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Document Action:	ADD
CommissionApproval:	9/5/2023
Cost:	0.00
Department:	Administration
OrdinanceDate:	9/1/2023
OrdinanceNo:	O-23-0046
Purpose:	Amend Chap 7 Provide Restrictions Food Truck Oper.

Print this cover page and place on top of the documents you wish to scan.

Print Close

O-23-0046

LEGISLATIVE SPONSORS

☑ MAYOR LESTER M. MILLER	☐ MAYOR PRO TEMPORE SETH CLARK
☐ COMMISSIONER VALERIE WYNN	☐ COMMISSIONER PAUL BRONSON
☐ COMMISSIONER ELAINE LUCAS	☐ COMMISSIONER MALLORY C. JONES, III
☐ COMMISSIONER RAYMOND WILDER	☐ COMMISSIONER BILL HOWELL
☐ COMMISSIONER VIRGIL WATKINS, JR.	☐ COMMISSIONER AL TILLMAN

AN ORDINANCE OF THE MACON-BIBB COUNTY COMMISSION TO AMEND CHAPTER 7 OF THE MACON-BIBB COUNTY CODE OF ORDINANCES FOR THE PURPOSE OF REGULATING THE OPERATION OF FOOD TRUCKS WITHIN THE COUNTY AT CERTAIN TIMES; AND FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Macon-Bibb County Commission finds that food trucks and mobile food vendors can be welcome attractions within the community at certain times and locations; that they can provide new or unusual food offerings, as well as access to quality prepared food at locations which may not have permanent restaurant operations or offerings of a similar type; and

WHEREAS, the Macon-Bibb County Commission further finds that some food truck proprietors or mobile food vendors elect to operate their businesses in a manner which can create hazardous conditions for the public or which impose undue hardships on the community; and

WHEREAS, these hazards or hardships can include unauthorized use of rights of way; interfering with public use of sidewalks or parking areas; trespassing on private property; improper disposal of food waste, litter, and grease; contributing to unsafe crowd conditions or traffic congestion; and disrupting or interfering with lawful business operations; and

WHEREAS, Macon-Bibb County has received numerous complaints relating to food trucks and other mobile food vendors operating in hazardous ways or ways that impose hardships on the community during late night or early morning hours; and

WHEREAS, the Macon-Bibb County Commission desires to regulate the operation of food trucks and mobile food vendors as an exercise of its police powers in order to mitigate the negative effects of those bad actors who operate in hazardous or harmful ways; and

WHEREAS, O.C.G.A. § 26-2-379(a) expressly provides that the permitting process for mobile food service establishments, including food trucks and mobile food vendors, only allow such operations "subject to the ordinances of" the local governing city or county; and

WHEREAS, the Macon-Bibb County Commission finds that this Ordinance is necessary and proper to promote or protect the safety, health, peace, security, and general welfare of Macon-Bibb County and its inhabitants;

NOW, THEREFORE, BE IT ORDAINED by the Macon-Bibb County Commission, and it is hereby so ordained by the authority of the same that:

SECTION 1.

Division 7 of Article II of Chapter 7 of the Macon-Bibb County Code of Ordinances, now reserved, is hereby repealed in its entirety and reenacted to provide as follows:

Chapter 7 – BUSINESS REGULATIONS

ARTICLE II. – BUSINESSES

DIVISION 7. – FOOD TRUCKS

Sec. 7-201. – "Food trucks" defined.

For purposes of this Chapter, the term "Food Truck" shall mean the same thing as the term "mobile food service establishment," as defined in O.C.G.A. Title 26, Chapter 2, Article 13, as amended from time to time, and shall include all business operations which actually are permitted as a mobile food service establishment, or which are required by law to be so permitted, notwithstanding whether such establishment actually has a valid mobile food service establishment permit.

Sec. 7-202. – Purpose.

The purpose of this Division is to regulate the operation of Food Trucks, whether lawfully permitted or otherwise. All requirements imposed by this Division shall be cumulative of and in addition to any state laws or permitting or recognition requirements of any county board of health operating within Georgia.

Sec. 7-203. – Restrictions on Food Truck operations.

(a) Food Truck operations within Macon-Bibb County shall be subject to each of the following restrictions:

(1) No Food Truck shall operate anywhere in Macon-Bibb County unless such Food Truck has a valid original Mobile Food Service Unit permit from the office of the Georgia Department of Public Health, or similar successor permit, present in its county of origin, either on display or available to present immediately upon demand.

