



STAFF REPORT

MORGAN COUNTY PLANNING COMMISSION

PETITION FOR: TEXT AMENDMENT

Applicant: Lisa & Daryl Riser
Applicant's Agent:
Zoning Ordinance: Per applicant: Section 7.21.2 Rural Home Occupations
Per Staff: Article 3 Definitions, Article 4 Districts & Maps and Article 7 Regulations for Specific Uses

Summary

The applicants contacted Morgan County Planning and Development regarding an Occupational Tax Certificate for a Food Truck to be kept at, and operated out of, their home. Staff informed the applicants that language for food trucks was not included in the Morgan County Zoning Ordinance. The applicants submitted an application and language that requests that mobile food trucks be allowed as a rural home occupation in the AG and AR zoning districts. Current language for Residential and Rural Home Occupations are attached. This proposed text amendment would allow the applicants to operate out of their home, allow storage of their truck on premises, and obtain an Occupational Tax Certificate.

Staff is aware that mobile food trucks are growing in popularity. There are a couple of restaurants in Madison that have mobile food trucks, Scoops has an ice cream truck, and at least one person in the county has a food truck that he takes to BBQ competitions. We know of several instances where food trucks from outside the county have been hired for private events (i.e. The Varsity's food truck). Staff has also had several requests to set up boiled peanut trailers at county gas stations.

The biggest impediment related to successful mobile food service is meeting the requirements of the Health Department. To date, the Health Department has only approved one food truck (Scoops Ice Cream). Staff has several concerns including storage of food service vehicles or trailers, verifiable permission to set up at commercial locations, such as gas stations, and appropriate proximity to established restaurants.

Current and Proposed Language

See attached for proposed Mobile Food Service ordinance.

Staff is proposing the use as Permitted in AG, AR, R1, R2, R3, LR1, LR2 and LR3 as a Rural or Residential Use, depending on the zoning designation, and as a Permitted use in C1, C2 and C3.

Staff Comments

The proposed language requires a Mobile Food Service Unit to obtain an Itinerant Merchant Certificate from the county. Ordinances consulted during the research process, including Savannah and Atlanta, all require background checks on mobile food service vendors. Staff discussed whether it was necessary for such uses in Morgan County and decided to include the background check requirement because some mobile food service units, such as ice cream trucks, do go from neighborhood to neighborhood. Even restaurant affiliated trucks will jump between commercial or industrial properties, depending on break times, and could venture into subdivisions like ice creams trucks, depending on the product.

The applicant has proposed that food trucks be permitted in AG and AR, as rural home occupations. Staff is aware that there are food competition trucks in residentially zoned areas, and is not concerned with food trucks in residential areas, as long as the trucks are stored appropriately. Residential home occupations, per the Morgan County Zoning Ordinance, cannot be apparent outside the dwelling. For this reason, the proposed language requires a mobile food service unit to be stored in an enclosed building when located in a residentially zoned area.



Lisa & Daryl Riser • (706) 389-5662 • Iraser@kona-ice.com

June 8, 2018

Lisa & Daryl Riser
1331 Sandy Creek Road
Madison, Georgia 30650
(706) 389-5662

Morgan County Planning Commission
150 E. Washington Street, Suite 200
Madison, Georgia 30650

Subject: Article 7, Chapter 7.21, Section 7.21.2

Dear Morgan County Planning Commission,

We, Kona Ice of Morgan County, wish to propose that the following section of the ordinance be amended. This is a formal request for the addition of "Mobile Food Truck" to be included in the Permitted Rural Home Occupations, Section 7.21.2. We are seeking provision to the current ordinances to add this type of business to the list here in Morgan County.

We propose that the text be revised to accomplish the following purposes and/or to read as follows:

- Mobile Food Truck (no sales at place of residence) be added to section 7.21.2

This text amendment is necessary for ourselves and other mobile food truck entrepreneurs to set up a home occupation in the AG and AR zoned districts.

Thank you for considering the request of Kona Ice of Morgan County in this matter.

