

AN ORDINANCE

AN ORDINANCE, AMENDING THE CODE OF GRIFFIN, GEORGIA, AT CHAPTER 54, HEALTH AND SANITATION, BY ADDING A NEW ARTICLE, TO BE NUMBERED ARTICLE III, MOBILE FOOD VENDORS, TO PROVIDE FOR REGULATION OF MOBILE FOOD VENDORS; TO PROVIDE FOR DEFINITIONS; TO PROVIDE PERMIT APPLICATION REQUIREMENTS AND FEES; TO PROVIDE OPERATION REQUIREMENTS; TO PROVIDE FOR ENFORCEMENT THROUGH FINES AND PENALTIES, SUSPENSION, OR REVOCATION; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF GRIFFIN, GEORGIA, AND IT IS ESTABLISHED AS FOLLOWS:

Section 1. The Code of Griffin, Georgia is hereby amended at Chapter 54, HEALTH AND SANITATION, by adding a new Article, to be numbered Article III, MOBILE FOOD VENDORS, which shall include the following language:

“CODE OF GRIFFIN, GEORGIA

CHAPTER 54 – HEALTH AND SANITATION

ARTICLE III – MOBILE FOOD VENDORS

Sec. 54-33. - Short Title.

This article shall be titled the “City of Griffin Mobile Food Vendor Ordinance.”

Sec. 54-34. – Intent; purpose.

It is the purpose of this article to promote access to greater culinary variety and economic growth by facilitating the operation of mobile food vendors and pushcarts within the City in a manner that protects the health, safety, and general welfare of the community. This article establishes reasonable regulations for the operation of mobile food vendors, pushcarts, and ice cream trucks for the purpose of mitigating the impact of their operations and setting a standard for cleanliness, quality of service, and safe operation on public and private property.

Sec. 54-35. – Definitions.

Commissary, also known as *Base of Operations*, means an approved catering establishment, restaurant, or other approved place in which food, containers, or supplies are kept, handled, prepared, packed or stored and which the mobile food vendor is required to return at least daily.

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.

Mobile food vendor, commonly known as a *food truck*, means a retail food establishment that (1) reports and operates from a single commissary; and (2) prepares and serves food from a motorized or towed, wheeled vehicle that is readily moveable and designed and equipped for said purpose.

Pushcart means a human propelled, self-contained food service cart serving prepackaged food or food prepared at a commissary that does not pose a health hazard, provided that carts commercially designed and approved to handle food preparation and service may do so. Pushcarts shall not be required to comply with mobile vehicle safety requirements set forth in Sec. 54-39 of this Article, provided that pushcarts must still comply with any and all safety requirements imposed by the laws of the State of Georgia or regulations of the Department of Agriculture or Health Department.

Sec. 54-36. – Permit required.

- (a) It shall be unlawful for any person to sell, or offer for sale, food or beverages of any type from a commissary, mobile food vendor, ice cream truck, or pushcart without a permit first having been granted under the terms of this Article, except where expressly authorized as part of a city-sponsored or sanctioned special event. The permit under which a mobile food vendor, ice cream truck, or pushcart is operating must be firmly attached and visible on the vending vehicle or cart at all times.
- (b) 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.

Sec. 54-37. – Application requirements;

- (a) Permit applications for mobile food vendors, ice cream trucks, and pushcarts shall be submitted to the Department of Planning & Development Services using the forms provided by the Department.
- (b) Review of an application shall be conducted in accordance with due process principles and shall be granted unless the applicant fails to meet the conditions and requirements of this article, state law, or local ordinance related to the operation of a mobile food vendor, ice cream truck, or pushcart, or otherwise fails to demonstrate the ability to comply with this Code or state law in the operation of the proposed mobile food service. Any false statements or misleading information provided in the application are grounds for revocation, suspension and/or impositions of penalties, including denial of future applications.
- (c) Applications for mobile food vendor and pushcart permits shall include the following:
 - (1) Name of mobile food vendor or pushcart vendor business, including any “DBA” name;