(2) No Food Truck with a county of origin other than Macon-Bibb County shall operate anywhere in Macon-Bibb County unless such Food Truck also has valid original Authorization to Operate certificate, or similar successor authorization, issued by the Macon-Bibb County Health Department either on display or available to present immediately upon demand.

(3) No Food Truck shall operate anywhere on private property within Macon-Bibb County unless it has documentation evidencing an executed and valid agreement with the landowner or occupant of the premises giving the Food Truck express permission to operate on the premises, or on such portion of the premises as described therein, and on all such dates, at all such times as such Food Truck is actually operating. The documentation required by this paragraph shall be maintained within the Food Truck at all times during operations, and shall either be on display or available to present immediately upon demand.

(4) No Food Truck shall operate anywhere in Macon-Bibb County, whether on public or private property, after 10:00 p.m. on any day or before 7:00 a.m. on any day, unless such Food Truck has a form signed by the mayor of Macon-Bibb County granting express permission for such Food Truck to operate at such time, on such date, and in such location. If the Food Truck is in possession of such permission form signed by the mayor, then such form shall be either on display or available to present immediately upon demand. The permission form required by this paragraph may be a form individually provided to one Food Truck, or may be in the form of a blanket permission granted to all Food Trucks operating as part of an authorized event or function.

(5) No Food Truck shall operate on any public property within Macon-Bibb County or in any rights of way belonging to Macon-Bibb County unless such Food Truck has a form signed by the mayor of Macon-Bibb County granting express permission for such Food Truck to operate at such time, on such date, and in such location. If the Food Truck is in possession of such permission form signed by the mayor, then such form shall be either on display or available to present immediately upon demand. The permission

form required by this paragraph may be a form individually provided to one Food Truck, or may be in the form of a blanket permission granted to all Food Trucks operating as part of an authorized event or function.

(b) Each of the restrictions provided in this Section shall be cumulative of all other federal, state, and local laws and regulations, including without limitation, any relevant regulations or requirements imposed by the Macon-Bibb County Health Department; Macon-Bibb County Planning and Zoning Commission; or any other governmental authority or entity. Nothing in this division shall be construed as creating any exception or exemption from any other laws, regulations, or requirements.

(c) In addition to receiving a citation, any Food Truck operating in violation of subsection (a) of this Section shall be ordered to immediately cease all business transactions within Macon-Bibb County for twenty-four hours, and shall be given a specified reasonable time, not less than fifteen minutes nor more than sixty minutes, in which to fully clean up the Food Truck and all display pieces, food waste, trash receptacles, condiment stations, or similar accompaniments and vacate the premises.

(1) Any Food Truck engaging in any sales within Macon-Bibb County within twenty-four hours of being directed to cease all business transactions pursuant to this Section shall be deemed to have violated this Section. Each separate sale shall be considered a separate violation of this Section, and a separate citation may be issued following the citation for any violations of subsection (a) of this Section or any other provisions in this Code.

(2) Any Food Truck which fails to adequately clean the area surrounding its operational area and depart the premises within the time specified by the responding officer shall be deemed to have violated this section, and a separate citation may be issued following the citation for any violations of subsection (a) or any other provisions of this Code.

(d) Upon conviction, any violations of this Division shall be subject to the general penalty as provided in Section 1-6 of this Code, except that the minimum fine for each separate violation shall be $100.00.

(e) The provisions of this Section may be enforced by the Bibb County Sheriff's Office or the Macon-Bibb County Code Enforcement Department, or any successor department thereto.

(f) It shall be the duty of any officer enforcing the provisions of this Section to cause the impoundment of any Food Truck cited for violating any provision of paragraph (c) of this Section. The enforcing officer may, in their discretion, call for the necessary towing services at the time the operator of a Food Truck is given notice of the need to clean up the

areas and vacate the premises, provided that the Food Truck shall not actually be impounded if the operator thereof completes the process of cleaning up and vacating the premises in the time provided.

(g) Upon learning of any conviction of any violation under this Division, it shall be the duty of the Code Enforcement Department, or any successor department thereto, to transmit a copy of the court record showing the conviction to the Macon-Bibb County Health Department and the Bibb County Sheriff's Office.

Secs. 7-204 – 7-214. Reserved.

SECTION 2.

