

Introduced by: Council Member Chris Hoffman
1st Reading: September 8, 2020
2nd Reading: September 21, 2020

ORDINANCE NO. 2020-8145

AN ORDINANCE TO REVISE CHAPTERS 12 AND 34 OF THE CODE OF ORDINANCES OF THE CITY OF JACKSONVILLE BEACH, FLORIDA; TO ADAPT THE CITY'S CODE TO NEW FLORIDA STATUTE SECTION 509.102 CONCERNING MOBILE FOOD DISPENSING VEHICLES; PROVIDING FOR LEGISLATIVE FINDINGS, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City of Jacksonville Beach ("City") has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida; and Chapters 163 and 166, Florida Statutes; and

WHEREAS, the City permits the operation of a mobile food dispensing vehicle in Commercial Limited: C-1, Commercial General: C-2, Commercial Service: CS, Central Business District: CBD, Industrial: I-1, and certain commercial Planned Unit Development: PUD and Redevelopment District: RD zoning districts within the City; and

WHEREAS, the City requires a mobile food vendor who desires to operate a mobile food dispensing vehicle located on private property within certain City zoning districts to submit a completed mobile food dispensing vehicle application and to obtain approval prior to selling food to the general public; and

WHEREAS, Florida Statute §509.102 (mobile food dispensing vehicles; preemption) became effective on July 1, 2020, it defines mobile food dispensing vehicle, and preempts to the State of Florida the area of regulation of mobile food dispensing vehicles licenses, registrations, permits, and fees; and

WHEREAS, Florida Statute §509.102(2) further mandates that a municipality, county, or other local governmental entity may not require a separate license, registration, or permit as a condition for the operation of a mobile food dispensing vehicle within the entity's jurisdiction, and that a municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles from operating within the entirety of the entity's jurisdiction; and

WHEREAS, Florida Statute §509.102(3) provides that this section may not be construed to affect a municipality, county, or other local governmental entity's authority to regulate the operation of mobile food dispensing vehicles other than the regulations described in subsection (2); and

WHEREAS, the City has revised its mobile food dispensing vehicle information and guidelines application packet accordingly to comply with or conform to Florida Statute §509.102,

and still preserve required procedures and regulations for the operation of mobile food dispensing vehicles in the City; and

WHEREAS, the City Council desires to revise and amend certain portions of its Code of Ordinances as set forth in this Ordinance to adapt to and conform with Florida Statute §509.102, but still maintain aspects of its mobile food dispensing vehicle application packet and required documentation which are still allowed by the State; and

WHEREAS, the City Council hereby finds that this Ordinance serves legitimate government purposes and is in the best interests of the public health, safety, and welfare of the citizens of the City of Jacksonville Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. RECITALS AND LEGISLATIVE FINDINGS. The above recitals and legislative findings are ratified, correct and made a part of this Ordinance.

SECTION 2. CHAPTER 12, ARTICLE II, DIVISION 2, SECTION 12-33 OF THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, IS HEREBY AMENDED TO READ AS FOLLOWS:¹

Sec. 12.33. – Mobile food ~~vending~~ dispensing vehicles.

(1) Definitions.

- b. *Mobile food ~~vending~~ dispensing vehicle* means ~~a vehicle-mounted public food service establishment that is either self-propelled or otherwise movable from place to place. A mobile food vending vehicle is further defined as having, as part of the vehicle, a three-compartment sink for washing, rinsing and sanitizing equipment and utensils; a separate hand wash sink; adequate refrigeration and storage capacity; full provision of power utilities including electrical, LP-gas, or a portable power generation unit; a potable water holding tank; and a means for liquid waste containment and disposal~~ any vehicle that is a public food service establishment and that is self-propelled or otherwise moveable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.
- c. *Mobile food vendor* means any person or business selling food from a mobile food ~~vending~~ dispensing vehicle from which food items are sold to the general public.

¹ Strikethrough text indicates deletions, underline text indicates additions.

- d. Operator means the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public lodging establishment or public food service establishment.
- e. Public food service establishment means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. The term includes a culinary education program, as defined in Florida Statute §381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.

(2) Location, ~~permit~~, and separation requirements.