Sincerely,
Lisa & Daryl Riser
Kona Ice of MORGAN COUNTY

Mobile Food Service

Purpose and Intent

The purpose of this Article to protect the public health, safety and general welfare of individuals and the community at large; to establish uniform regulations for the operation of mobile food vendors.

Applicability

This Article shall apply to the operation of all mobile food vendors within the un-incorporated limits of Morgan County.

Definitions

Base of Operations - means a food service establishment, or any other permitted location in which food, containers or supplies are kept, handled, prepared, packaged, stored, or placed in containers for subsequent transport, sale or service elsewhere.

Food Service Trailer - A mobile food service unit in which food is transported by a vehicle from a base of operations to a location for food sale and service is provided. Food service trailers shall be no larger than 24 feet in length.

Food Truck – A mobile food service unit in which food is transported from a base of operations to a location for food sale and service is provided. Food trucks shall be no larger than 30 feet in length.

Mobile Food Service Unit - means a food truck, food service trailer, or other vehicle operating as an extension of, and under the managerial authority of, the permit holder of its permitted Base of Operations. The mobile food service unit and its permitted base of operation together make a mobile food service establishment.

Mobile Food Vendor – A person or agency which operates a mobile food service unit.

Approvals and Licensing

No mobile food vendor shall operate a mobile food service unit within the jurisdictional boundary of the Morgan County without first obtaining the proper licenses and/or permits from the state and county. Mobile food vendors shall at all times comply with the provisions of this Article and all other applicable local, state and federal laws, regulations or rules. All approvals will be issued annually based on the calendar year. No approval issued under this Article may be

prorated, transferred, or assigned or used by any person other than the one to whom it is issued, or at any location other than the one for which it is issued.

Specific licensing requirements shall include the following:

- 1) Any and all permits that may be required to operate a mobile food service unit by the State of Georgia, Department of Public Health, and Morgan County Health Department.
- 2) A Morgan County Itinerant Merchants Certificate.

Base of Operations Location and Mobile Food Service Unit Approval

Base of Operations location, facilities and mobile food service unit must meet the requirements of this Article and the Morgan County Zoning Ordinance.

The following items must be submitted on an annual basis for approval:

- 1) Mobile Food Service Application
- 2) Application Fee
- 3) Copy of current approval and letter of good standing from the Health Department
- 4) Copy of applicable State Permits, Certificates or Licenses
- 5) Criminal Background Check
- 6) Criminal Background Check Fee
- 7) O.C.G.A. §50-36-1(e)(2) Affidavit
- 8) Copy of Occupational Tax Certificate (if not in Morgan County)
- 9) Vending Locations and Valid Permission Letters

Mobile Food Service Location Approval

- 1) A mobile food vendor must submit locations and certified approval letters for each location they wish to conduct business for approval of zoning.
- 2) Mobile food service units are permitted as an accessory use in commercial and industrial zones with written approval of the owner and a location permit issued by Morgan County.
- 3) Mobile food vendors are permitted to conduct business at special events and festivals at the request of the facility or event coordinator.

Denial of Application

Applications may be denied where an applicant fails to demonstrate that the application meets the conditions and requirements of this Article, or where an applicant fails to comply with

applicable local, state or federal law. Any false statements, material omissions or substantially misleading information provided in an application or furnished by an applicant in connection with an application constitute grounds for any one or combination of the following enforcement actions: denial; refusal to renew; revocation; suspension; and imposition of penalties.

