

AN ORDINANCE

AN ORDINANCE AMENDING THE CODE OF SENOIA, GEORGIA AT CHAPTER 36, FOOD SERVICE ESTABLISHMENTS, IN ITS ENTIRETY AND ENACTING NEW REGULATIONS GOVERNING OPERATION OF FOOD SERVICE ESTABLISHMENTS WITHIN THE CITY OF SENOIA, INCLUDING MOBILE FOOD SERVICE UNITS; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE FOR SEVERABILITY; TO RESTATE AND REAFFIRM THE CODE OF SENOIA, GEORGIA, AS MODIFIED HEREBY; TO REPEAL ALL CODE PROVISIONS, ORDINANCES, OR PARTS THEREOF, IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SENOIA, GEORGIA, AND IT IS ESTABLISHED AS FOLLOWS:

Sec. 1. The Code of Senoia, Georgia is hereby amended at Chapter 36, FOOD SERVICE ESTABLISHMENTS, by deleting the present chapter in its entirety and enacting in lieu thereof a new Chapter 36, to provide as follows:

“CHAPTER 36 – FOOD SERVICE ESTABLISHMENTS; MOBILE FOOD SERVICE UNITS.

Sec. 36-1. - Purpose.

- (a) The purpose of this chapter is to promote the health, safety, and general welfare of the general public by requiring that all food service establishments, mobile food service units, and temporary food service establishments operating within the City provide residents and customers with the highest level of cleanliness, quality and safety.
- (b) The Rules and Regulations of the Georgia Department of Public Health are hereby adopted and, by reference, incorporated herein as if fully set out in this chapter. The Coweta County Board of Health, as authorized by law, shall act for and on behalf of the City by regulating all food service establishments within the City and is authorized and empowered by the City to enforce the terms and conditions of this chapter, and the Rules and Regulations of the Georgia Department of Public Health, upon citation filed in the Municipal Court of said City.
- (c) It is also the purpose of this chapter to establish reasonable guidelines and restrictions for mobile food service units in relationship to permanent food service establishments operating within the City, as to ensure the safe and convenient use of the public rights-of-way.

Sec. 36-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Food service establishment" means public or private establishments which prepare and serve meals, lunches, short orders, sandwiches, frozen desserts, or other edible products directly to the consumer either for carry out or service within the establishment. The term includes restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; taverns; lunchrooms; places which retail sandwiches or salads; soda fountains; food carts; itinerant restaurants; industrial cafeterias; catering establishments; and similar facilities by whatever name called. Within a food service establishment, there may be a food sales component, not separately operated. This food sales component shall be considered as part of the food service establishment. This term shall not include the following:

(a) a "food sales establishment" as defined in the O.C.G.A. Section 26-2-21 and subject to regulation by the Georgia Commissioner of Agriculture, except as stated in this definition. The food service component of any food sales establishment defined in O.C.G.A. Section 26-2-21 shall not be included in this exception;

(b) any outdoor recreation activity sponsored by the state, a county, a municipality, or any department or entity thereof, any outdoor or indoor (other than school cafeteria food service) public school function, or any outdoor private school function;

(c) any organization which is operating on its own property or on the property of a party that has provided written consent for the use of such property for such purpose and which is exempt from taxes under O.C.G.A. Section 48-7-25(a)(1) or under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of Section 501 (c) of the Internal Revenue Code for the purpose of operating a house or other residential structures where seriously ill or injured children and their families are provided temporary accommodations in proximity to their treatment hospitals and where food is prepared, served, transported, or stored by volunteer personnel;

(d) establishments for the preparation and serving of meals, lunches, short orders, sandwiches, frozen desserts, or other edible products if such preparation or serving is an authorized part of and occurs upon the site of an event which: 1. Is sponsored by a political subdivision of this state or by an organization exempt from taxes under of O.C.G.A. Section 48-7-25(a)(1) or under Section 501(d) or paragraphs (1) through (8) or paragraph (10) of section 501(c) of the Internal Revenue Code, as that code is defined in O.C.G.A. Section 48-1-2;

2. Is held on the property of such sponsor or on the property of a party that has provided written consent for use of such property for such event;

3. Lasts 120 hours or less; and

4. When sponsored by such an organization, is authorized to be conducted pursuant to a permit issued by the municipality or county in which it is conducted.

“General public” means all individuals who have access to facilities that prepare and serve or sell food, including but not limited to, beneficiaries of governmental or private charitable feeding programs such as soup kitchens; and residents and employees of institutions that provide meals to their residents or employees either with or without direct payment to the institution by the residents or employees such as nursing homes, personal care homes with 25 or more beds, and residential childcare institutions with 13 or more children. It does not include:

(a) residents of private homes or home environments where residents take part in preparing and serving their own meals;

(b) guests in private homes; or

(c) participants in a pot-luck dinner, covered dish supper, or similar event in which the food is prepared or contributed by the participants.

“Health Authority” means the Georgia Department of Public Health, or the Coweta County Board of Health when acting as its agent.

“Mobile food service establishment” means one or more mobile food service units operating from a single base of operation and under the managerial authority of one permit holder.

“Mobile food service unit” means an independent trailer, motor driven or manually propelled pushcart, food truck, watercraft, movable portable structure, vehicle vendor or any other similar conveyance which is not connected to a permanent water supply or sewer disposal system and from which food is offered for sale or service.

“Person” means an association, a corporation, individual, partnership, other legal entity, government, or governmental subdivision or agency.

“Pushcart” means a human propelled, self-contained, enclosed food service cart that operates at predetermined locations as approved by the Health Authority. Its menu is limited to the preparation and serving of hot dogs or fully cooked encased sausages requiring reheating only, condiments such as commercially prepared chili dispensed from approved dispensers, and commercially prepared, prepackaged, time/temperature control for safety foods such as burritos and tamales, served in their original packaging, requiring reheating only or limited to serving non-time/temperature control for safety foods.