- a. Mobile food ~~vendors~~ dispensing vehicles may be located on a lot in a Commercial Limited: C-1, Commercial General: C-2, Commercial Service: CS, Central Business District: CBD, I-1: Industrial, and certain commercial Planned Unit Development: PUD and Redevelopment District: RD zoning districts, as determined by the City Planning and Development Department, having six thousand (6,000) square feet or more of area, and containing a principal building or use. The maximum number of mobile food ~~vendors~~ dispensing vehicles per lot is limited as follows:

 - i. Maximum of one (1) mobile food vendor on lots having containing six thousand (6,000) to forty three thousand five hundred fifty nine (43,559) square feet of area;
 - ii. Maximum of two (2) mobile food vendors on lots having containing forty three thousand five hundred fifty nine (43,559) or more square feet of area.
- b. ~~Mobile food vending permits, unless sooner suspended or revoked, shall be valid for an initial period that coincides with the expiration date established for this section.~~
- eb. Approved State licenses and permits must be attached to the mobile food ~~vending~~ dispensing vehicle where they are readily visible and ~~shall include the name, mailing address, and valid phone number of the mobile food vending vehicle owner and shall list the addresses and parcel identification numbers where the permit is valid.~~
- d. ~~Routine inspections may be conducted by code enforcement inspectors, building code inspectors, fire inspectors, or police officers on each mobile food vending vehicle at any time and at any frequency deemed appropriate by the city.~~
- ec. Mobile food ~~vending~~ dispensing vehicles must be located at least ~~one hundred (100) feet (100')~~ (100) feet (100') from the main entrance to any eating establishment or similar food service business and ~~one hundred (100) feet (100')~~ (100) feet (100') from any outdoor dining area.

This separation requirement shall apply only during the normal hours of operation of the eating establishment or similar food service business or outdoor dining area.

- fd. Mobile food vending dispensing vehicles:
- i. ~~are not allowed to~~ Must be located within outside of a required sight visibility triangle at the intersection of a driveway, alleyway, or public street with another public street as set forth in Chapter 34 of this Code of Ordinances;
 - ii. ~~or~~ Shall be located no closer than within five (5) feet (5') of a public sidewalk, utility box or vault, handicapped ramp, building entrance, or exit, or emergency access/exit way; ~~and~~
 - iii. ~~m~~Must not locate within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic. Mobile food vending dispensing vehicles must be located a minimum distance of fifteen (15) feet (15') in all directions away from a fire hydrant; and
 - iv. May not occupy or prevent access to any handicap accessible parking space.
- e. ~~Mobile food vending vehicles may not occupy or prevent access to any handicap accessible parking space.~~

(3) Hours of operation, Signage and noise.

~~One (1) free-standing sandwich board or A-frame type sign is permitted on private property for each mobile food vendor. The total size of the sign may not exceed forty-two (42) inches in height or thirty-six (36) inches in width. No audio amplification is permitted as part of a mobile food vending operation.~~

- a. The mobile food vendor or designee must be present at all times during operation of the mobile food dispensing vehicle. Hours of operation are limited to the hours between 7:00 a.m. and 3:00 a.m. unless the designated location on the lot accommodating the mobile food dispensing vehicle is located within 150 feet (150') of the property line of a dwelling unit in a residential zoning district, in which case the hours of operation are limited to the hours between 7:00 a.m. and 10:00 p.m.
- b. One (1) freestanding sandwich board or A-frame type sign is permitted on private property for each mobile food dispensing vehicle. The total size of the sign may not exceed 42 inches (42") in height or 36 inches (36") in width.
- c. No audio amplification is authorized as part of a mobile food vending dispensing vehicle operation.
- d. The mobile food dispensing vehicle, signage and any associated outdoor seating must be removed from its approved locations during impermissible hours of operation; and must not be stored, parked, or left overnight on any public street or sidewalk.

(4) Hours of operation Waste Management.

- a. Hours of operation are limited to the hours between 7:00 a.m. and 3:00 a.m. unless the designated location on the lot accommodating the mobile food vending vehicle is located within one hundred fifty (150) feet of the property line of a dwelling unit in a residential zoning district, in which case the hours of operation are limited to the hours between 7:00 a.m. and 10:00 p.m. The mobile food vendor is responsible for the proper disposal of waste and trash associated with the permitted mobile food dispensing vehicle operation. City trash receptacles shall not be used for this purpose. At a minimum, mobile food vendors must remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. Mobile food vendors must keep all areas within 25 feet (25') of the vehicles and any associated seating areas clean of grease, trash, paper, cups, or cans associated with the mobile food dispensing operation.
- b. The mobile food vending operator or his or her designee must be present at all times. Liquid waste or grease shall be disposed of at an approved location (for example, an approved commissary) and shall not be placed in tree pits, storm drains, or onto any sidewalk, street, or any other public space. Under no circumstances shall grease be released or disposed of in the City's sanitary or storm sewer systems. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the responsible mobile food vendor will be required to cease operation immediately, clean up the improperly disposed material to the satisfaction of the City, and shall not resume operation of the mobile food dispensing vehicle until an alternate method of disposal has been approved by the City Public Works Department.
- c. The mobile food vending vehicle and any associated outdoor seating must be removed from its permitted locations during impermissible hours of operation; and must not be stored, parked, or left overnight on any public street or sidewalk. If the proposed commissary is located within the City of Jacksonville Beach, written approval for its use from the Public Works Department is required.
- d. With the exception of allowable outdoor seating areas, all equipment required for the operation must be contained within, attached to, or within three feet (3') of the mobile food dispensing vehicle; and all food preparation, storage, and sales/distribution shall be in compliance with all applicable sanitary regulations.

