



City of Lilburn

in Gwinnett County

State of Georgia

Ordinance

Number:

2022-XXX

Date of Reading and Adoption: May 9, 2022
At the meeting of the Lilburn City Council held at 340 Main Street, Lilburn, Georgia.

AN ORDINANCE TO AMEND THE CITY OF LILBURN CODE OF ORDINANCES, APPENDIX A, ZONING ORDINANCE, ARTICLE 7, SECTION 721, MOBILE FOOD VENDING AND SECTION 731, TEMPORARY USES, AND ARTICLE 12, PERMITS AND CERTIFICATES, SECTION 1204, TEMPORARY USE PERMITS, TO ADDRESS DURATION AND FREQUENCY AND EXTENT OF EACH TEMPORARY USE PERMIT; ALLOW LIMITED MOBILE FOOD VENDING IN CONJUNCTION WITH A TEMPORARY USE, CLARIFY THE APPLICATION REQUIREMENTS AND TO PROVIDE FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

THE MAYOR AND CITY COUNCIL OF THE CITY OF LILBURN GEORGIA, HEREBY ORDAIN THAT THE CODE OF ORDINANCES OF THE CITY OF LILBURN SHALL BE AMENDED AS PROVIDED IN ATTACHMENT A.

SO ORDAINED this the 9th day of May, 2022.

Tim Dunn, Mayor
City of Lilburn

ATTEST:

Melissa L. Penate, CMC
City Clerk

Section 731. Temporary uses.

731-1. Purpose and intent. The purpose and intent of this section shall be to regulate temporary outdoor events associated with: (1) holidays and special events which are not intended to serve the primary use of the lot; (2) temporary outdoor display and sale of merchandise associated with an established business, and (3) limited outdoor display on site; which are held in open areas or within temporary structures in association with a temporary outdoor event. Such uses shall be limited in time and thus their impacts on surrounding properties are not permanent.

731-2. General temporary use regulations. The following regulations shall apply to all temporary use permit applications:

1. Temporary uses are permitted in the MU, O-I, CB and IA zoning districts, and under the Town Center and U.S. 29 Overlays.
2. No property right is created by this section or the approval of a temporary use permit, and the decision of the director or designee with regard to all such applications shall be final.
3. A temporary outdoor seasonal event or activity, outdoor retail sales event or temporary outdoor display of merchandise shall not be held unless the necessary temporary use permit is obtained from the planning department, subject to the provisions of Article 12, and any other applicable agency which may require review prior to issuance of permits.
4. A valid occupation certificate shall be required in conjunction with the temporary use permit.
5. All approvals, permits, or licenses granted under this section must be displayed in a conspicuous manner on the premises at all times for inspection by the department or other duly authorized city representatives.
6. Temporary uses may not be located within or encroach upon any drainage easement, public sidewalk or right-of-way, fire lanes, designated loading areas, or private sidewalks or other areas intended for pedestrian movement, with the exception of temporary retail sales display within the Town Center Overlay District, [subject to Director review of circulation plan](#).
7. Temporary signage is permitted subject to the size and height standards as set forth in Chapter 113, Section 113-10 of the Sign Ordinance.
8. No operator, employee, or representative of the operator of a temporary outdoor retail sales display activity shall solicit directly from the motoring public.
9. Any outdoor activities conducted on the premises within the city which have not complied with this section shall be a violation of this section. Any person or entity found to be in violation of this section may be punished as provided for ordinance violations in the city.
10. [Up to two mobile food vendors or mobile food service units may be permitted with each temporary use permit subject to an additional fees adopted in the annual rate resolution. Vending operations shall be limited to three consecutive days, during the permitted temporary use, subject to operating limitations of Section 721 Mobile Food Vending.](#)

731-3. Temporary outdoor seasonal events and [seasonal](#) activities. Temporary outdoor seasonal activities may be permitted as a Temporary Use to include the sale of retail merchandise associated only with recognized seasonal holiday activities, Halloween, the sale of farm produce, farmer's markets, carnivals and similar uses from a property which is vacant, or which contains a separate and distinct primary use from the merchandise being sold, subject to the following regulations:

