



CITY OF OKEECHOBEE
PLANNING BOARD WORKSHOP
55 SOUTHEAST THIRD AVENUE, OKEECHOBEE, FL 34974
MARCH 16, 2023
LIST OF EXHIBITS

Staff Report/Exhibit 1

Mobile Food Dispensing Vehicles

Workshop Staff Report

To: City of Okeechobee Planning Board
From: Ben Smith, AICP
Date: March 7, 2023
Subject: **Mobile Food Dispensing Vehicles**

Background

Mobile food dispensing vehicle (MFDV) is a term that is meant to encompass several types of mobile food vendors including food trucks, mobile kitchens, canteen trucks, ice cream trucks and food carts. The City's Planning Board and Council workshoped the issue of mobile food vendors in 2019 and determined:

1. The City's current code effectively prohibits MFDVs within the City limits.
2. That the City would not pursue any code changes at that time to allow MFDVs within the City.

In 2020, the Governor signed into law SB474/HB1171, which enacted Florida Statute 509.102. This section preempts local governments from entirely prohibiting MFDVs within their jurisdiction and also prohibits local governments from requiring a separate license, registration, permit, or fee, other than what is required through the Florida Department of Business and Professional Regulation. As the City may no longer entirely prohibit MFDVs, it is necessary to amend the City's code in order to comply with state law.

Florida Statute 509.102

- 1) As used in this section, the term "mobile food dispensing vehicle" means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.
- 2) Regulation of mobile food dispensing vehicles involving licenses, registrations, permits, and fees is preempted to the state. A municipality, county, or other local governmental entity may not require a separate license, registration, or permit other than the license required under s. 509.241, or require the payment of any license, registration, or permit fee other than the fee required under s. 509.251, as a condition for the operation of a mobile food dispensing vehicle within the entity's jurisdiction. 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.
- 3) 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).
- 4) This section does not apply to any port authority, aviation authority, airport, or seaport.

Regulatory Options

- Once it has been established where MFDVs may operate without a city permit in certain areas, there is the option to allow MFDVs in other areas/situations through a temporary use permit or another process.
- Consider whether brick and mortar businesses should be protected from encroachment of MFDVs. Potentially prohibit operation of food trucks within proximity to restaurants.
- Consider classification of MFDV types and implementing different standards for each type. For example, the regulations could differentiate between ice cream trucks and food vendors which require heating of food.
- Consider limiting operation of MFDVs to certain zoning districts, or different regulations based on the MFDV type and zoning district.
- Limitations in hours of operation or days of the week.
- Requirements for availability of bathroom facilities in certain situations.
- Consider whether MFDVs should be permitted on vacant property or property without an active developed use.
- Requirements and/or limitations for parking, seating, and/or canopies.
- Should MFDVs and associated seating/canopy areas be permitted to occupy parking areas that are required for the permitted existing active use? If so, is there a limit to the number of parking spaces or percentage of the parking spaces that can be occupied by the MFDV?
- Signage, lighting, noise, and/or solicitation restrictions.
- Waste disposal requirements.
- Fines for infractions.
- Consider targeting areas in need of additional food options, perhaps in areas in the City with limited existing availability of prepared food options

MFDV Ordinances from Other Jurisdictions

Okeechobee County

- Mobile food vendors divided into three classifications that can be generally described as food trucks, sandwich wagons and ice cream trucks.
 - Class I - Mobile Kitchens - Vehicles that may cook, prepare and assemble food items in the unit and serve a full menu, including hot dog carts.
 - Class II - Canteen Trucks - These vehicles sell fruits, vegetables, precooked foods, prepackaged foods and pre-packaged drinks. No preparation or assembly of foods or beverages may take place on or in the vehicle, however, the heating of pre-cooked foods is allowed.
 - Class III - Ice Cream Trucks - These vehicles sell only pre-packaged frozen dairy or frozen water-based food products, soft serve or hand-dipped frozen dairy products or frozen water-based products and pre-packaged beverages.
- Class I vehicles may operate in commercial, industrial, agriculture and public service zoning districts only on private property (not public ROW), and must have written permission from property owner available upon request.
- Class II and Class III vehicles may operate in any zoning district and in the ROW provided they are not stationary for more than 60 minutes.
- Vendors must have current vehicle registration and tags and provide their sales tax number on request.
- Hand sanitizer must be visible and available while open.
- Vendors can operate on vacant or abandoned business locations, but cannot operate on unimproved surfaces or in landscape buffers.
- No limit to the hours of operation and no limit to the number of days per week or consecutive days that a vendor may remain at any one location.
- Cannot use parking spaces required for other uses on the property.
- Class I vehicles must provide restroom facilities for employees within 150 feet if the food truck is open for more than four hours, and to properly manage waste disposal
- No more than two MFDVs operating at any location at one time without temporary use permit approval.
- No canopies or other temporary fixtures permitted in association with MFDV