The preamble of this Ordinance shall be considered to be and is hereby incorporated by references as if fully set out herein.

SECTION 3.

This Ordinance, to the extent necessary, shall be codified in a manner consistent with the laws of the State of Georgia and Macon-Bibb County. Upon adoption, the Clerk of Commission is hereby directed to send a certified copy of this Ordinance to the publisher of the Macon-Bibb County Code of Ordinances for inclusion in future publications.

SECTION 4.

(a) It is hereby declared to the intention of the Macon-Bibb County Commission that all sections, paragraphs, sentences, clauses, and phrases of this Ordinance are and were, upon their enactment, believed by the Macon-Bibb Commission to be fully valid, enforceable, and constitutional.

(b) It is hereby declared to be the intention of the Macon-Bibb County Commission that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause, or phrase of this Chapter is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Macon-Bibb County Commission that, to the greatest extent allowed by law, no section, paragraph, sentence, clause, or phrase of this Ordiannce is mutually dependent upon any other section, paragraph, sentence, clause or phase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment o decree of any court of coempetent jurisdiction, it is the express intent of the Macon-Bibb County Commission that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not

render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs, and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full forece and effect.

SECTION 5.

All ordinances or part of Ordinances in conflict with this Ordinance are, to the extent such conflict, hereby repealed or set aside.

SECTION 6.

In the event scrivener's errors shall be discovered in this Ordinance after the adoption hereof, the Commission hereby authorizes and directs that each such scrivener's error shall be corrected in all multiple counterparts of this Ordinance.

SECTION 7.

This Ordinance shall become effective upon its approval by the Mayor or its adoption into law without such approval.

SO ORDERED AND ORDAINED this 5 day of September, 2023.

Lester M. Miller
LESTER M. MILLER, MAYOR

ATTEST: Janice S. Ross
JANICE S. ROSS, CLERK OF COMMISSION

\\fc-storage.maconbibb.us\countyattstorage\ORD MACON-BIBB\2023 Miller Amending Chapter 7 to Provide Restrictions of Food Truck Operations 8-30-23.docx

Revised 10/02/18

Routing/File Form

Document Type: □ Contract □ Deed ☑ Ordinance □ Resolution □ Grant □ Other
(Check one of the above document types)

PURPOSE: AN ORDINANCE OF THE MACON-BIBB COUNTY COMMISSION TO AMEND CHAPTER 7 OF THE MACON-BIBB COUNTY CODE OF ORDINANCES FOR THE PURPOSE OF REGULATING THE OPERATION OF FOOD TRUCKS WITHIN THE COUNTY AT CERTAIN TIMES; AND FOR OTHER LAWFUL PURPOSES.

Annual Cost: _____

Total Contract Amount: _____

Administering Department or Officer: _____
Contractor(s): _____

_____

Contract Start Date: _____ **Contract End Date:** _____

Funding Source(s): _____

Automatic Renewals: _____ **yes** _____ **no**
Number of Renewals: _____ **Final Expiration Date:** _____

	Ordinance/Resolution		Contracts/Other	
Reviewed By:	**Initials**	**Month/Day/Year**	**Initials**	**Month/Day/Year**
Assistant County Attorney	SDD	9/1/2023		
Sr. Assistant / Cnty. Attorney				
Grant Administrator				
Finance Director	[illegible]	9/5/23		
County Manager				
Mayor				
Clerk of Commission				

Commission Approval ___/___/___

Additional comments, instructions, etc.: _____

_____

ALL FULLY-EXECUTED CONTRACTS ARE TO BE PLACED ON FILE IN THE CLERK OF COMMISSION'S OFFICE AS SOON AS POSSIBLE AFTER EXECUTION.

K:\Atty\TEMPLATES 2014\Template Routing Sheet, 10-02-18.doc

Georgia Department of Public Health

GEORGIA DEPARTMENT OF PUBLIC HEALTH

KATHLEEN E. TOOMEY, M.D., M.P.H., COMMISSIONER

MOBILE FOOD SERVICE UNIT PERMIT

_____ _____

(DATE ISSUED) (PERMIT NUMBER)

A PERMIT IS HEREBY GRANTED TO

_____ to maintain and operate a mobile food service unit

(PERMIT HOLDER)

Name of Mobile Unit: _____

Base of Operation: _____

(NAME OF BASE OF OPERATION)

Location of Base of Operation: _____

(STREET, HIGHWAY, OR RFD) (CITY OR TOWN)

License Plate Number: _____

This permit signifies compliance on the date of issue with the Rules of the Georgia Department of Public Health pursuant to the O.C.G.A. 26-2-373 et seq. and is valid until the permit is suspended, revoked, or expires.