ATTACHMENT A

1. *Use regulations.*
 - a. Events associated with charitable or nonprofit organizations are, upon submittal of a certificate of incorporation or organization from the State of Georgia and Letter of Determination from the Internal Revenue Service stating that contributions received by said organization are tax deductible, are exempt from the Temporary Use Permit fee requirements as set by City Council forth herein.
2. *Lot and parcel restrictions.*
 - a. A temporary outdoor seasonal event or activity may be held on a vacant parcel.
 - b. A temporary outdoor seasonal event or activity may be held on parcels where the temporary outdoor activity is not associated with the principal use of the property.
 - c. On a parcel size of five acres or larger, two temporary outdoor seasonal events or activities may be permitted simultaneously, to be determined by the Department on a case-by-case basis.
 - d. Temporary outdoor seasonal events and activities, other than the exemption of an activity held on a vacant, undeveloped lot, shall be conducted on an appropriate surface only.
 - e. Temporary outdoor seasonal events or activities shall be permitted only on property where such activities shall not disrupt controlled vehicular ingress and egress.
 - f. Temporary outdoor seasonal events or activities shall not occupy more than 25%50 percent of required off-street parking spaces in association with a principal building on the subject site unless a written shared parking agreement provides for equivalent parking spaces on an adjoining parcel or within 800' of the site. Required parking spaces shall be calculated on principal building square footage.
 - g. All exterior lighting utilized in conjunction with temporary outdoor seasonal events or activities shall not be visible beyond the limits of the immediate site from which it originates.
 - h. Spotlights and/or high-temperature process lighting are prohibited.
3. *Setback and structure requirements.*
 - a. All temporary outdoor seasonal events or activities, including installation or erection of associated temporary display and sales structures, must be set back 30 feet from any right-of-way.
 - b. Temporary structures and coverings, shade structures, and open-sided tents, are permitted when associated with seasonal and holiday activities; however, tents must comply with Fire Safety Code.
 - c. A temporary sign (not portable) may be erected in accordance with a Temporary Sign Permit.
 - d. Temporary mobile buildings are permitted only in association with a carnival.
 - e. Carnivals may be permitted as a temporary outdoor seasonal event activity so long as no structure or equipment is located within 250 feet from the closest boundary of a residential property.
4. *Duration and frequency of temporary outdoor seasonal activities.* All temporary outdoor seasonal activities, shall be permitted for a period of **seven consecutive days** from the date of initiation of the temporary outdoor seasonal activity, **four times** per calendar year, and no more than two temporary seasonal use permits may be issued on the same parcel per calendar month~~property~~ with the following exemptions and conditions:
 - a. Christmas tree sales shall be permitted between November 1 and December 25 due to the seasonal nature of such sales.

ATTACHMENT A

- b. Pumpkin and Halloween seasonal sales shall be permitted between September 15 and October 31 due to the seasonal nature of such sales.
- c. Fireworks stands and carnivals shall be permitted for a period of 15 consecutive days one time per calendar year per property.
- d. Charitable/Non-profit organizations are allowed to hold events onsite up to four times per year per property exclusive of the ~~business~~ owners' allocated four times per year. All other requirements and limitations apply.
- e. Operations are limited to a maximum 12-hour period per day.
- f. Operations must cease by 9:00 p.m. on weekday evenings (Sunday through Thursday) and 10:00 p.m. on weekend evenings (Friday and Saturday), unless otherwise limited by the Director.
- g. The premises shall be cleaned and cleared of all litter, trash and debris and all equipment, materials, signs, temporary power poles, etc., associated with the temporary use within two days of the last day specified for such use.

731-4. *Temporary outdoor retail sales and activities.* Temporary outdoor retail sales display and outdoor storage activities, including the exhibition or representation of goods, merchandise, materials, or other items sold or bought at a retail establishment may be permitted as a Temporary Use. Temporary outdoor retail sales shall be governed by the following regulations:

1. *Use regulations.*

- a. Any object, device, display or structure, or part which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service or event, may also be considered part of retail display.
- b. Only the sale of goods and services ~~customarily sold on a day-to-day basis by the on-site business which constitutes compatible within~~ the zoning district according to the principal use of the premises is permitted. This section does not apply to supplemental mobile food vending units at the event.
- c. Sales shall be conducted by employees of the ~~principal use and goods shall be owned by the owner or tenant of the principal use, business~~ not a ~~consignment operation or~~ temporary arrangement with a transient merchant/vendor.
- ~~d. Sales must be made inside of building housing principal use of site.~~

2. *Lot and parcel restrictions.*

- a. Goods and merchandise may be displayed on public sidewalks only in the TC Overlay District provided such display does not interfere with pedestrian travel and the minimum ADA-required sidewalk width clearance is maintained.
- b. Temporary outdoor retail sales display activities ~~are prohibited~~may be permitted on a vacant parcel subject to provision of a lease agreement with the parcel owner holding a Lilburn occupational tax certificate as lessor of property.
- c. Temporary outdoor retail sales display area may not exceed a space equivalent to ~~ten~~50 percent of the gross floor area of the ground floor of the primary building ~~or individual suite of the business sponsoring the activity, as applicable.~~
- d. Temporary outdoor retail sales display activities shall be conducted only on a paved surface.
- e. Temporary outdoor retail sales display shall be permitted only on property where such activities shall not disrupt controlled vehicular ingress and egress, nor within areas required, set aside or designated for loading and maneuvering areas, emergency accessways, off-street parking, driving aisles and driveways.