North Miami

- MFDVs permitted in M-1 zoning district only (subject to additional standards)
- "This use may be accommodated in other zoning districts as a special event through the temporary use permit process as provided in section 5-1611"
- Administrative site plan approval required
- Hours of operation are determined by the legally operating permanent business located on the subject property
 - What if there is more than one? Such as an office or commercial plaza?
- Debris and other waste to be removed every day
- Does not allow food to be sold, prepared or displayed outside of the MFDVs

- Adequate sanitary facilities required for employees and patrons
- No flashing/blinking/strobe lights or similar effects
- No loud music, amplification devices, bullhorns, crying out, or any other audible methods to gain attention
 - Ice cream trucks?
- A-frame sign located next to customer service area is the only permitted signage
- Dining furniture must be approved through site plan and must be removed daily
- Sale of products other than food and beverages is prohibited
 - Exception: branded items consistent with the food or vendor (such as cups and t-shirts)
- Unless temporary use permit is issued, no more than two (2) MFDVs allowed on-site
- MFDVs may not be located on properties upon which there are unpaid liens or open code violations

Winter Springs

- Requires temporary accessory outdoor use permit (requires site plan) or special event permit for all food trucks
- MFDVs are permitted as temporary accessory uses on properties within I-1, C-3 or C-2
- Alternatively, can be located on City property or public road subject to a special event permit
- Permitted within public or private school property if part of a school-sponsored event if it is lawfully permitted by the City
- Permitted within private property which has been temporarily set aside for a MFDV to operate during a special event
 - Not allowed to operate on any residential or multi-family residential use unless within common area for a project with at least 50 units.
 - Limited to one event per calendar quarter
- Operation on private property requires notarized affidavit from property owner
- Affidavit must indicate that property owner will comply with solid waste disposal ordinances
- Property must not have any code violations
- Property must be a developed site
- Only one (1) MFDV shall be in operation at a time unless the City authorizes a special event.
- Hours of operation are limited between 7 am and 10 pm unless the City authorizes a special event.
- Property owner must have a site plan approval
- Temporary sales area must be on paved surface not to exceed 600 SF unless the City Manager determines that more area is required
- Outdoor dining areas are prohibited unless given written permission by the City during an authorized special event
 - Tables
 - Chairs

- Booths
- Bar stools
- Benches
- Standup counters
- Overnight parking of mobile food dispensing vehicles is prohibited unless located within an enclosed garage or on property zoned for an authorized open storage use
- Does not allow for any amplified noise
- No on-site seating permitted unless coordinated with, and permitted by, the City

Deltona

- Site plan is required "...basis for the site plan can be a scaled aerial photo downloaded from the internet"
 - Buildings
 - Drive aisles
 - Parking places
 - Pedestrian facilities
 - Property boundaries
 - On-site parking
 - Driveway cuts
 - Other improvements
- Permitted in;
 - C-1, C-2, C-3 zoning districts
 - IPUD, BPUD
- May set up ancillary tents, chairs, or tables subject to a series of conditions including that seating and tables must be located on a paved surface
 - Must be removed at end of every "business cycle"
- Includes section taken from Florida Fire Prevention Code (may be best to avoid in case that is updated, would cause inconsistency with externally controlled document)
- Hours of operation limited from 7 am to 10 pm
- Parking determines max allowable number of food trucks at one location