- (2) Type of vendor (mobile food vendor or pushcart) and description of food service provided (e.g. prepackaged food, pre-prepared commissary food, mobile prepared food, etc.)
- (3) Make, model, and (where applicable) license plate number of the vending unit;
- (4) Phone, email, and address of owner of the mobile food vendor unit or pushcart, and/or contact information for an authorized representative capable of binding the business entity;
- (5) Phone, email, and address of operator of the mobile food vendor unit or pushcart;
- (6) Copy of the approved permit from the county of origin health department;
- (7) Copy of the approved letter of authorization from Spalding County Health Department;
- (8) List of operating locations and proposed schedule for operation, to be updated as needed;
- (9) Written authorization from the owner of each property where the mobile food vendor or pushcart intends to operate;
- (10) Acknowledgment and agreement to abide by the terms of the Code of Griffin and laws of the State of Georgia in the operation of the mobile food vendor unit or pushcart within the City;
- (11) Annual inspection report from the City of Griffin Fire Department;
- (12) If food is being prepared on the mobile food vendor vehicle or pushcart, proof of liability insurance policy with at least \$1,000,000.00 coverage, issued by an insurance company licensed to do business in Georgia, for all claims of damage to property or bodily injury, including death, which may arise from operation of the mobile food vendor or pushcart;
- (13) If proposing to operate after dark, a lighting plan which includes use of shielded fixtures and which is designed and installed in a manner to minimize upward light pollution and soften the impact of reflected light. Lighting plans shall not include use of spotlights, flashing lights, strobes, or any other lighting arrangement that would constitute a nuisance or distraction to nearby motorists or residential dwellings. Operating after dark without lighting or installing lighting for night operation without first submitting a lighting plan to the Department of Planning and Development shall constitute a violation of this Article and shall permit the City to immediately impose a cease and desist on operations of the mobile food vendor or pushcart until such plan has been approved;
- (14) Indemnity agreement whereby the applicant agrees to release the City, its agents, employees, or elected officials from any and all liability for claims, actions, or suits arising from the applicant's operation as a mobile food vendor or pushcart;
- (15) Annual occupational tax certificate from the City of Griffin Tax and Licensing Administrator. The mobile food vendor or pushcart shall renew any occupational tax certificate in accordance with Chapter 82 of this Code, including providing any and all required documentation; and

(16) Other information or documents the City deems necessary to confirm the accuracy of the application.

(d) Applications for ice cream truck permits shall include the following:

- (1) Name of ice cream truck business, including any “DBA” name;
- (2) Type of ice cream truck vendor (street vending unit or sidewalk vending unit);
- (3) Make, model, and (where applicable) license plate number of the vending unit;
- (4) Phone, email, and address of owner of the ice cream truck, and/or contact information for an authorized representative capable of binding the business entity;
- (5) Phone, email, and address of operator of the ice cream truck;
- (6) Copy of the approved permit from the state department of agriculture;
- (7) Written authorization from the owner of each property where the ice cream truck intends to operate, where applicable;
- (8) Acknowledgment and agreement to abide by the terms of the Code of Griffin and laws of the State of Georgia in the operation of the ice cream truck within the City;
- (9) Indemnity agreement whereby the applicant agrees to release the City, its agents, employees, or elected officials from any and all liability for claims, actions, or suits arising from the applicant’s operation as a mobile food vendor or pushcart;
- (10) Annual occupational tax certificate from the City of Griffin Tax and Licensing Administrator. The mobile food vendor or pushcart shall renew any occupational tax certificate in accordance with Chapter 82 of this Code, including providing any and all required documentation; and
- (11) Other information or documents the City deems necessary to confirm the accuracy of the application.

Sec. 54-38. – Operating requirements and restrictions.

- (a) Mobile food vendors, pushcarts, and ice cream trucks shall comply with all state, federal, and local health and safety regulations and requirements. Vendors permitted to operate under this article shall maintain any and all licenses and insurance required by any other health organization or governmental organization having jurisdiction over this subject matter.
- (b) No mobile food vendor or pushcart shall conduct business or operate in the public rights-of-way except where expressly authorized as part of a city-sponsored or sanctioned special event. Ice cream trucks may operate in the public rights-of-way provided that they do not park for extended periods of time, violate rules of the road, or operate in a manner that interferes with traffic or poses a safety hazard to pedestrians or other drivers.
- (c) Except where expressly authorized by a city-issued special event permit, mobile food vendors and pushcarts shall only be permitted to operate on private property within the Central Business District (CBD), Planned Commercial Development (PCD), Planned Industrial Development (PID) and Institutional Zoning (INST) districts.