ATTACHMENT A

- f. Temporary outdoor retail sales display items may be located on a privately owned sidewalk, courtyard or building apron or other areas intended for pedestrian movement provided an unobstructed, continuous path with a five-foot minimum width is maintained.
- g. Temporary outdoor retail sales display activities shall not occupy required off-street parking spaces except as authorized by the Director.
 - (1) Required parking spaces shall be calculated on square footage of principal building or suite, whichever is applicable.
 - (2) Where excess parking spaces over the required number of spaces are not available, no more than 2550 percent of the required parking spaces provided may be used for temporary outdoor retail display, ~~or as determined by the Director to accommodate the sales display area, unless a written shared parking agreement provides for equivalent parking spaces on an adjoining parcel or within 800' of the site.~~
- 3. *Setback and display requirements.*
 - a. All temporary outdoor retail display activities, including installation or erection of associated temporary display and sales structures, and stand-alone merchandise, display tables, or display racks, must be set back 30 feet from a county or state right-of-way.
 - b. A temporary shade structure, tent, tilt-up, umbrella or covering may be erected as a part of the temporary outdoor retail sales display activity; however, tents must comply with Fire Safety Code. Mobile buildings are prohibited.
 - c. Display tables, racks or shelves may be used as part of a temporary outdoor retail sales display activity.
 - d. Outdoor display items shall not exceed six feet above grade.
 - e. A sign (not portable) may be erected on the property in accordance with the Sign Ordinance.
 - f. The Director is authorized to determine retail items to be displayed. Under the US 29 Overlay and Town Center Overlay, the following items, such as, but not limited to, are prohibited: mattress and box springs, couches or sofas, large pieces of furniture, refrigerators, washers/dryers and other large appliances.
- 4. *Duration of and frequency of temporary outdoor retail sales activities.*
 - a. All temporary outdoor retail sales display activities are permitted for a period of 30 three consecutive days from the date of initiation of the temporary outdoor retail sales display activity.
 - b. Temporary outdoor retail sales ~~periods~~permits are limited to ~~twelve~~four times per calendar year and one per calendar month, per property parcel.
 - ~~c. Periods of outdoor retail sales display may not be applied for or renewed within seven days from the date of a prior approval of a temporary outdoor retail sales display activity.~~
 - d. Temporary outdoor retail display activities are limited to 12 hours of operation per permitted calendar day.
 - e. Operations must cease by 9:00 p.m. on weekday evenings (Sunday through Thursday) and 10:00 p.m. on weekend evenings (Friday and Saturday), unless otherwise limited by the Director. ~~All operations must cease by 9:00 p.m.~~
 - f. Upon the expiration of the authorized Temporary Use Permit, all equipment, materials, signs, temporary power poles, etc., associated with the temporary retail sales and display use shall be removed from the property within two days.

(Ord. No. 2014-473, Exh. A, 9-8-2014; Ord. No. 2016-503, Exh. A, 6-13-2016)

ATTACHMENT A

Note(s)—See editor's note at App. A, § 726.

Section 721. Mobile food vending.

Mobile food vending as defined in Article 14 is allowed in all districts subject to the following:

721-1. Use restrictions. Mobile food vending may be permitted as a conditional use in any zoning district requiring the Planning Director to review and subject to the following restrictions:

1. Within the CB/U.S. 29 Overlay, mobile food vending is limited to servicing legitimate construction sites and businesses licensed as breweries.
2. Within residential districts, mobile food vending is limited to vehicles dispensing ice cream products.
3. No mobile food vending is permitted within 300 feet of any school.
4. No mobile food vending on private, city or Gwinnett County property without documented approval from the property owner (see also Section 46-22).
5. **Mobile food vending may be permitted in conjunction with a Temporary Use permit as defined in Section 731 Temporary Uses and Section 1204 Temporary Use Permit subject to a fee according to annual rate resolution.**
6. Mobile food vending is permitted at breweries as defined in section 6-87.6 herein according to vendors standards for hours of operation and outdoor activity defined in Section 738.
7. Mobile food vendors must meet all state, health department, and city licensing requirements prior to commencing operations in the City of Lilburn. City licensing requirements are provided in Chapter 14, Businesses.