Operational Requirements

- 1) Mobile food service units shall not conduct business within the public right of way.
- 2) Mobile food service units shall not conduct business on private property without written approval of the property owner and a location operation permit from Morgan County.
- 3) Mobile food service units shall not utilize amplified sound devices at any time.
(Exception: Ice Cream Trucks may play music only)
- 4) Mobile food service units shall provide self-contained storage of any wastewater and grease generated by the mobile food service unit. Proper disposal of this waste must comply with all state, federal and local regulations.
- 5) Mobile food service units that emit exhaust gases or smoke shall be done so in such a manner that it does not constitute a nuisance.
- 6) Mobile food service units must display at all required licenses and permits at all times while the mobile food service unit is in operation.
- 7) Mobile food service unit must be located on private property in such a way to provide maximum pedestrian safety. Mobile food service units shall not block or impede pedestrian or vehicular traffic.
- 8) Toilet facilities shall be located within 200 feet mobile food service unit on the premises.
- 9) Mobile food service units shall not be left unattended or stored on sites in which they conduct business. All mobile food service units must return to their base of operations when not in use.
- 10) Mobile food service units shall comply with all applicable local, state and federal health and safety laws, rules and regulations.
- 11) All signage relating to the mobile food service unit must be on or attached to the unit.
- 12) Mobile food service units may not conduct business within 200 feet of a restaurant.

- 13) Mobile food service units may not operate on the same lot with another mobile food service unit, unless part of a festival or special event at the request of the facility or event coordinator.
- 14) Mobile food service units shall provide waste receptacles. Receptacles shall be maintained and regularly emptied. All waste generated by the mobile food service unit's operation, shall be disposed of at the business base of operations.
- 15) The area within which a mobile food service unit operates shall, at all times, be kept clean and free from litter, garbage, rubble and debris.

Unit Safety

- 1) All mobile food service units shall be equipped with a readily accessible multipurpose dry chemical portable fire extinguisher with a minimum rating of 2A:10B:C. All mobile food service units utilizing fats or cooking oils, including those that produce grease, grease laden vapors or oily byproducts, shall, in addition to the ABC fire extinguisher, be equipped with a readily accessible Class K portable fire extinguisher. All required fire extinguishers shall be maintained in compliance with NFPA 10, as amended.
- 2) All mobile food service units that utilize propane and natural gas tanks shall be shut off while the mobile food vehicle is in motion, unless the tank is equipped with an impact detection shut off device approved by the U.S. DOT. Mobile food service units are prohibited from igniting, starting or operating any cooking appliances requiring heat, electricity or combustible gases while traveling upon any street, road or highway.
- 3) Mobile food service units shall be maintained and regularly cleaned to minimize the buildup of grease and other combustible residues. This includes all interior and exterior surfaces upon which grease can or may accumulate including, but not limited to, hold filter surfaces, plenums, ducts, exhaust fans and exterior cowling.
- 4) All mobile food service unit fire suppression systems shall be inspected and maintained in accordance with the applicable provisions of the National Fire Protection Association. The system shall be tagged in accordance with the Rules and Regulations of the Georgia Safety Fire Commissioner.
- 5) Prior to the operation of any combustible gas-fueled appliances, all visible connections shall be inspected for leakage utilizing a combustible gas detector by the mobile food vendor. Detected leaks shall be repaired before any gas-fueled appliance is operated.

Mobile Food Service Unit Storage

- 1) In all agricultural and residential zoning districts only one mobile food service unit shall be allowed on the property.
- 2) The mobile food service unit must be stored in the rear yard area of agricultural zoning districts or housed in an enclosed building. In residential zoning districts, mobile food service units must be stored in an enclosed building.
- 3) In approved commercial zoning districts mobile food service units may be stored in a paved parking area or stored in an enclosed building. Parking for mobile food service units shall not reduce the number of parking spaces below the required number of spaces per the Morgan County Zoning Ordinance.
- 4) All Commercial base of operations shall be in an enclosed building meeting the requirements of the Morgan County Health Department. Base of operations at a Residential location must also comply with the regulations for a Residential Home Occupation.