(5) Waste Management Annual local business tax receipt required.

- a. The mobile food vendor is responsible for the proper disposal of waste and trash associated with the permitted operation. City trash receptacles shall not be used for this purpose. At a minimum, vendors must remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. Vendors must keep all areas within twenty five (25) feet of the vehicles and any associated seating areas clean of grease, trash, paper, cups or cans associated with the vending operation. In accordance with Florida Statute §509.102, a separate local license and/or permit is not required to operate a mobile food dispensing vehicle within the City of Jacksonville Beach.
- b. Liquid waste or grease shall be disposed of at an approved location (for example, an approved commissary) and shall not be placed in tree pits, storm drains, or onto any sidewalk, street, or any other public space. Under no circumstances shall grease be released or disposed of in the city's sanitary or storm sewer systems. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the responsible mobile food vending business will be required to cease operation immediately, clean up the improperly disposed material to the satisfaction of the city, and shall not resume operation until an alternate method of disposal has been approved by the public works department. For each vending location, a City of Jacksonville Beach annual local business tax receipt shall be applied for, paid for and issued before engaging in any business or commercial activity. A copy of a valid local business tax receipt must be clearly displayed on the mobile food dispensing vehicle and shall be renewed annually.
- c. With the exception of allowable outdoor seating areas, all equipment required for the operation must be contained within, attached to or within three (3) feet of the mobile food vending vehicle; and all food preparation, storage, and sales/distribution shall be in compliance with all applicable sanitary regulations. To obtain a mobile food dispensing vehicle local business tax receipt, the mobile food vendor must provide the City Clerk with a City of Jacksonville Beach mobile food dispensing vehicle application packet and evidence of possessing all applicable zoning approvals, State of Florida licenses and permits, including, but not limited to, the following:
 - i. Department of Business and Professional Regulations (MFDV License);
 - ii. Florida Department of Health (License);
 - iii. Department of Highway Safety and Motor Vehicles (Drivers License(s) for the applicant/legal business owner and all authorized mobile food dispensing vehicle drivers); and
 - iv. City of Jacksonville Beach Fire Marshal fire safety inspection report showing vehicle is code compliant with NFPA 1- 50.7, NFPA 96.

(6) — *Licenses and permits required.* For each location, a City of Jacksonville Beach business tax receipt for the mobile food vending business must be obtained; and all required State of Florida, Duval County, and City of Jacksonville Beach permits, licenses, and business tax receipt must be

clearly displayed on the mobile food vending unit. Prior to the issuance of a City of Jacksonville Beach mobile food vending business tax receipt, the vendor shall provide evidence of having obtained all applicable State of Florida and Duval County licenses and permits, and obtained approval from the City of Jacksonville Beach Public Works Department for the method for the disposal of grease within an approved grease disposal facility. A mobile food vending business tax receipt shall be renewed annually.

- (76) Application submittal requirements. Applications for the operation of a mobile food dispensing vehicle vendor permits must include the following information:
- a. Name, address, telephone number, and email address of the applicant and vehicle the owner, where applicable of the vehicle if not the same as the applicant.
 - b. Description of the types of food and/or beverages to be sold, proposed hours of operation, and mobile food establishment business name.
 - c. Color photograph of the mobile food ~~vending~~ dispensing vehicle depicting the its current condition of the unit.
 - d. ~~Address of proposed vending site(s), including the property address, property owner's name and telephone number, and the name of the principal business located on the property where applicable~~ Vending location and property owner information, including the legal property/site address(es), parcel identification number(s), name, address, emergency telephone number, email address, and existing principal business name.
 - e. Vending location ~~Site plan for each proposed vending site, drawn to scale, depicting the following information:~~
 - i. Total ~~square footage~~ lot area of the property;
 - ii. Location and square footage of ~~the~~ existing principal and accessory use(s) and associated parking spaces, where applicable;
 - iii. Proposed location for the mobile food ~~vending~~ dispensing vehicle; and
 - iv. Location of ingress/egress to the site.
 - f. ~~Street Address of proposed location to store~~ where the mobile food vending dispensing vehicle is stored when not in use.
 - g. Copies of all permits and business licenses required by the State of Florida ~~and Duval County.~~
 - h. ~~Notarized Fully executed commissary agreement confirming verifying~~ the mobile food vendor is operating in conjunction with a licensed commissary in accordance with Florida Statutes, where applicable. All commissaries must be pre-approved by the city prior to issuance of a mobile food vendor permit.