721-2. Operating Limitations.

1. Unless operating as an approved vendor associated with a city sponsored or co-sponsored event or permitted temporary use, or at a brewery, the mobile food vendor may stop a maximum of 15 minutes per stop and move at least one block before making another stop.
2. The mobile food vendor must park mobile food vending unit legally.
3. No mobile food vending in congested areas where it may impede or inconvenience the public or create a traffic hazard.
4. Amplified sounds shall not be used to attract attention.
5. If the mobile food vendor is on an active route, the mobile food vendor must incorporate flashing lights or signage indicating frequent stops by vehicle.
6. No mobile food vending is permitted after 8:00 p.m., or before 6:00 a.m., unless associated with a city sponsored or co-sponsored event, permitted temporary use, or operating at a brewery site.
7. No door-to-door solicitation.

(Ord. No. 2021-569 , Pt. III, 7-12-2021)

Section 1204. Temporary use permit.

1204-1. Authority. The Planning Director or her designee is hereby authorized to issue a temporary use permit for special temporary outdoor events-activities associated with: (1) holidays and special-seasonal events which are not intended to serve the primary use of the lot; (2) temporary outdoor display and retail sale of merchandise associated with an established business, and (3) limited outdoor display on site; which are held in open areas or within temporary structures in association with a temporary outdoor event, in accordance with all provisions of this article and relevant chapters of the City Code for temporary uses, and the following requirements.

1. Applicant shall be required to submit, as a condition of permit approval, a complete Temporary Use Permit application form provided by the department with supplemental documentation and Prior to the issuance of a temporary use permit, the applicant shall pay a fee which is established by city council.
2. Applicant shall be required to submit, as a condition of the aApplication, shall include a dimensioned site plan or legal survey or scaled satellite map sufficient to clearly showing:
 - a. Parcel lines and parcel acreage;
 - b. Striped parking spaces allocated to the activity or event on the parcel and within 800' as may be permitted by the Director;
 - c. Distances of building to right-of-way;
 - da. Proposed size and location of each temporary structure, display area, and mobile food vending unit relative to the dimension of the primary building or suite/tenant proposing the event, to demonstrate minimum disruption to other tenants and safe and orderly circulation throughout the parcel;Building(s) location;
 - b. Striped parking spaces;
 - e. Distances of building to right of way;
 - d. Parcel lines and parcel acreage;
 - e. Linear dimension of existing building(s) and/or suite frontage;
 - f. Square footage of building(s) and/or suite, whichever is applicable;
 - g. Proposed outdoor conditions on a lot or parcel, including but not limited to the proposed areas of outdoor activity, temporary outdoor storage areas, proposed temporary signage and any other appurtenances or features requested by the director or her designee in order to properly consider the application.
3. Written permission from the property owner shall be obtained and submitted by the applicant to the department prior to issuance of a temporary use permit.
4. A valid occupation certificate shall be required of the applicant in conjunction with the temporary use permit.
5. All approvals, permits, or licenses granted under this section must be displayed in a conspicuous manner on the premises at all times for inspection by the city or duly authorized city representatives.

1204-2. Findings and approval. The application for temporary use permit for temporary outdoor retail display or temporary outdoor seasonal events and activities may be approved provided that the director shall find that the following conditions exist:

1. That there are special circumstances or conditions applying to the business activity in question that are peculiar to such business, and warrant the approval of a temporary use permit.

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2. That the location and siting of the temporary outdoor activity and/or display would be substantially and materially compatible and in scale with the natural environment and the surrounding properties.
 3. That the proposed temporary use or activity is consistent with the standards and regulations of Article 7.
 4. That the proposed temporary use would provide for an orderly and attractive activity within the community in general and the surrounding property in particular.
 5. That the temporary use permit approval would not impair the rights of others or devalue the surrounding property.
 6. That the applicant demonstrates the proposed activity does not violate other city, county, state or federal regulations or ordinances regarding the requested use and the applicant has obtained all necessary approvals from any governmental agency with jurisdiction over said use; and
 7. The director finds that the proposed temporary seasonal, retail sales display, or other temporary outdoor event or activity would not adversely affect the health, safety, morals, convenience and general welfare of the residents of the city.
 8. The applicant shall by his execution of the application form acknowledge that the approval of an application for a temporary use permit grants a temporary license which may be denied, suspended, or revoked for any conduct in violation of this section or for the operation of the business in a manner which creates a public nuisance or otherwise violates any other ordinances or laws.