Winter Garden

- Only permitted on private property with a I-1 or I-2 industrial zoning
 - N/A if part of city approved special event permit or operating in an area governed by a PUD or other similar development where expressly permitted
- Prohibited in res and com zoning districts
- Min separation of 250 ft from one another

Royal Palm Beach

- Separates mobile food vendors into varying classes
 - Class I; Mobile Kitchens - contain mobile kitchens where preparation and assemblage of food may take place

- Class II; Canteen Trucks - vend fruits, vegetables, hot dogs, pre-cooked foods, pre-packaged foods and pre-packed drinks.
 - Cooking apparatus/grill top for heating is permitted
- Class III; Ice Cream Trucks - vend only pre-packaged frozen dairy or frozen water-based food products, soft serve or hand-dipped frozen dairy or frozen water-based food products and pre-packaged beverages.
- Any gathering of 2 or more Class I, II, or III mobile food trucks on a property at any given time shall be classified as a food truck special event which will require a special permit
- Patron seating must be stored within the food truck unless the property owner has obtained a special-event permit from the village.
- Not permitted to conduct business within 200 ft of any existing food service establishment during their hours of operation (unless they have consent)
- Not permitted within 200 ft of Village-sponsored event unless permitted to operate at the event
- Only ice cream trucks may conduct business in the public ROW
- Prohibited within 15 ft of an intersection or pedestrian crosswalk unless owner obtains special event permit
- Limitation on number of operating days
 - 2 consecutive days max at same location
 - 10 days per calendar year at same location
 - Unless they have a special event permit
- Truck can take up no more 10% of a parking lot that is 30 spaces or less
- Truck can take up no more than 5% of a parking lot is greater than 30 spaces
- Hours of operation at 7 am to 9 pm unless they have a special event permit
- Noise limitation on all but ice cream trucks
- If stationary for over 3 hours, employees shall have access to bathroom within 400 ft
- Additional regulations by class/zoning district

ORDINANCE NO. 2022-0001

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF OKEECHOBEE COUNTY, FLORIDA, CREATING A NEW SECTION 22-169 OF THE OKEECHOBEE COUNTY CODE OF ORDINANCES TO PROVIDE PROCEDURES AND CRITERIA APPLICABLE TO MOBILE FOOD ESTABLISHMENTS; AMENDING SECTIONS 22-151, 22-152, 22-155, 22-157, 22-158, 22-161, 22-164, 22-165 AND 22-168 OF THE OKEECHOBEE COUNTY CODE OF ORDINANCES TO REMOVE REFERENCES TO MOBILE FOOD VENDORS; AND PROVIDING FOR FINDINGS, SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Ch. 2020-160, Laws of Florida, created Sec. 509.102, Fla. Stat., which preempted to the state the “[r]egulation of mobile food dispensing vehicles involving licenses, registrations, permits, and fees”, prohibited local governments from “requir[ing] a separate license, registration, or permit other than the license required under s. 509.241, or requir[ing] the payment of any license, registration, or permit fee other than the fee required under s. 509.251, as a condition for the operation of a mobile food dispensing vehicle within the entity’s jurisdiction”, and prohibited local governments from “prohibit[ing] mobile food dispensing vehicles from operating within the entirety of the entity’s jurisdiction”; and

WHEREAS, however, Sec. 509.102, Fla. Stat. further provided that “[t]his 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 the previous recital; and

WHEREAS, as a result, counties retain the authority to regulate the operation of mobile food dispensing vehicles, except as expressly specified in Sec. 509.102, Fla. Stat., and as otherwise preempted by certain other state regulations; and

WHEREAS, the Board of County Commissioners of Okeechobee County (the “Board”) recognizes the need for reasonable regulations governing mobile food establishments within Okeechobee County (the “County”), in the interests of protecting the public health, safety, and welfare; and

WHEREAS, the Board has determined that it is in the best interest of the health, safety, and welfare of the residents and visitors of the County that regulations governing mobile food establishments in the County be revised to conform to the limited prohibitions of Sec. 509.102, Fla. Stat., and as otherwise set forth herein; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OKEECHOBEE COUNTY, FLORIDA, that:

Section 1. Recitals. The above recitals and “Whereas” clauses are hereby included as findings by the Board of County Commissioners of Okeechobee County, Florida, and are otherwise fully incorporated herein.

