

STATE OF GEORGIA

CITY OF HAMPTON

ADOPTED BY THE GOVERNING BODY THIS 13th DAY OF September 2022.

ORDINANCE NO. **2022-577**

AN ORDINANCE OF THE CITY OF HAMPTON'S MAYOR AND COUNCIL AMENDING CHAPTER 22 BUSINESS REGULATIONS TO ADD ARTICLE XV MOBILE FOOD VENDORS; TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, the City of Hampton (hereinafter "City") is governed by the Mayor and Council; and

WHEREAS, it is the desire of this Council to allow for food trucks and mobile food vendors to do business in the City provided the activity is safe and protects the welfare of the citizenry; and

AND WHEREAS, it is in the City's best interest to revise the current Code of Ordinances to amend Chapter 22 Business Regulations to add an Article XV for Mobile Food Vendors to allow for the regulated activity within the City.

Section 1. NOW THEREFORE IT IS HEREBY RESOLVED Chapter 22 Business Regulations of the City Code be amended to add an Article XV entitled Mobile Food Vendors so that as newly created, Article XV Mobile Food Vendors shall read:

Article XV. Mobile Food Vendors

Sec. 22.530 - Regulation and licensing of mobile food vendors.

(a) Permit Required. 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.

(b) Definitions.

Ancillary use. A use that allows a business or property to operate a food truck ancillary to an existing business for limited periods or during special events. No more than two (2) food trucks are allowed as an ancillary use.

City. City shall mean the City of Hampton.

Food truck. A motorized vehicle or trailer drawn by a motorized vehicle used to prepare and sell food to the public directly from the vehicle or trailer which require licensing with the State Department of Environmental Health and the City. A food truck may operate as an ancillary use, or within a private or public food truck court, or on privately owned property or on a public street as approved by the City Police Department.

Food truck court. An area designated on a site for hosting food trucks, subject to the requirements of Appendix A, Article 4, Section 4-16 and the mobile food vendor requirements of Chapter 11, Article XIV, Section 22.520.

Mobile Food Vendor. Any person or entity that prepares and sells food from a food truck.

- (c) Application for Permit.** *The Main Street Director shall develop a form application for the purpose of compliance with this article. Upon completion, the application shall be submitted to the Main Street Director or his/ her designee setting forth all information as required by this article. The application shall be submitted at least thirty (30) days prior to the requested date(s) for the food truck to operate in the City.*
- (d) Property Owner Consent.** *Mobile food vendors operating as an ancillary use or on privately owned property shall obtain written, notarized consent from the property owner where the food truck will be located. No property owner may consent to allowing a food truck to stage in the right-of-way or within the setbacks of the property. This consent shall be submitted to the City during the application process and be available for inspection on the vehicle. Lack of written consent will constitute of violation of this Code and may result in citation and the food truck being required to leave the premises immediately.*
- (e) Length of Permit.** *Mobile food vendor permits shall be active for:*

 - (1)** *Mobile food vendors operating in the public right of way, on private property, within a food truck court, or operating as an ancillary use may obtain no more than one three (3) consecutive day permit per calendar year (January 1st—December 31st) limited to the location designated and approved on the application.*
 - (2)** *Mobile food vendors operating in the public right of way, on private property, within a food truck court, or operating as an ancillary use may obtain a thirty (30) consecutive day permit limited to the location designated and approved on the application.*
 - (3)** *Mobile food vendors operating in the public right of way, on private property, within a food truck court, or operating as an ancillary use may apply for an annual (calendar year) permit which shall be valid from the day of issuance and expiring on December 31st each year. Annual permits are limited to locations designated and approved on the application.*
- (f) Contents of Permit Application.** *The following information shall be submitted with each application for a mobile food vendor permit:*