_____

Issuing Official for County Board of Health

DISPLAY FOR PUBLIC VIEW – NOT TRANSFERABLE – PROPERTY OF THE HEALTH AUTHORITY

MOBILE FOOD TRUCK, TRAILER, OR PUSHCART AUTHORIZATION (ADDITIONAL COUNTIES)

Mobile Food Truck Authorization for counties outside the county of origin

THIS APPLICATION IS FOR PERMITTED MOBILE FOOD SERVICE UNIT PERMIT HOLDERS WHO WISH TO OPERATE IN ANOTHER COUNTY FROM THEIR COUNTY OF ORIGIN. PLEASE SUBMIT THIS APPLICATION TO THE COUNTY HEALTH DEPARTMENT IN WHICH YOU WANT TO OPERATE YOUR MOBILE FOOD SERVICE UNIT ALONG WITH THE REQUESTED DOCUMENTATION.

Mobile Food Service Unit Name	**County of Origin Permit Number**	**License Plate Number**

Please enclose the following documents (electronic delivery, such as email submission of these documents is acceptable; contact county for details):

- A Listing of locations, dates, and times in the county the mobile food unit intends to operate. (ex: link to website listing an updated calendar of dates/times)
- Copy of current Menu for mobile listed above
- Proof of compliance with all other applicable local agencies (e.g. zoning, fire, etc.)
- Completed Toilet Use Agreement Form
- Completed Property Use Agreement Form

I attest that the information provided with this document is true and accurate, and that I have not made any changes to my operation since receiving my permit from the county of origin. I agree to comply with the State of Georgia Rules and Regulations for Food Service Chapter 511-6-1. I understand that only the foods listed on the menu submitted with the Base of Operation plans may be prepared and served from this unit. I will notify the health department of jurisdiction at least 7 days in advance of any change in vending locations.

ALL FOOD VENDORS SHALL BE REGISTERED WITH THE CITY / COUNTY BUSINESS LICENSE OFFICE.

Name of Owner or Authorized Agent _____ Title _____

Signature _____ Date _____

Address _____ Phone _____

FOR HEALTH DEPARTMENT USE ONLY:

Top portion of form is to be retained in file; lower portion is to be issued to the mobile food operator for display upon completion of document.

NOTE: *EHS shall enter the information from the permit issued by the county origin below and based off the supplemental documentation provided for review and verification determine if an Authorization to Operate can be issued to operator.*

DATE ISSUED:_____ **DATE OF EXPIRATION:**_____

MOBILE UNIT NAME:_____

MOBILE UNIT PERMIT HOLDER NAME:_____

MOBILE UNIT PERMIT HOLDER PHONE: _____**EMAIL:**_____

MOBILE UNIT PERMIT HOLDER ADDRESS:_____

MOBILE UNIT PERMIT #:_____ **COUNTY:**_____

AUTHORIZATION TO OPERATE APPROVED? ☐ YES ☐ NO **FEES PAID** ❑ YES ❑ NO

AUTHORIZATION TO OPERATE ISSUED BY: _____

COUNTY OF AUTHORIZATION: _____

"AUTHORIZATION TO OPERATE" FOR MOBILE FOOD TRUCK, TRAILER, OR PUSHCART

DATE ISSUED: _____ **DATE OF EXPIRATION (if applicable):**_____

MOBILE UNIT NAME: _____

MOBILE UNIT PERMIT HOLDER NAME: _____

COUNTY: _____

This authorization will allow the mobile unit to operate in the county upon issue. The mobile unit operator is subject to county (health authority) enforcement of the Georgia Food Service Rules and Regulations. The mobile food service establishment shall allow the issuing health authority access of the operation for the purpose of inspection. If the County of Origin for which holds the permit of the mobile food service establishment has an expiration date for such permit, this authorization is subject to the same expiration timeline as said permits. Upon expiration, the mobile unit operator shall renew authorization to continue operation of the mobile unit.

AUTHORIZATION ISSUED BY: _____

PRINTED NAME TITLE SIGNATURE

MOBILE FOOD UNIT OPERATORS SHALL RETAIN FOR HEALTH DEPARTMENT REVIEW DURING INSPECTION.