Section 2. Adoption of Code Provision. Section 22-169 of the Okeechobee County Code of Ordinances is hereby adopted to read as follows:

Sec. 22-169. Procedures and criteria for mobile food establishments.

- (a) Classifications. Mobile food establishments involving the use of a mobile food dispensing vehicle shall be classified as follows:
- (1) Class I—Mobile kitchens. In addition to the vending of products allowed for Class II and Class III, these vehicles may cook, prepare and assemble food items in the unit and serve a full menu. This also includes hot dog carts.
 - (2) Class II—Canteen trucks. These vehicles vend fruits, vegetables, precooked foods, pre-packaged foods and pre-packaged drinks. No preparation or assembly of foods or beverages may take place on or in the vehicle, however, the heating of pre-cooked foods is allowed.
 - (3) Class III—Ice cream trucks. These vehicles vend only pre-packaged frozen dairy or frozen water-based food products, soft serve or hand-dipped frozen dairy products or frozen water-based products and pre-packaged beverages.
 - (4) Exclusions. As used in this section, the term "mobile food establishments" does not include minor children operating lemonade or soft drink stands, owners or operators of fresh fruit and/or vegetable stands or other raw, uncooked, unprepared or nonedible perishable goods, or owners or operators of food or beverage self-service vending machines.
- (b) Specific requirements. Mobile food establishments conducting business in conjunction with a County-sanctioned event or activity, or events held on County-owned public property shall comply with all standards and requirements as established by the event coordinator and/or Planning and Development Department, in addition to any applicable state regulatory agency's regulations. All other mobile food establishments, except those as a part of an approved temporary use permit on privately-owned property as regulated pursuant to Okeechobee County Code, or on a commercial site developed and approved for such a use, shall comply with the following requirements:

- (1) Class I vehicles may operate in commercial, industrial, agriculture and public service zoning districts only. Class II and Class III vehicles may operate in any zoning district provided that they are not stationary for periods exceeding 60 minutes, and must not constitute a hazard to vehicular or pedestrian traffic.
 - (2) Class I mobile food establishments shall have the written consent of the owner(s) of the property on which it is located. Such written permission shall be available upon request by the representative of any regulating agency.
 - (3) Any person engaged in selling, preparing, or dispensing food from a mobile food dispensing vehicle shall obtain the appropriate approvals and licenses from the State of Florida Department of Business and Professional Regulations, (DBPR), Florida Department of Health, and/or the Florida Department of Agriculture and Consumer Services before operating, and shall provide copies of all approvals and licenses upon request.
 - (4) The operator of a mobile food establishment shall provide the County or other regulatory agencies their Florida State sales tax number upon request and shall maintain display a current vehicle registration tag.
 - (5) The mobile food establishment shall make the dispensing vehicle available for routine inspections by the Okeechobee County Fire Marshal, Building Inspector, or Code Enforcement Officer at any time requested and at any frequency deemed appropriate, while at location or in operation, to ensure compliance with all applicable federal, state, and local fire safety statutes, regulations and codes, and local regulations of this section.
 - (6) Mobile food establishments shall comply with all requirements of the most current edition of the Florida Fire Prevention Code (FFPC) and the National Fire Protection Association (NFPA). Upon inspection, if the fire marshal or his designee determines any violations of the FFPC or NFPA exists, the mobile food establishment can be required to cease operations immediately.
 - (7) Mobile food establishments shall have hand sanitizer or similar visible and readily available for customer use at all times during hours of operation.
- (c) Prohibitions. Mobile food establishments operating a mobile food dispensing vehicle are prohibited from the following:
- (1) Serving from a free-standing grill.
 - (2) Operating in a driveway, driveway aisle, loading zone, no parking zone, fire lane, blocking fire hydrants or any other fire protection devices and equipment, or American with Disabilities Act (ADA) accessible parking

spaces and/or accessible ramps. Class I establishments are prohibited from operating within a public right-of-way.