Enforcement and Penalties

- 1) Morgan County Code Enforcement shall maintain a record of all code violation charges, founded accusations and convictions concerning mobile food service units. When a mobile food service unit owner or operator accumulates three code violations for a particular mobile service unit within a period of twelve consecutive months, the County shall revoke the mobile food service unit's location approvals and reject all applications for mobile food service unit location approvals by the concerned owner(s) and operator(s) following the date of revocation.
- 2) If a mobile food service unit owner or operator has been cited for and found to be in violation of any zoning, health or life safety code provision, the owner or operator must demonstrate compliance with the applicable code prior to being eligible to continue operations under the current approval.
- 3) Violations of this Article are subject to the following penalties, which may not be waived or reduced and which may be combined with any other legal remedy available to the county:
 - (a) First violation: \$500.

- (b) Second violation within the 12 months following the first violation: \$500 and a thirty-day (30) suspension of operating license.
 - (c) Third violation within the 12 months following the first violation: \$1,000 and revocation of the mobile food service unit location approvals. Mobile Food Service Unit Location Approvals will be revoked for six months from the date of the third violation.
- 4) Nothing in this Article shall limit the County from enforcement of its code, state or federal law by any other legal remedy available to the County. Nothing in this Article shall be construed to limit or supplant the power of any County inspector, code enforcement officer or other duly empowered officer under the County's ordinances, rules and regulations or the authority granted under state law, as amended, to take necessary action, consistent with the law, to protect the public from operation of a mobile food service unit as a nuisance, including abatement thereof by lawful means.

Chapter 7.21 Rural Home Occupations

Rural home occupations in the agricultural zoning districts may be permitted under the provisions of this section. It is the intent of the section to ensure the compatibility of rural home occupations with other uses permitted in the AG and AR zoning districts, maintain and preserve the agricultural or rural character of the area and not create a nuisance for residents in the area by excessive traffic, smoke, noise or be a fire hazard.

The purpose of rural home occupations is to provide a means for residents in the larger lot agricultural districts to participate in the type of businesses permitted in residential districts, be able to conduct the rural home occupation in an accessory building where necessary, and to park, on-site, vehicles required for the home occupation.

Section 7.21.1 Requirements

Rural home occupations, where permitted, must meet all the following special requirements. Non-adherence with the following requirements may result in penalties and relocation of the business to an area appropriately zoned for such business.

- The minimum lot size is five (5) acres. For lots less than five (5) acres, the home occupation is limited to the provisions of Chapter 7.20.
- The rural home occupation must be subordinate to the principal use of the parcel for dwelling and agricultural purposes and must not change the residential and agricultural character of the area.
- No more than one thousand (1,000) square feet or twenty five percent (25%) of the floor area of the principal dwelling may be used in connection with the rural home occupation or for storage purposes in connection with the rural home occupation. Should the home occupation or associated storage require additional space, a Conditional Use Permit application shall be submitted.
- The rural home occupation may be conducted within a dwelling or within an accessory building provided that all structures used are harmonious in appearance with the zoning district where the rural home occupation will locate.
- The existence of the rural home occupation must not be apparent outside the dwelling or accessory building in which the rural home occupation is conducted, except that one (1) display sign limited to 20 sq. ft. of sign area is permitted. The display sign added to all other signs on the parcel shall not exceed the maximum signage allowed in the district.
- No outside storage of equipment or materials used in the conduct of the rural home occupation, other than trade vehicles, is permitted.
- The rural home occupation is limited to employment of residents of the property and no more than three (3) outside full-time employees or their equivalent.
- No additional points of access to any street shall be permitted, unless necessary to provide safe and proper access to the proposed use.
- The use has not been found likely to become a nuisance by reason of odor, dust, smoke, gas, vibrations, or may impose a hazard to health or property of others.

Section 7.21.2 Permitted Rural Home Occupations

In addition to the foregoing requirements, the only permitted rural home occupations within Morgan County are as follows:

- All occupations listed under Residential Home Occupations;
- Breeding;
- Cabinet and millwork;
- Produce Stands (grown or processed on site);
- Equipment Repair (e.g. forklift, tractor, farm equipment, boat repair, small engine repair);
- Portable Band Saw Sawmill office (no work permitted at residence).