- (1) A mobile food vendor or pushcart shall not operate on any private property without the prior written consent of the property owner. However, operation of mobile food vendors or pushcarts on private property which contains a vacant or unused structure is expressly prohibited.
 - (2) Mobile food vendors and pushcarts permitted to operate in the City are required to provide the location of every private property address where they are authorized to operate and a written confirmation from the property owner as evidence of the authorization. The mobile food vendors and pushcart vendors shall update the Planning and Development Department if authorization is revoked. If a mobile food vendor or pushcart obtains additional property authorizations, they must notify the City, provide documentation, and pay the required fee prior to operating at the new location. Failure to do so constitutes a violation of this Article.
 - (3) Except where expressly authorized as part of a city-issued special event permit, no more than one mobile food vendor or pushcart may operate on any single property at one time, regardless of the size of the property. It shall be the responsibility of the property owner to organize and schedule the operation of authorized mobile food vendors and pushcarts on their property to ensure that no more than one food truck or pushcart is operating at one time. In the event the City determines that more than one vendor is operating on the property, the City may require all vendors to leave the private property. The City will not be responsible for any civil damages which may arise between the owner of the property and the vendors they have authorized to operate on their property.
 - (4) The mobile food vendor, pushcart vendor, and property owner shall be responsible for daily cleanup and proper disposal of litter and trash associated with the operation of the mobile food vendor or pushcart on the property. If a mobile food vendor or pushcart vendor operating on private property fails to clean up the property, the property owner is ultimately responsible for the condition of their property. The City may cite the property owner for nuisance conditions or code violations on private property arising from the operation of mobile food vendors or pushcarts authorized by the property owner, including, but not limited to, littering or general cleanliness.
 - (5) Except where expressly authorized as part of a city-issued special event permit, mobile food vendors and pushcarts shall occupy no more than ten percent (10%) of the designated parking spaces on a given property. At no time shall the mobile food vendor or pushcart reduce the number of parking spaces on a property below the minimum required by the Code of Griffin or the Unified Development Code. A minimum of two off-street parking spaces shall be reserved for the exclusive use of customers of each mobile food vendor or pushcart. All parking spaces shall be paved.
 - (6) Vending structures, including, but not limited to, food trucks, pushcarts, tables, or other structures or vehicles associated with the operation of a mobile food vendor or pushcart, shall not be left unattended. Additionally, vending structures shall not be stored at any authorized or unauthorized vending property or location during the restricted hours of operation or when the mobile food vendor or pushcart is not operating or vending.
- (d) Except where expressly authorized by a city-issued special event permit, a mobile food vendor, pushcart, or ice cream truck:

- (1) Shall only be permitted to operate between the hours of 8:00 a.m. and 8:00 p.m.;
- (2) Shall not be located within fifteen (15) feet of any street intersection or pedestrian crosswalk or ten (10) feet of any driveway;
- (3) Shall only sell food, including ice cream or other ice confection products, and non-alcoholic beverage items;
- (4) Shall not operate the food truck as a drive-in window;
- (5) Shall be permitted to set up one (1) table with a maximum size of three feet by six feet solely intended to provide condiments to patrons, provided that the table is covered with a table cloth or other similar covering;
- (6) Shall not be permitted to erect tents or tarps or any kind;
- (7) Shall provide all services from the mobile food vendor vehicle/unit, pushcart, or ice cream truck;
- (8) Shall, at all times, remain in compliance with the City's noise ordinance;
- (9) Shall provide a covered trash receptacle for customers to use;
- (10) Shall not be permitted to erect signage except:
 - (i) A sign permanently attached to the motor vehicle; and
 - (ii) One (1) a-frame sign placed adjacent to the mobile food vendor unit or pushcart which shall not exceed six square feet in area.
- (11) Shall not make sounds or announcements to call attention to the mobile food vendor or pushcart while traveling on the public rights-of-way or when stationary, provided that ice cream trucks may make such sounds if they are in compliance with the City's noise ordinance and State law; and
- (12) Shall mark both sides of the vending vehicle or cart in letters and numbers at least three inches in height with the name and address of the mobile food vendor, pushcart, or ice cream truck licensee.