- (3) Operating in a location that impedes on-site circulation of motor vehicles, the ingress or egress of a building, or emergency exits.
- (4) Operating on unimproved surfaces or in any approved landscape buffer or stormwater retention area.
- (5) Use of sound amplification in such manner as to unreasonably disturb the peace, quiet and comfort of neighbors or nearby individuals.
- (6) Using balloons, banners, streamers, snipe signs, large flashing lights, flags, scantily clad or costumed work staff, or other similar devices to attract customers, except in accordance with County sign regulations.
- (7) Selling or dispensing food or beverages to customers in a moving vehicle or otherwise engaging in drive-up sales.
- (8) Selling or distributing alcoholic beverages.
- (9) Soliciting sales of food or beverages from residence to residence or in any other place except on or from the mobile food dispensing vehicle.
- (10) Soliciting sales of food or beverages by:
 - a. Stopping passersby.
 - b. Yelling or making loud noise to attract persons to the mobile food establishment.
 - c. Having an attraction which will blockade a street, sidewalk or other public place.
- (11) Sale from any vehicle with more than two axles. This does not preclude use of a single axle trailer hitched to a motor vehicle.

(d) Operating requirements.

- (1) Mobile food dispensing vehicles shall be self-contained when operating, and shall provide their own required trash and/or recycling receptacles, and receptacles for public use. Mobile food establishments shall remove all waste and trash at the end of each day of operation, and prior to vacating their location, and fully comply with F.A.C. Rule 61C-4.0161.
- (2) Under no circumstances shall grease or any waste materials be released into any stormwater system, tree landscaping area, sidewalks, streets, parking lots, or private/public property. Mobile food establishments shall be

responsible to properly discard any waste material in accordance with federal, state, county, municipal, or any laws, rules, regulations, orders, or permits.

- (3) No more than two mobile food establishments shall operate at the same location at any one time, except as may be permitted as part of an approved temporary use permit on privately-owned property as regulated pursuant to the Okeechobee County Code or on a commercial site developed and approved for such a use.
- (4) Class I mobile food establishments operating at a site for a duration longer than four hours shall have an agreement which confirms that employees have access to a flushable restroom within 150 feet of the establishment's location during the hours of operation.
- (5) Mobile food establishments shall not occupy any parking required by other uses on the host site.
- (6) Class I Mobile food establishments shall notify the County Planning and Development Department no later than 48 hours prior to moving a mobile food dispensing vehicle to a new location within the County where the Class I Mobile food establishment will operate.
- (7) Upon request by a County official, mobile food establishments shall provide to the County a written receipt of legally compliant pump-out of grey water from the mobile food dispensing vehicle.
- (8) No accessory or appurtenant structures or fixtures shall be erected, installed or constructed, but a temporary awning or canopy may be employed when the mobile food establishment is open for business. A Class I vehicle itself, but not other structures, fixtures, appurtenances or canopies, may remain on-site during periods when the mobile food establishment is not open for business.
- (e) *Penalties, enforcement and other legal remedies.* Any person violating or failing to comply with any of the provisions of this section shall be guilty of a misdemeanor in the second degree and punished as provided for in §§ 775.082 and 775.083, Florida Statutes. Each violation shall constitute a separate offense. In addition to or as an alternative to the aforementioned penalty, the Okeechobee Code Enforcement Special Magistrate may assess a civil penalty for the violation of any provision of this article by a person. Each day of violation shall constitute a separate offense. In addition and without limitation, the County may enforce a violation of this section in the manner specified in section 1-13, or as otherwise provided in the Code.

Section 3. Code Amendment. The following sections of the Okeechobee County Code of Ordinances are hereby amended to read as follows:

Sec. 22-151. Created.

There are hereby created regulations concerning peddlers, street vendors, ~~mobile food vendors~~, perishable goods vendors and transient merchants.

Sec. 22-152. Definitions.