- i. Completed and Notarized property owner affidavit signed by each property owner indicating that the vendor applicant has permission to vend on his/her property. The affidavit must also indicate that the property owner and acknowledging the following requirements responsibilities:
 - i. The property owner shall comply with all ordinances regarding solid waste disposal, and shall provide the mobile food vendor access to solid waste collection on the subject property;
 - ii. The property owner shall require that the mobile food vendors meet all applicable federal, state and local statutes, regulations, laws, ordinances, rules and codes; including but not limited to permitting requirements regarding his/her specific business;
 - iii. The property owner shall ~~acknowledge that she/he~~ understands the regulations governing the mobile food vendors dispensing vehicle and shall be held responsible, along with the mobile food vendor, for any zoning code violations; and
 - iv. The property owner shall ensure ~~that~~ the property is continuously maintained in a neat, clean, and orderly manner.
- j. Proof of business insurance, issued by an insurance company that is licensed to do business in the State of Florida, and which ~~protects~~ insures the applicant ~~from against all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the mobile food dispensing vehicle vendor.~~
- k. Copy of Jacksonville Beach Fire Marshal Fire Safety Inspection Report showing vehicle is code compliant with NFPA 1-50.7, NFPA 96.
- l. Completed Mobile Food Dispensing Vehicle Local Business Tax Receipt form.

(87) Enforcement procedure.

- a. ~~Revocation. If at any time, the State of Florida or Duval County revokes or suspends the issued mobile food vending permit, the City of Jacksonville Beach business tax receipt for the mobile food vending business will be simultaneously revoked or suspended. A mobile food vendor who has his or her permit declared null and void or revoked for any of the reasons set forth in this section shall not be allowed to reapply for a mobile food vending permit for a period of ninety (90) days after the effective date of such action. Inspections may be conducted by code enforcement inspectors, building code inspectors, fire marshal or designee, or police officers on each mobile food dispensing vehicle at any time and at any frequency deemed appropriate by the City.~~
- b. ~~Other violations. If at any time evidence is provided that a mobile food vending business is being operated in a way that does not comply with these regulations, a notice of violation shall be issued to the lot owner and mobile food vendor and the violation shall be referred to the special magistrate for a hearing and disposition in~~

~~accordance with the provisions of Article VI Code Enforcement of Chapter 2 Administration of this Code of Ordinances. If at any time, the State of Florida revokes or suspends the issued mobile food dispensing vehicle permit, the City of Jacksonville Beach local business tax receipt will be simultaneously revoked or suspended. A mobile food dispensing vehicle that has its State license or permit declared null and void or revoked for any of the reasons set forth in this section shall not be allowed to reapply for a mobile food dispensing vehicle authorization or a local business tax receipt for a period of 90 days after the effective date of such action.~~

- c. If at any time evidence is provided that a mobile food dispensing vehicle is being operated in a way that does not comply with these guidelines, a notice of violation shall be issued to the lot owner and mobile food vendor and the violation shall be referred to the Special Magistrate for a hearing and disposition in accordance with the provisions of Article VI Code Enforcement of Chapter 2 Administration of this Code of Ordinances.

- (8) *Enforcement procedure* Non-transferability. All mobile food dispensing vehicle operation locations approved by the City are non-transferable upon the sale or transfer of ownership of the mobile food dispensing vehicle. All local business tax receipts issued by the City are non-transferrable upon the sale or transfer of ownership of the mobile food dispensing vehicle. Each location application for operation of a mobile food dispensing vehicle requires separate zoning approval and a separate local business tax receipt.

- a. ~~*Revocation.* If at any time, the State of Florida or Duval County revokes or suspends the issued mobile food vending permit, the City of Jacksonville Beach business tax receipt for the mobile food vending business will be simultaneously revoked or suspended. A mobile food vendor who has his or her permit declared null and void or revoked for any of the reasons set forth in this section shall not be allowed to reapply for a mobile food vending permit for a period of ninety (90) days after the effective date of such action.~~

- b. ~~*Other violations.* If at any time evidence is provided that a mobile food vending business is being operated in a way that does not comply with these regulations, a notice of violation shall be issued to the lot owner and mobile food vendor and the violation shall be referred to the special magistrate for a hearing and disposition in accordance with the provisions of Article VI Code Enforcement of Chapter 2 Administration of this Code of Ordinances.~~

SECTION 3. CHAPTER 34, ARTICLE IV, SECTION 34-41 OF THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 34-41. – General.