Sec. 54-39. – Mobile Food Vendor and Ice Cream Truck Vehicle Safety Requirements.

Except as otherwise permitted and described in this Article, a mobile food vendor or ice cream truck must operate from a motorized, wheeled vehicle capable of being lawfully driven or towed upon the streets and roadways within the State of Georgia. Any driver of a mobile food vendor vehicle must possess a valid driver's license.

In addition to any and all safety requirements imposed by the laws of the State of Georgia or the Health Department, self-propelled mobile food vendor vehicles or ice cream trucks operating under this article must be equipped with the following:

- (a) A reverse gear signal alarm with a sound distinguishable from the surrounding noise level; and

- (b) Two rear-vision mirrors (one on each side of the vehicle), firmly attached to the outside of the vehicle and located in a manner that will reflect to the driver a view of the highway to the rear of the vehicle.

Sec. 54-40. – Violations; Enforcement.

- (a) Failure to abide by the terms of this article in the operation of a mobile food vendor, pushcart, or ice cream truck shall be subject to a citation which shall be set before the City of Griffin Municipal Court. The City shall not be required to issue any warning related to violations of this article, provided that a copy of this article is provided to the mobile food vendor, pushcart, or ice cream truck at the time the permit is issued.

- (1) Nothing herein shall prevent the City from issuing a citation against the owner of private property who authorized the operation of a mobile food vendor, pushcart, or ice cream truck on their property for conditions on the property that are in violation of this article or the Code of Griffin. Citations against the private property owner may be in lieu of or in addition to citations issued to the operator of the mobile food vendor, pushcart, or ice cream truck.

- (b) Violations of this article, other than operating a mobile food vendor unit, pushcart, or ice cream truck without a permit, are subject to the following fines which may not be waived or reduced and which may be combined with any other legal remedy available to the City:

- (1) First Violation: \$300.00

- (2) Second Violation: \$500.00

- (3) Third Violation: \$1,000.00

- (i) When a mobile food vendor, pushcart, or ice cream truck has accumulated three violations the Planning and Development Services Director shall revoke the vendor's permit and reject all applications for the mobile food vendor, pushcart, or ice cream truck for a period of twelve (12) consecutive months.

- (c) Mobile food vendors, pushcarts, or ice cream trucks operating without a permit shall be subject to a minimum fine of \$1,000.00. If a mobile food vendor, pushcart, or ice cream truck applies for a permit after being cited for operating without a permit, the initial annual permit fee shall be doubled.

- (d) Nothing in this section shall limit the city from enforcement of its code, state, or federal law by any other legal remedy available to the city. Nothing in this article shall be construed to limit or supplant the power of any city inspector, deputy marshal, or other duly empowered officer under the city's ordinances, rules and regulations and the authority granted under state law, as amended, to take necessary action to protect the public from conditions which constitute a public nuisance or public health hazard.

- (1) Any accumulation of violations or repeated violations of this article is declared to be a nuisance. Failure of the operator of the mobile food vendor, pushcart, or ice cream truck, or the owner of the private property where said vendor is operating, to correct the violation or prevent it from reoccurring shall raise the presumption that such person intended to violate the article and such violation may be treated as a nuisance and prosecuted as provided in Chapter 22 or Chapter 42 of this Code, as applicable. As a remedy, the City may request an order enjoining the private property from being used by any mobile food vendor, pushcart, or ice cream truck until a plan to remedy and prevent the violations has been submitted and approved by the Court.