Chapter 7.20 Residential Home Occupations

The conduct of business in residential units may be permitted under the provisions of this Chapter. It is the intent of this Chapter to ensure the compatibility of residential home occupations with other uses permitted in the R1, R2, R3, LR1, LR2, LR3, MXD1, and MXD3 zoning districts; maintain and preserve the character of residential neighborhoods; and provide peace, quiet, and domestic tranquility within all residential neighborhoods within the zoning district, in order to guarantee to all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in this district.

Section 7.20.1 Requirements

Residential home occupations, where permitted, must meet the following special requirements. Non-adherence with the following requirements may result in penalties and relocation of the business to an area appropriately zoned for such business.

- Residential home occupations shall be subordinate to the use of a dwelling unit for residential purposes;
- No more than 1,000 sq. feet or 25 percent of the floor area of the dwelling unit may be used in connection with a home occupation or for storage purposes in connection with a home occupation. Should the home occupation or associated storage require additional space, a Conditional Use Permit application shall be submitted;
- A residential home occupation shall be carried on wholly within the principal building;
- No residential home occupation or any storage of goods, materials, or products connected with a residential home occupation shall be allowed in accessory buildings or detached garages;
- No one other than residents of the dwelling shall be employed in the conduct of a residential home occupation;
- A residential home occupation shall produce no noise or obnoxious odors, vibrations, glare, fumes, or electrical interference detectable to normal sensory perception outside the structure;
- A residential home occupation must not constitute (a) a fire hazard to neighboring residences, or (b) adversely affect neighboring property values, or (c) constitute a nuisance or otherwise be detrimental to the neighbors because of excessive traffic, excessive noise, or excessive odors;
- No traffic shall be generated by such residential home occupations in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off-street and other than in a front yard;
- On the premises, retail sales are prohibited except for the retail sales of products or goods produced or fabricated on the premises as a result of the home occupation;
- The existence of the residential home occupation must not be apparent outside the dwelling in which the home occupation is conducted, except that one (1) display sign limited to 6 sq. ft. of sign area is permitted;
- No on-street parking of business related vehicles (either marked or commercially equipped) will be permitted at any home. No business vehicle larger than a van, panel truck or pick-up truck is permitted to park overnight on the premises. The number of business related vehicles is limited to one (1).

Section 7.20.2 Permitted Residential Home Occupations

In addition to the foregoing requirements, the only permitted residential home occupations within Morgan County are as follows:

- Advertising, Marketing and Publishing offices;
- Party and Event planning office;
- Art/Art related specialties (e.g. art, art studio, pottery, crafts, arts and crafts supplies, taxidermy);
- Building Services office (e.g. contractor, subcontractor, plumber, electrician, HVAC mechanic, roofer, gutters, septic installation, pool installation, concrete, handyman, tile installation);
- Building Maintenance service office (e.g. cleaning, chimney sweep, home inspections, maintenance service, locksmith);
- Timber Harvester office (e.g. logging, timber management);
- Laundry and Ironing Services;
- Home Office;
- Catering;
- Clearing, Grading or Landscaping office (e.g. garden design, lawn care, tree service, tree conservation);
- Clothing and Accessories (e.g. clothing, tailoring, sewing, handbags, scarves, jewelry)(one person);
- Computer Related Services (e.g. repair, data processing);
- Consulting and Specialty Services (e.g. legal, financial, disaster response, public accounting, money recovery, tax preparation, insurance, travel agency, public relations);
- Healthcare/Personal Care (e.g. babysitting, adult care, personal home care, in-home support, home therapy, speech therapy);
- Equipment or Appliance Repair office (repairs cannot be performed at residence);
- Beauty Salon or Barber Shop (one person);
- Home Décor (e.g. flowers, quilts, upholstery);
- Architectural, Engineering, Surveying or Interior Design office;
- Direct or Internet Sales office;
- Real Estate, Appraisal, or Property Management office;
- Trucking (one truck allowed to be parked at residence, no trailer permitted);
- Tutoring (e.g. music lessons, recreational guide service).