-way and parcel lines;
 - b. Applicant shall be required to submit, as a condition of the application, the following information: parcel acreage; linear dimension of building and/or suite frontage; square footage of building and/or suite, whichever is applicable.
 - c. Applicant shall be required to submit, as a condition of the application, a valid business license for the subject principal business on the site requesting a temporary outdoor retail sales display permit.
- (2) Applicant will be required to submit, as a condition of the application, proof of insurance.
- a. Proof of insurance can be satisfied by documentation of an insurance policy issued by an insurance company licensed to do business in the State of Georgia, protecting the licensee and the city from all claims for damages to property and bodily injury which may arise from operations in connection with the temporary outdoor retail sales display activity.
 - b. Such insurance shall provide that the policy shall not terminate or be cancelled prior to the expiration date without two weeks advance notice to the city.
- (3) Notarized written permission from the property owner, as applicable, shall be obtained and submitted by the applicant to the City of Norcross Community Development Department prior to issuance of a Temporary Outdoor Sales Display Permit.

(c) Lot and Parcel Restrictions

- (1) Temporary outdoor retail sales display activities shall be permitted only within the City's C-1, C-2 and C-3 zoning districts.
- (2) The use of any parts of the public sidewalks or streets of the city for display of goods or merchandise is prohibited in C-1, C-2 and C-3 districts outside of the National Historic Downtown District (as depicted on the Zoning Map and per Article II, section 32-20 of the City Municipal Code).
 - a. Goods and merchandise may be displayed on public sidewalks in the C-3 National Historic Downtown District provided such display does not interfere with pedestrian travel and the minimum 4'-0" ADA required sidewalk width clearance is maintained.
- (3) Temporary outdoor retail sales display activities are prohibited on a vacant parcel.
- (4) Temporary outdoor retail sales display may not exceed a space equivalent to 10% of the gross floor area of the ground floor of the building or individual suite of the business sponsoring the activity, as applicable.
- (5) Temporary outdoor retail sales display activities shall be conducted only on a paved surface.
- (6) Temporary outdoor retail sales display shall be permitted only on property where such activities shall not disrupt controlled vehicular ingress and egress, nor within areas required, set-aside or designated for: loading and maneuvering areas; emergency access ways; off-street parking; driving aisles and driveways.

- (7) Temporary outdoor retail sales display items may be located on a privately owned sidewalk, courtyard or building apron or other areas intended for pedestrian movement provided an unobstructed, continuous path with a 4'-0" minimum width is maintained.
- (8) Temporary outdoor retail sales display activities shall not occupy required off-street parking spaces except as authorized by Community Development Director or designee of the Department.
 - a. Required parking spaces shall be calculated on square footage of principal building or suite, whichever is applicable.
 - b. Where excess parking spaces over the required number of spaces are not available, no more than 5% of the required parking spaces provided may be used for temporary outdoor retail display, or as determined by the Community Development Director or designee of the Department.

(d) Setback and Display Requirements

- (1) All temporary outdoor retail display activities, including installation or erection of associated temporary display and sales structures, must be set back 50 feet from a county or state right-of-way.
- (2) All temporary outdoor retail display activities, including stand-alone merchandise, display tables, or display racks must be set back 30 feet from a local right-of-way, with the exception of businesses in the C-3 zone within the National Historic Downtown District (as depicted on the Zoning Map), subject to the restrictions of section 8-319(c)(2)b and section 32-20 of the Municipal Code.
- (3) No temporary modular structure, tent, tilt-up, umbrella or covering shall be erected as a part of the temporary outdoor retail sales display activity.
- (4) Display tables, racks or shelves may be used as part of a temporary outdoor retail sales display activity.
- (5) Outdoor display items shall not exceed 6'-0" above grade.
- (6) The Community Development Director, or designee, is authorized to determine retail items to be displayed. The following items, such as, but not limited to, are prohibited: mattress and box springs, couches or sofas, large pieces of furniture, refrigerators, washers/dryers and other large appliances.