 - (1)** *Name of the mobile food vendor;*

- (2) *Make, model and license plate number of all units associated with the vending unit, including the vending unit;*
 - (3) *Owner's contact information;*
 - (4) *Operator's contact information;*
 - (5) *Sales tax number with a copy of sales tax permit;*
 - (6) *Copy of approved permit from the County Health Department and Fire Safety Certificate of inspection;*
 - (7) *List of operating locations and times including map detailing the position of the vehicle, and current zoning in said locations;*
 - (8) *Lease/rental agreements between property owners and mobile food vendors and/or notarized property owner consent;*
 - (9) *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;*
 - (10) *Proof of a current \$1,000,000.00 liability insurance policy 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;*
 - (11) *Property owner consent;*
 - (12) *Signature of applicant indicating agreement to the listed requirements; and*
 - (13) *An application fee as required by the City's Fee Schedule (on file with City Clerk).*
- (g) ***Fee Waiver.*** *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 Main Street Director. However, all mobile food vendors must fill out an application form, execute an indemnification agreement, and provide the City with all necessary documentation as required herein.*
- (h) ***Operating in the Public Right-of-Way.*** *Permits may be approved to allow mobile food vendors to conduct business or operate in the public right-of-way or City-owned property provided that parking in the right-of way is legally allowed and does not impede the flow of traffic. A determination of traffic impediment shall be made by the City Police Department. Mobile food vendors must be located in a space that can safely be accessible by patrons. Mobile food vendors cannot be parked on sidewalks, be located within any required setback, or in any sight distance triangle. Access aisles sufficient to provide emergency access to any food truck shall be provided. Parking on public, city-owned grass*

areas is permissible with prior approval from the Main Street Director at the time of application. An application to operate on City-owned property shall:

- (1) Receive permission from the Main Street Director; and
- (2) Indicate the appropriate City-owned location, date, and times of use on the application; and
- (3) At no time authorize a mobile food vendor to park overnight.

- (i) **Overnight Parking Prohibited.** A mobile food vendor shall not be allowed to park overnight on any public or private property.
- (j) **Noise.** 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. At all times said mobile food vendor shall be in compliance with the City's noise ordinance Chapter 54.
- (k) **Visibility of Permit.** The permit under which a mobile food vendor is operating must be available and visible on the mobile food vendor at all times.
- (l) **Hours.** A mobile food vendor shall not sell or offer to sell any goods, foods, products, or services between the hours of 10:00 p.m. to 7:00 a.m.
- (m) **Unattended Vehicles.** Vending vehicles and 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.
- (n) **Trash Disposal.** Each mobile food vendor shall provide at least one trash receptacle for its patrons that is regularly emptied and shall remove all such waste materials before departing from the site. Such waste materials shall be disposed of at the mobile food vendor's base of operations. The mobile food vendor shall be responsible for maintaining the area around their vehicle clear of trash and debris at all times.
- (o) **Compliance with Law.** 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.
- (p) **Violations and Revocation.**

(1) Any mobile food vendor found to be in violation of the provisions of this chapter shall be subject to revocation of its permit, a citation, and punished as provided in Section q (1-4).

- (q). **Revocation.**

(1) Any permit issued pursuant to this section may be revoked when it is found to be in violation of this article.

- (2) *Should the city manager or his/ her designee, find that conditions exist which are in violation of any provision of this article, it shall give notice to the permittee or owner that unless such conditions or practices are corrected within 10 days, the permit will be revoked. Notice shall be served either personally or by certified mail, return receipt requested.*
- (3) *If at the end of the 10 days, a further inspection reveals that the conditions or practices have not been corrected, the city manager shall then revoke the permit and give notice of such suspension in writing to the permittee or owner. Upon notice of revocation, the permittee or owner shall cease operation of the food truck.*
- (4) *The permittee may appeal the revocation to the city council within 15 days of the city manager's or his/ her designee's, notice of revocation by giving notice of appeal to the City Clerk. The decision of the City Council shall be final.*

Section 2. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City of Hampton.

Section 4. This Ordinance shall take effect immediately upon its adoption. All Ordinances in conflict herewith are expressly repealed. It is the intention of the governing body, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances, City of Hampton, Georgia, and the sections of this Ordinance may be renumbered, if necessary, to accomplish such intention.

Section 5.

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause and phrase of this Ordinance 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 Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase 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 or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council 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 Article shall remain valid, constitutional, enforceable, and of full force and effect.

Section 6. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 7. The effective date of this Ordinance shall be the date of adoption unless otherwise specified herein.

SO ORDAINED, this 13th day of September 2022.

CITY OF HAMPTON, GEORGIA


ANN TARPLEY, Mayor

ATTEST:


RASHIDA FAIRLEY, City Clerk

APPROVED AS TO FORM:


L'ERIN BARNES WIGGINS, City Attorney

First Reading: 08/09/2022

Second Reading/

Adoption: 09/13/2022