Mobile food dispensing vehicle means a ~~vehicle-mounted public food service establishment that is either self-propelled or otherwise movable from place to place. A mobile food vending vehicle is further defined as having, as part of the vehicle, a three-compartment sink for washing, rinsing and sanitizing equipment and utensils; a separate hand wash sink; adequate refrigeration and storage capacity; full provision of power utilities including electrical, LP gas, or a portable power generation unit; a potable water holding tank; and a means for liquid waste containment and disposal~~ any vehicle that is a public food service establishment and that is self-propelled or otherwise moveable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

Mobile food vendor means any person or business selling food from a mobile food ~~vending~~ dispensing vehicle from which food items are sold to the general public.

SECTION 4. CHAPTER 34, ARTICLE VII, DIVISION 2, SECTION 34-342 OF THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 34-342. - Commercial limited: C-1.

(b) *Permitted uses.*

(26) Mobile food ~~vendors~~ dispensing vehicle as defined in and in accordance with the provisions of Section 12-33 *Mobile Food Vending Dispensing Vehicles* of Chapter 12 *Food and Food Products* of this Code of Ordinances.

SECTION 5. CHAPTER 34, ARTICLE VII, DIVISION 2, SECTION 34-343 OF THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 34-343. - Commercial general: C-2.

(b) *Permitted uses.*

(30) Mobile food ~~vendors~~ dispensing vehicle as defined in and in accordance with the provisions of Section 12-33 *Mobile Food Vending Dispensing Vehicles* of Chapter 12 *Food and Food Products* of this Code of Ordinances.

SECTION 6. CHAPTER 34, ARTICLE VII, DIVISION 2, SECTION 34-344 OF THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 34-344. - Commercial service: CS.

(b) *Permitted uses.*

- (20) Mobile food ~~vendors~~ dispensing vehicle as defined in and in accordance with the provisions of Section 12-33 *Mobile Food ~~Vending~~ Dispensing Vehicles* of Chapter 12 *Food and Food Products* of this Code of Ordinances.

SECTION 7. CHAPTER 34, ARTICLE VII, DIVISION 2, SECTION 34-345 OF THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec. 34-345. - Central business district: CBD.

(b) *Permitted uses.*

- (25) Mobile food ~~vendors~~ dispensing vehicle as defined in and in accordance with the provisions of Section 12-33 *Mobile Food ~~Vending~~ Dispensing Vehicles* of Chapter 12 *Food and Food Products* of this Code of Ordinances.

SECTION 8. CHAPTER 34, ARTICLE VII, DIVISION 2, SECTION 34-346 OF THE CODE OF ORDINANCES, CITY OF JACKSONVILLE BEACH, FLORIDA, IS HEREBY AMENDED TO READ AS FOLLOWS:

Sec 34-346. Industrial district: I-1

(b) *Permitted uses.*

- (21) Mobile food ~~vendors~~ dispensing vehicle as defined in and in accordance with the provisions of Section 12-33 *Mobile Food ~~Vending~~ Dispensing Vehicles* of Chapter 12 *Food and Food Products* of this Code of Ordinances.

SECTION 9. CONFLICTING ORDINANCES. That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 10. SEVERABILITY. It is the intention of the City Council that if any section, subsection, clause or provision of this Ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this Ordinance.

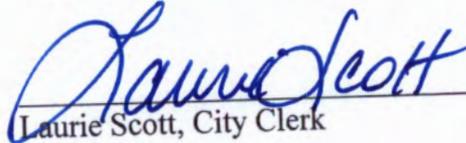
SECTION 11. CODIFICATION. The City Council intends that this Ordinance will be made a part of the City of Jacksonville Beach Code of Ordinances.

SECTION 12. EFFECTIVE DATE. This Ordinance shall take effect upon final reading and approval by the City Council for the City of Jacksonville Beach.

AUTHENTICATED THIS 21st DAY OF September A.D., 2020.

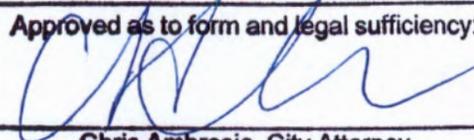


William C. Latham, Mayor



Laurie Scott, City Clerk

Approved as to form and legal sufficiency:



Chris Ambrosio, City Attorney