

THE CITY OF MOLENA, GEORGIA ORDINANCE NO. 55

AN ORDINANCE TO AMEND CODE OF ORDINANCES OF THE CITY OF MOLENA, GEORGIA; TO CREATE A NEW ARTICLE TO BE ENTITLED “REGULATION OF MOBILE FOOD VENDORS”; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF
THE CITY OF MOLENA, GEORGIA

WHEREAS, the mayor and council of the City of Molena shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Molena’s Charter or by state law; and,

WHEREAS, the governing authority of the City finds it desirable to provide for the licensing, operation and regulation of Mobile Food Vendors.

IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE
CITY OF MOLENA, GEORGIA THAT:

SECTION 1. New Article Created. The Code of Ordinances of the City of Molena, Georgia, is hereby amended by creating a new Article to be entitled “Regulation of Mobile Food Vendors” and sections thereunder to read as follows:

Sec. 1. Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them:

Mobile Food Vendor shall mean a retail food establishment that reports to and operates from a commissary, is readily moveable, is a motorized wheeled vehicle or a towed wheeled vehicle, and is designed and equipped to serve food.

Section 2. Regulation and Licensing of Mobile Food Vendors.

(a) It shall be unlawful for any person to sell, or offer for sale, food of any type from a Mobile Food Vendor without a license first having been granted under this section, except for such activities conducted in connection with City-sponsored events.

(b) An application for a permit hereunder shall be submitted to the City Clerk or designee setting forth all information required hereunder and in compliance with this ordinance. The City Clerk or designee shall develop a form of application for the purpose of compliance with this article. The application shall be accompanied by 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 hereunder. Mobile Food Vendor permits shall be active for ninety (90) days commencing on the day of issuance. Three day food permits are authorized and shall expressly state the days of validity prominently on the permit.

(c) The following information shall be provided with each application for a Mobile Food Vendor permit, along with an application fee of \$100.00 for a 90-day permit or \$50.00 for a three consecutive day permit, and an executed Release and Indemnification Agreement provided by the City:

- (1) Name of the Mobile Food Vendor;
- (2) Make, model and license plate number of vending unit;
- (3) Owner's contact information;
- (4) Operator's contact information;
- (5) Copy of approved permit from the Pike County Health Department;
- (6) List of operating locations and times including map detailing the position of the vehicle, and, if requested, the current zoning in said locations;
- (7) Where applicable, signatures from property owners indicating consent for the use of their property; and
- (8) Signature of applicant indicating agreement to the above-listed requirements.

(d) A waiver of the application fee may be requested at the time of application by the applicant only 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 City Council.

(e) Mobile Food Vendors shall conduct business or operate in the public right-of-way only if parking in the right-of-way is legally allowed and it does not impede the flow of traffic. A determination of traffic impediment shall be made by the City of Molena Police Department. Mobile Food Vendors must be located in a lot that can safely be accessible by patrons. Mobile Food Vendors cannot be parked on sidewalks. Parking on public, city-owned areas is permissible only with prior approval from the City Council at the time of application.

(f) A Mobile Food Vendor shall not operate on any private property without the prior written consent of the owner. A Mobile Food Vendor shall not be allowed to park overnight on any private property without the prior written consent of the owner.

(g) A Mobile Food Vendor may operate on City owned property only if: (1) it has received permission to do so from the City Council; and (2) it has indicated the appropriate City owned location, date, and times of use on the application. At no time shall a Mobile Food Vendor be allowed to park overnight on any City owned property.

(h) A Mobile Food Vendor shall maintain a one million dollar (\$1,000,000.00) liability insurance policy issued by an insurance company licensed to do business in Georgia 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. A certificate of insurance shall be provided to the City as part of its permit application. If the Mobile Food Vendor does not have insurance, the Mobile Food Vendor may be under the umbrella of an existing business with the business' permission to do so. Such arrangement documentation shall be included with the application to the City and approved by the City.

(i) A Mobile Food Vendor shall not make sounds, whether amplified or not, 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 and nuisance ordinance.

(j) The license under which a Mobile Food Vendor is operating must be firmly attached and visible on the Mobile Food Vendor at all times.

(k) Any driver of a Mobile Food Vendor motorized vehicle must possess a valid Georgia driver's license.

(l) Mobile Food Vendors shall not be located within fifteen (15) feet of any street intersection or pedestrian crosswalk or ten (10) feet of any driveway.

(m) 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 9:00 a.m., unless otherwise approved and extended by the City Council.

(n) Vending 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.

(o) No sale or offer for sale of ice cream, frozen milk, frozen dairy or ice confection products shall be made from a Mobile Food Vendor unless each side of the

vehicle is marked, in letters and numbers at least three (3) inches in height, with the name and address of the Mobile Food Vendor licensee.

(p) 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 licenses required by any other health organization or governmental organization having jurisdiction over this subject matter.

(q) 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; and
- (2) Every vehicle shall be equipped with two rear-vision mirrors, one on 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.

(r) A Mobile Food Vendor may only sell food and non-alcoholic beverage items.

SECTION 2. This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

SECTION 3.

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

B. It is hereby declared to be the intention of the City Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or 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 City 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 section, paragraph, sentence, clause or phrase 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 City 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 sections, paragraphs, sentences, clauses, or phrases of the Ordinance and that, to the greatest extent allowed by law, all remaining Sections, paragraphs, sentences, clauses, or phrases of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

SECTION 4. Repeal of Conflicting Provisions. Except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 5. Effective Date. This ordinance shall become effective _____, 2021.

SO ORDAINED, this _____ day of _____, 2021.

Joyce Corley, Mayor

ATTEST:

Tina Lee, City Clerk

(SEAL)

First Reading: _____

Second Reading/
Adoption: _____