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

~~Mobile food vendor means a person who sells or offers for sale prepared food or beverages from a motor vehicle, pusheart, wagon, mobile stand, or other motorized or non-motorized movable device storing the food or beverages. For purposes of this definition, mobile food vendor specifically includes operators of hot dog or ice cream carts, ice cream trucks, mobile sandwich wagons and the like, but does not include minor children operating lemonade or soft drink stands, owners or operators of fresh fruit and/or vegetable stands or other raw, uncooked, unprepared or nonedible perishable goods, or owners or operators of food or beverage self-service vending machines.~~

~~(1) — A mobile food vendor that is continually moving, such as a motorized ice cream truck, may operate from a right of way, but shall not obstruct traffic and shall not play music or otherwise make noises that can be heard from any one location for more than ten minutes.~~

~~(2) — A mobile food vendor that does not continually move shall not locate in a right of way but shall locate where adequate parking and driveway access are available without interrupting or affecting traffic flow. Such mobile food vendor may remain at one location for extended periods of time. No accessory or appurtenant structures or fixtures shall be erected, installed or constructed, but a temporary awning or canopy may be employed when the facility is open for business. The actual pusheart, wagon, mobile stand or other movable device, but not other structures, fixtures, appurtenances or canopies, may remain on site during periods when the facility is not open for business.~~

Sec. 22-155. Permit required.

No person shall engage in any of the businesses of being a peddler, ~~or~~ street vendor, ~~or mobile food vendor~~ without obtaining a permit from the Planning and Development director. To obtain a permit, an application shall be submitted stating:

Nothing in section 2-155 should be read as to diminish the validity of additional requirements specified in sections 2-161, ~~section 2-163~~, ~~section 2-165~~, and ~~Section 2-168~~ that are necessary in order to engage in particular aspects of peddling, and street vending ~~and mobile food vending~~.

Sec. 22-157. Expiration and renewal of permits.

A permit issued under section 2-155 for a peddler, or street vendor ~~or mobile food vendor~~ shall expire on September 30th annually and may be renewed from year to year upon the filing of a renewal application and a finding by the Planning and Development director that the applicant has complied with the applicable provisions of this article.

Sec. 22-158. Permit suspension and revocation.

- (a) Grounds. In addition to any other penalty, the Planning and Development director may suspend or revoke a permit for:

- (3) The applicant's conviction for:

- a. Fraud or misrepresentations in the sale of merchandise; or
- b. Deceptive trade practices; or
- c. Violation of any health law or any similar local, state, or federal law, with respect to transient merchants, street vendors, perishable goods vendors, ~~mobile food vendors~~ or peddlers.

Sec. 22-161. Hours of business or sale; special hours permit; fee.

- (a) No street vendor ~~or mobile food vendor~~ shall operate or permit the conducting of a business or the selling of merchandise before 8:00 a.m. or after 9:00 p.m. unless a special hours permit is obtained from the board. A street vendor ~~or mobile food vendor~~ seeking a special hours permit shall pay the board a fee for each day that the street vendor ~~or mobile food vendor~~ wishes to have the special hours permit in effect. Fees are as established by resolution by the board.
- (b) A peddler may not operate or permit the conducting of a business or the selling of merchandise before 8:00 a.m. or after 7:00 p.m. and may not seek a special hours permit.

Sec. 22-164. Certain peddling and street vending prohibited.

No peddler, or street vendor ~~or mobile food vendor~~ shall:

- (3) Without having first obtained a valid permit, use or occupy any portion of any right-of-way of any County maintained road for the purpose of selling or offering to sell merchandise, including food or beverages. In such cases, peddlers, or street vendors ~~or mobile food vendors~~ may make sales from vehicles or mobile stands that are located on the right-of-way, so long as the sales are restricted to occupants of adjoining or abutting property.

Sec. 22-165. Additional permit requirements.

~~(e) A mobile food vendor shall deposit with the board a sum as established by resolution by the board and shall execute the permit application under oath and disclose the names and residences of all persons financially interested in the business. A mobile food vendor permit shall be issued to only one person and shall not be transferable.~~

~~(d)~~(c) The deposits required in subsections (a), and (b) ~~and (e)~~ of this section shall be required only at the time of the initial application for a general peddler, or street vendor's ~~or mobile food vendor's~~ permit. It shall not be required at the time of renewal for a peddler, or street vendor's ~~or mobile food vendor's~~ permit. Further, such deposit shall not be required at the time of application for a special permit.