“Temporary food service establishment” means a food service establishment that operates at the same location for a period of no more than 14 consecutive days in conjunction with a single event or celebration.

Sec. 36-3. - Permits required; sale or service without permit prohibited.

- (a) No person shall engage in the operation of a food service establishment, mobile food service establishment, pushcart, or temporary food service establishment within the City without first obtaining all required permits from the Health Authority of such person's county in which its base of operations is located, the Coweta County Health Department, and any permit, license or approval, including zoning, issued by the City for the location, days and hours of operation from which said business or activity is conducted.
- (b) An application for a mobile food service location permit shall be submitted to the Director of Development setting forth all information required hereunder and in compliance with this chapter. The Director of Development shall develop a form of application for the purpose of compliance with this chapter. All permits shall expire December 31 of the current year. No application shall be deemed complete unless accompanied by a fee of Fifty (\$50.00) Dollars.
- (c) The following information shall be provided with each application for a mobile food service unit location permit, or push cart permit:
 - (1) Name of the mobile food service establishment (vendor) and photocopy of current permit issued by Health Authority in the county where its base of operations is located;
 - (2) Make, model, and license plate number of the mobile food service unit;
 - (3) Owner's contact information;
 - (4) Operator's contact information, if different;
 - (5) Type of vendor (mobile food service unit or pushcart);
 - (6) Copy of the approved permit from the Coweta County Health Department;
 - (7) List of operating locations, dates and times, as from time to time amended;
 - (8) Signatures from property owners indicating consent for the use of their property;
 - (9) Signature of the applicant indicating agreement to the requirements of this article.

Sec. 36-4. - Prohibited conduct and requirements.

- (a) No mobile food service unit shall conduct business or operate on a public street or in the public right-of-way except as part of a city-sponsored or sanctioned special event.
- (b) Mobile food service units may only operate in City-owned parking lots, within the GC and HT zoning districts, on the days and during the hours specified by resolution of the Mayor and Council, as from time to time amended.
- (c) A mobile food service unit shall maintain a \$1,000,000.00 liability insurance policy with the City named as an additional insured on the policy. Proof of current liability insurance, issued by an insurance company licensed to do business in the state,

protecting the mobile food service vendor and the public 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 displayed in the unit at all times while in operation. Such insurance shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days' advanced written notice to the city.

- (d) A mobile food service unit shall not amplify music, sounds or make announcements to call attention to the mobile food service unit either while traveling through the city or when stationary. At all times said mobile food service unit shall be in compliance with the city noise regulations.
- (e) The license under which a mobile food service unit or push cart is operating must be firmly attached and visible on the mobile food service unit or pushcart at all times.
- (f) Any driver of a mobile food service unit must possess a valid state driver's license.
- (g) Every mobile food service unit shall be marked on each side of the vehicle, in letters and numbers at least three inches in height, with the name, address and telephone number of the mobile food service licensee.
- (h) A mobile food service licensee may sell food and non-alcoholic beverage items only.
- (i) A mobile food service licensee 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 entity having jurisdiction over this subject matter.

Sec. 36-5. - Revocation and suspension.

- (a) The City shall have the right to suspend or revoke a mobile food service unit location license under the conditions set forth in this section. In the event the Director of Development seeks to suspend or to revoke a mobile food service location permit, he or she shall give written notification to the permit holder of such action and such notice shall contain a specification of the violation or violations for which cause the action is being taken.
- (b) The Director of Development shall be authorized to suspend or revoke a permit in the event of any one or more of the following:
 - (1) A permit holder gave false or materially misleading information in the original application or renewal process;
 - (2) A permit holder has knowingly allowed a violation of this chapter to occur or did not make a reasonable effort to prevent any such occurrence;
 - (3) A permit holder failed to pay any fee, permit fee, or other amount of money due to the City under this chapter or any other licensing requirement of the City.
- (c) In the event that the Director of Development determines that a permit violation has occurred, such permit shall be suspended for 30 days for the first violation. For a second violation occurring within any consecutive 12-month period, the permit

shall be suspended for 90 days. Any permit that has been suspended two times within any consecutive 12-month period that is determined to have committed a subsequent permit violation within 24 months of the second suspension shall be revoked. Provided, however, that the permittee shall be authorized to continue its business operations until the date of the hearing scheduled in accordance with subsection (e) of this section. Should a permit be revoked, the owner and/or operator shall not be eligible to apply for a mobile food service unit location permit for a period of three years from the date of revocation.

- (d) In the event of a revocation by the Director of Development, the permit holder may appeal the decision to the City Manager by filing a written notice of appeal with the City Clerk within ten business days from the date of the effective date of the written notice received by the licensee in accordance with subsection (a) of this section. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Director of Development may submit a memorandum in response to the memorandum filed by the permit holder on appeal to the city manager. The City Manager's decision shall be final unless a petition for writ of certiorari is timely filed in the Superior Court of Coweta County. Filing of a petition shall stay the City Manager's decision until the petition is heard or withdrawn.

Sec. 36-6. – Sanctions and Penalties.

Any person engaged in a food service operation governed by this chapter, without holding proper permits as required herein, shall be deemed in violation of this chapter and subject the violator to appear, upon citation, before the Municipal Court. Upon conviction of a violation of this chapter, such person shall be punished as provided in Section 1-5 of this Code.

Secs. 36-7 – 36-15. - Reserved.”

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 Senoia, 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 Mayor and Council.

Section 5. The regulations contained herein shall become effective upon enactment of this ordinance on second and final reading.

First Reading: March 16, 2020

Second Reading: June 15, 2020