Sec. 54-41. – Revocation, suspension, or denial of permit;

- (a) The Director of Planning and Development Services may revoke, suspend, or deny an application for a mobile food vendor, pushcart, or ice cream truck permit. Written notice, sent via Certified Mail, return receipt requested, setting forth the cause of action (suspension, revocation, denial) and the reasons must be sent to the address provided by in the applicant or permit holder's application. The following is a non-exhaustive list of conditions which may result in revocation, suspension, or denial of a permit:
 - (1) Applicant/Permit holder provided false or misleading information in the initial application or renewal application;
 - (2) Applicant/Permit holder fails to meet the application or renewal requirements set forth in this article;
 - (3) Permit holder violates the regulations set forth in this article three or more times, as determined by the Municipal Court;
 - (4) Applicant or permit holder owes any monetary obligation to the City pursuant to any section of this Code or by court order, including but not limited to permit fees, license fees, and fines assessed by the Court;
 - (5) Permit holder fails to maintain liability insurance required to operate as a mobile food vendor, pushcart, or ice cream truck;
 - (6) Permit holder is operating in a manner that, in the City's discretion, constitutes a nuisance and requires the vendor to immediately cease operations; or
 - (7) Permit holder fails to maintain the required licenses or approvals from the Health Department, Department of Agriculture, or other state or local regulation.
- (b) A person aggrieved by the Planning and Development Services Director's decision to revoke, suspend, or deny a mobile food vendor, pushcart, or ice cream truck permit may appeal the decision to the City Manager. The appeal must be filed with the City Manager's office in writing within thirty (30) calendar days from the date of the notice described in Subsection (a) of this Section and must include a concise statement of the reasons for the appeal. Filing of a timely appeal with the City Manager shall not stay the denial, suspension or revocation. The City Manager shall consider the appeal within thirty (30) days after receipt of the appeal request by the City Manager, unless otherwise agreed in writing by the City and aggrieved party. The City Manager shall render a determination, which will constitute a final ruling on the application or permit. In the City Manager's discretion, he or she may offer a provisional permit subject to additional conditions and restrictions on the operation of the mobile food vendor, pushcart, or ice cream truck.

Sec. 54-41. – Disclaimer.

All persons or businesses who operate as a mobile food vendor, pushcart, or ice cream truck, or persons who approach or consume food from these vendors, do so with their own judgment and at their own risk and must be attentive to their safety. Notwithstanding any law to the contrary, the City expressly denies any liability in negligence, nuisance, or under any other cause of action for losses resulting from the operation or consumer use of mobile food vendors, pushcarts, or ice cream trucks on private property, public roads, rights-of-way, or other public property.

Sec. 54-42. – Fees.

Permits for mobile food vendors, pushcarts, and ice cream trucks must be renewed on an annual basis.

Mobile food vendors and pushcarts shall be assessed a permit fee of \$300.00 for the initial application and all subsequent renewals, regardless of Base of Operations status. This permit fee shall cover any costs associated with the business's annual occupational tax certificate. Any mobile food vendor or pushcart beginning business on or after July 1 shall pay an initial permit fee of \$150.00. In addition to the annual permit fee, a \$25.00 fee shall be charged per property where the mobile food vendor or pushcart is authorized to operate.

Ice cream trucks are exempt from the annual permit fee, provided the business shall still submit an annual permit application or renewal, pay its occupational tax on a timely basis, and abide by all other provisions of this Article. ”

Section 2. All ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed.

Section 3. Should any provision of this ordinance be rendered invalid by any court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the municipal governing authority.

Section 4. Except as modified herein, The Code of Griffin, Georgia, is hereby reaffirmed and restated. The codifier is hereby granted editorial license to include this amendment in future supplements of said Code by appropriate section, division, article or chapter. The city attorney is directed and authorized to direct the codifier to make necessary minor, non-substantive corrections to the provisions of this Code, including but not limited to, the misspelling of words, typographical errors, duplicate pages, incorrect references to state or federal laws, statutes, this Code, or other codes or similar legal or technical sources, and other similar amendments, without necessity of passage of a corrective ordinance or other action of the Board of Commissioners. The city secretary shall, upon the written advice or recommendation of the city attorney and without the necessity of further council action, alter, amend or supplement any non-codified ordinance, resolution or other record filed in his or her office as necessary to effect similar non-substantive changes or revisions and ensure that such public records are correct, complete and accurate.

Section 5. This ordinance shall become effective June 17, 2024.

First Reading: May 14, 2024

Second Reading: May 28, 2024