Georgia Department of Public Health

AUTHORIZATION CERTIFICATE – NOT TRANSFERABLE

Georgia Department of Public Health

MOBILE FOOD SERVICE UNIT PROPERTY USE AGREEMENT

The property owner agrees to allow the Mobile Food Service Unit listed below to use his/her property (indicated below) as a Food Vending Location during the times specified below.

PROPERTY OWNER INFORMATION:

Owner Name: _____ Phone (_____)_____

Street Address of Owner: _____

City: _____ Zip Code: _____

E-Mail Address: _____ Signature: _____

Date: _____

MOBILE FOOD SERVICE UNIT INFORMATION:

Name of Mobile Food Service Unit: _____ Permit #: _____

Name of Mobile Food Service Unit Owner: _____ Phone (_____)_____

Times of Operation: _____

Base of Operation Address: _____ Phone (_____)_____

City: _____ Zip Code: _____

Property/Food Vending Location Address: _____

City: _____ Zip Code: _____

E-Mail Address: _____ Signature: _____

Date: _____

NOTE: As a Mobile Food Service Unit permit holder, I understand and agree that if I make any changes to my Food Vending Location, I must notify the Environmental Health Department (EH) within seven (7) calendar days. I further understand that failure to notify EH of any changes may result in the suspension or revocation of my permit to operate as a Mobile Food Service Unit.

Georgia Department of Public Health

TOILET USE AGREEMENT FOR MOBILE FOOD SERVICE UNIT

Toilet facilities must be located within 200 feet from the Mobile Food Service Unit.

SANITARY TOILET FACILITY INFORMATION:

Owner Name: _____ Phone #: (_____) _____

Owner Street Address: _____

City: _____ Zip Code: _____

Toilet Facility Address: _____

City: _____ Zip Code: _____

I agree to allow the employees and consumers of the Mobile Food Service Unit listed below to use my sanitary toilet facilities at the location listed above during the operational hours of the Mobile Food Service Unit.

Owner Signature: _____ Date: _____

MOBILE FOOD SERVICE UNIT INFORMATION:

Business Name: _____ Permit #: _____

Owner Name: _____ Phone #: (_____) _____

City: _____ Zip Code: _____

Food Vending Location Address: _____ Hours of Operation: _____

Owner Street Address: _____

City: _____ Zip Code: _____

As a Mobile Food Service Unit permit holder, I understand that if toilet facilities are not available for employee/consumer use, then the Mobile Food Service Unit will be removed from the Food Vending Location completely.

Permit Holder Signature: _____ Date: _____

SPONSORED BY:

- ☑ MAYOR LESTER M. MILLER
- ☐ MAYOR PRO TEMPORE SETH CLARK
- ☐ COMMISSIONER VALERIE WYNN
- ☐ COMMISSIONER PAUL BRONSON
- ☐ COMMISSIONER ELAINE LUCAS
- ☐ COMMISSIONER MALLORY C. JONES, III
- ☐ COMMISSIONER RAYMOND WILDER
- ☐ COMMISSIONER BILL HOWEL
- ☐ COMMISSIONER VIRGIL WATKINS, JR.
- ☐ COMMISSIONER AL TILLMAN

COMMITTEE ACTION TAKEN AND DATE:

RECOMMEND: _____

_____
(Approved/Disapproved/Approved as Amended)

_____
Date

APPROVED AS TO FORM BY COUNTY ATTORNEY

Sara D. Davis
Assistant County Attorney

AN ORDINANCE OF THE MACON-BIBB COUNTY COMMISSION TO AMEND CHAPTER 7 OF THE MACON-BIBB COUNTY CODE OF ORDINANCES FOR THE PURPOSE OF REGULATING THE OPERATION OF FOOD TRUCKS WITHIN THE COUNTY AT CERTAIN TIMES; AND FOR OTHER LAWFUL PURPOSES.

Referred to the Committee on _____

_____

Date: _____

REPORT

Rendered September 5, 2023

and approved

VOTE

	Yes	No	Abstain	Absent
Wynn	✓			
Bronson		✓		
Lucas		✓		
Jones	✓			
Clark	✓			
Wilder	✓			
Howell	✓			
Watkins		✓		
Tillman		✓		
Mayor Miller				
Total:	5	4		