~~(e)~~(d) Whenever a peddler, or street vendor, ~~or mobile food vendor~~ shall use a fixed, portable or movable sign to inform the public of the peddler, or street vendor's, ~~or mobile food vendor's~~ business, then such an operator shall be required to comply with all aspects of the Okeechobee County Sign Ordinance, as it may from time to time be amended.

Sec. 22-168. Altered goods or going-out-of-business sale; separate permit required; length; restriction; fee.

Any peddler or street vendor proposing to advertise or hold an altered goods sale or going-out-of-business sale shall obtain a separate permit. Each peddler or street vendor applying for either permit shall pay the board a fee for each permit as established by resolution by the board. The length of either special permit shall be 30 days and may be

renewed once for an additional period of 30 days if the board determines it is proper to do so. A peddler or street vendor conducting either type of sale or both shall refrain from untrue, deceptive or misleading advertising.

Okeechobee County
Fee Schedule for Peddlers, Transient Merchants, Perishable Goods Vendors and Street Vendors

- (1) *Annual permit fees.*
 1. Peddlers, including Residential Peddling Fee (per year) \$300.00
 2. Street Vendors (per year) \$150.00
 3. ~~Mobile Food Vendor (per year) 150.00~~
- (2) *Supplemental permit fees.*
 1. Special Hours Permit (per day) \$25.00
 2. Altered Goods/Going-out-of-Business Permit (per permit) \$25.00
- (3) *Deposits.*
 1. Peddlers \$500.00
 2. Street Vendors \$250.00
 3. ~~Mobile Food Vendor 250.00~~

All annual permits expire September 30th of each year, and must be renewed to continue the activity. Occupational licenses also are required for all classifications of peddler, and street vendor ~~and mobile food vendor~~.


Section 4. Severability. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Conflicts. All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.


Section 6. Codification. The provisions of Sections 2 and 3 of this Ordinance shall become and be made a part of the Okeechobee County Code of Ordinances, and the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word. The codifier is granted liberal authority to codify the provisions of this Ordinance.

Section 7. Effective Date. This Ordinance shall take effect upon being filed in the office of the Secretary of the State of Florida in the manner prescribed by law.

APPROVED and ADOPTED by the Board of County Commissioners of Okeechobee County, Florida, on the 12th day of May, 2022.


TERRY W. BURROUGHS, CHAIRMAN
OKEECHOBEE COUNTY
BOARD OF COUNTY COMMISSIONERS

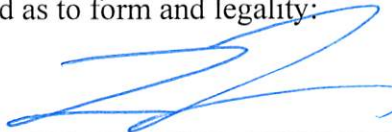
ATTEST:


JERALD D. BRYANT, CLERK OF THE
CIRCUIT COURT AND COMPTROLLER
OKEECHOBEE COUNTY, FLORIDA

(Seal)



Approved as to form and legality:


Wade C. Vose, County Attorney

ORDINANCE NO. 1469

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 29 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES ENTITLED "LAND DEVELOPMENT REGULATIONS", SPECIFICALLY AT SECTION 5-101, ENTITLED, "ACCESSORY USES AND STRUCTURES", ESTABLISHING A NEW SECTION 5-1611 TO ALLOW MOBILE FOOD DISPENSING VEHICLES TO OPERATE IN PARTICULAR AREAS OF THE CITY, SUBJECT TO CERTAIN STANDARDS, SECTION 5-1903, AND ARTICLE 7, ENTITLED "DEFINITIONS", IN ACCORDANCE WITH SECTION 509.102(2), FLORIDA STATUTES (2021), AND SECTION 3-302, AND SECTIONS 3-1004 THROUGH 3-1007 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, CHAPTER 29, ENTITLED "LAND DEVELOPMENT REGULATIONS"; PROVIDING FOR REPEAL, CONFLICTS, SEVERABILITY, CODIFICATION, AND FOR AN EFFECTIVE DATE.

