

**AN ORDINANCE**

**AMENDING**, the Article 8-12-27 – Mobile Retail Food Establishments to modify permitting procedures and requirements.

**NOW, THEREFORE BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA, THAT:**

**Section 1:** ARTICLE 8-12-27 - MOBILE RETAIL FOOD ESTABLISHMENTS is hereby amended as follows:

**ARTICLE 8-12-27 - MOBILE RETAIL FOOD ESTABLISHMENTS**

**8-12-27-010 - Definitions.**

- A. 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.
- B. Mobile retail food establishment shall mean 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 serve food.
- C. Pushcart shall mean a nonself-propelled vehicle limited to serving commissary prepared or prepackaged food and nonpotentially 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.
- D. Temporary retail food establishment shall mean a retail food establishment, other than a licensed mobile retail food establishment or pushcart, that is not intended to be permanent and that operates at a fixed location for a period of time as authorized within the zoning ordinance (Division 708).

(Ord. No. 6282, 9/12/2001, § 1)

**8-12-27-020 - [License required.]**

- A. It shall be unlawful for any person to sell, offer for sale, food of any type from a commissary, mobile retail food establishment, pushcart or temporary food establishment without a license first having been granted under this section, except for city sponsored events.
- B. An application for a license or a permit hereunder shall be submitted to the manager of the business license department of the City of Marietta setting forth all information required hereunder and in compliance with this ordinance. The business license manager may develop a form of application for the purpose of compliance with this article. The review process for said application shall be conducted in conformity with Marietta Code Section 8-4-080 as now existing or as may be hereafter amended.

(Ord. No. 6282, 9/12/2001, § 1)

**8-12-27-030 - Prohibited conduct and requirements.**

- A. The mobile retail food establishment shall not conduct business or operate under this article on the public right-of-way.
- B. The mobile retail food establishment shall not operate on any private property without the prior consent of the owners.
- C. The mobile retail food establishment shall maintain a \$1,000,000.00 liability policy. Proof of current liability insurance, issued by an insurance company licensed to do business in the state, protecting the licensee, 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. Such insurance shall name the city as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration dated without 30 days' advanced written notice to the city.
- D. The mobile retail food establishment shall not emit sounds, outcry, speaker, amplifier or announcements while traveling on the public rights-of-way.
- E. The mobile retail food establishment shall maintain all state licenses and follow all laws of the state and county health departments.
- F. The license under which a mobile retail food establishment is operating must be firmly attached and visible on the mobile retail food establishment or pushcart at all times.
- G. No sale or offer for sale shall be made by any licensee between 9:00 p.m. and 6:30 a.m. within areas residentially zoned and between 10:00 p.m. and 6:30 a.m. in all other zoning classes.**
- H. The mobile retail food establishment 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.
- I. The following safety regulations shall apply to any and all vehicles operating under this article or used for mobile retail food establishments:
  - 1. Every vehicle shall be equipped with a reverse gear signal alarm with a sound distinguishable from the surrounding noise level.
  - 2. Every 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.
- J. The mobile retail food establishment shall sell only food and non-alcoholic beverages.

(Ord. No. 6282, 9/12/2001, § 1)

#### 8-12-27-040 - Indemnity.

As part of the permitting process set forth herein, any person or entity receiving a permit set forth herein shall execute an indemnity agreement indemnifying and releasing the City of Marietta, its agents, employees and elected officials from any and all liability against any and all claims, actions and suits of any type whatsoever.

(Ord. No. 6282, 9/12/2001, § 1)

#### 8-12-27-050 - Appeals.

Appeals from the grant or denial of a license shall be filed and processed in accordance with the procedures set forth in Marietta Code Section 8-4-080 as now existing or as may be hereafter amended.

(Ord. No. 6282, 9/12/2001, § 1)

8-12-27-060 - Revocation and suspension.

The city shall have the right to revoke or suspend any license granted hereunder in accordance with the procedures set forth in Marietta Code section 8-4-405 as now existing or as may be hereafter amended and appeals from the revocation or suspension shall likewise be governed by that section.

(Ord. No. 6282, 9/12/2001, § 1)

**Section 2:** It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses, and phrases are severable and if any section, paragraph, sentence, clause, or phrase of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

**Section 3:** All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

**Section 4:** This Ordinance shall be effective upon signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

Approved as to Form:

  
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Douglas R. Haynie, City Attorney


Approved by City Council:

DATE: September 11, 2019

APPROVED:

  
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R. Steve Tumlin, Jr., Mayor

ATTEST:

  
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Stephanie Guy, City Clerk