(e) Duration of Temporary Outdoor Activities

- (1) All temporary outdoor retail sales display activities are permitted for a period of 7 consecutive days from the date of initiation of the temporary outdoor retail sales display activity.
- (2) Temporary outdoor retail sales display periods are limited to three (3) times per calendar year.
- (3) Periods of outdoor retail sales display may not be applied for or renewed within seven (7) days from the date of a prior approval of a temporary outdoor retail sales display activity.
- (4) Temporary outdoor retail display activities are limited to 12 hours of operation per permitted calendar day.
 - a. All evidence of the temporary retail sales display activity must be removed from the

- parcel by the end of each 12 hour period.
- b. All operations must cease by 9:00 PM.

Section 8-320. Temporary Mobile Pushcart Vendors

Temporary mobile pushcart vendors shall be governed by the following regulations:

- (a) Temporary mobile pushcart vendors may engage in the transient sale of pre-packaged, non-hazardous food and beverage items from non-motorized pushcart vehicles designed to be moved by hand, only in association with a permitted Temporary Outdoor Activity.
 - (1) Temporary mobile pushcart vendors may set up on private property only in limited circumstances, as determined by the Community Development Department on a case-by-case basis in conjunction with an approved and permitted Temporary Outdoor Activity, subject to the standards established in Section 8-318(a)(1-3) and 8-318(2)a and b.
 - (2) Each temporary mobile pushcart vendor shall meet the Food and Drug Administration Food Service Sanitation standards and State of Georgia applicable rules and/or regulation for food storage and dispensing.
 - a. Temporary mobile pushcart vendors shall provide only single service food articles (intended for one-time, one person use or consumption and then discarded).
 - b. Retail sales of beverages, prepared and prepackaged foods, individually wrapped ice cream and snack type edibles, or other commissary – wrapped food maintained at proper temperatures is permitted.
 - c. Cooking of food from a raw state shall not be allowed. The heating of preassembled, prepackaged and/or precooked food is allowed.
 - d. The Food and Drug Administration has published laws and regulations regarding approved food and beverage items which may be sold by pushcart operators and vendors.
 - e. No items of any kind, other than those food and beverage items allowed in Food and Drug Administrative regulations shall be sold or dispensed by temporary mobile pushcart vendors at temporary outdoor activities.
 - (3) No operator, employee, or representative of the operator of a temporary mobile pushcart vendor activity shall solicit directly from the motoring public.
 - (4) Street and sidewalk canvassing is prohibited.
- (b) Permit Required.
 - (1) A temporary mobile pushcart vendor may operate at a temporary outdoor activity in limited circumstances on private property in association with a licensed Temporary Outdoor Activity. A Temporary Outdoor Activity Permit and associated fee is required in addition to the Temporary Mobile Pushcart Vendor Permit, subject to the approval of the Community Development Department.
 - (2) A Temporary Mobile Pushcart Vending Permit shall be required and approved by the Community Development Department. The issuance of such a permit shall require an initial fee of \$100.00.

- a. Applicant will be required to submit, as a condition of the application, a valid business license to operate in the City of Norcross.
 - b. Written notarized permission from the property owner shall be obtained and submitted by the applicant to the City of Norcross Community Development Department as part of the required Temporary Outdoor Activity Permit.
- (3) The Temporary Mobile Pushcart Vending Permit shall be issued by the licensing and revenue manager of the City of Norcross General Government Administration Department.
- (4) A temporary mobile pushcart vendor may operate at a public event if given written permission by the Manager of the City of Norcross Cultural Arts and Community Center Department per section 8-318(c), subject to valid licensing requirements of Section 8-320(b)(2). No additional permit is required.
- (5) Original licenses must be displayed and visible at all times.

(c) Duration of Temporary Mobile Pushcart Vendor Permit

- (1) A temporary mobile pushcart vendor permit is valid for one 90 consecutive day period, two (2) times per a calendar year timeframe.
- (2) Within that 90 day period, a mobile pushcart vendor may operate only within the specified time period associated with each Temporary Outdoor Activity permit.
- (3) Temporary mobile pushcart vendor activities are limited to 12 hours of operation per permitted calendar day.
- (4) All operations must cease by 9:00 PM.

Section 8-321- 8-355. Reserved

PART II

It is hereby declared to be the intention of the Mayor and City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand and caused this seal to be affixed.
This 7th of December, 2009.

Bucky Johnson, Mayor

Attest: Susan Wuerzner, City Clerk