WHEREAS, the City of North Miami ("City") is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Florida Legislature recently enacted Section 509.102, Florida Statutes, which defines the term "mobile food dispensing vehicle" as 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; and

WHEREAS, the City recognizes that effective July 1, 2020, Section 509.102, Florida Statutes provides a limited state preemption regarding "mobile food dispensing vehicle" and, that a municipality may not require a separate license, registration, or permit other than the license required by the state, or require the payment of any license, registration, or permit fee other than the fee required by the state, as a condition for the operation of a mobile food dispensing vehicle within the municipality; and

WHEREAS, the City also recognizes that Section 509.102, Florida Statutes, provides that a municipality may not prohibit mobile food dispensing vehicles from operating within the *entirety* of a municipal jurisdiction; and

WHEREAS, the City further finds that although Section 509.102, Florida Statutes does preempt municipalities in certain areas, Section 509.102, Florida Statutes is intended to be a partial preemption of municipal home rule authority because it expressly states 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 Section 509.102(2), Florida Statutes; and

WHEREAS, the City hereby finds that despite Section 509.102, Florida Statutes, municipalities continue to enjoy significant home rule authority to regulate land use and zoning and operational standards related to mobile food dispensing vehicles; and

WHEREAS, under regulated circumstances, mobile food dispensing vehicles provide a valuable and convenient service to the community by providing food and beverage options at special events and other appropriate venues; and

WHEREAS, the City wishes to support convenient food and beverage options at special events and other appropriate venues and encourage and support local business and entrepreneurship by adopting uniform regulations to allow the operation of mobile food dispensing vehicles within the City consistent with the preemption provided in Section 509.102, Florida Statutes; and

WHEREAS, the City finds that the use and operation of mobile food dispensing vehicles on real property directly affects the use of land within the City, and therefore, such uses are subject to the City’s legitimate land use and zoning powers under the Florida Municipal Home Rule Powers Act, Community Planning Act and other applicable law. *See also, Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365 (1926) (The concept of planning and zoning is a legitimate exercise of the police power of municipalities.); and

WHEREAS, unless the operation of mobile food dispensing vehicles within the City is limited to the industrial zoning district, or temporary special events, and subject to some level of site plan review by the City to ensure that the real property on which they operate is suitable to accommodate such use, the operation of such vehicles may negatively impact the use of real property and surrounding properties and create public nuisances; and

WHEREAS, the City desires to avoid such negative impacts and public nuisances; and

WHEREAS, the City also finds that the use and operation of mobile food dispensing vehicles should be governed by other traditional land use and zoning requirements as more

specifically stated herein in order to avoid adverse negative effects which may be caused by the operation of such vehicles on real property and safeguard the community; and

WHEREAS, the City further finds that for mobile food dispensing vehicles to successfully operate their respective businesses for profit within the jurisdictional limits of the City, such vendors must also rely upon and use City streets; and

WHEREAS, the City additionally finds and recognizes that Florida courts have long held that municipalities have the historic ability to regulate commercial use of City streets and that the use of public roads for profit is a privilege, not a right, and can be regulated and controlled by the government in furtherance of the public health, safety and welfare. *See Seaboard Air Line Ry. Co. v. Wells*, 100 Fla. 1027, 1034, 130 So. 587, 591 (Fla. 1930); *Pennington v. Quigg*, 94 Fla. 1056, 1065, 114 So. 859, 862 (Fla. 1927) (The right to use city streets for conducting private business is not an inherent right and can only be acquired by permission or license from the city); *Jarrell v. Orlando Transit Co.*, 123 Fla. 776, 778, 167 So. 664, 665 (Fla. 1936) (There is then no such thing as a natural right to use the public highways for commercial purposes. A city may grant a limited right to use the streets for private business, but such is, "...a privilege that may be restricted or withdrawn at the discretion of the granting power. The power to do so is plenary and may extend to absolute prohibition"); and

WHEREAS, the City deems that it is necessary to regulate mobile food dispensing vehicles operating upon streets within the City so such vendors operate in areas with sufficient pedestrian traffic, and in a manner that avoids traffic conflicts and congestion, generally protects public safety, and does not detract from the aesthetic beauty and attractiveness of the surrounding streetscape and properties; and

WHEREAS, the Mayor and City Council of the City of North Miami, Florida, hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of North Miami.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Council of the City of North Miami.

Section 2. **Mobile Food Dispensing Vehicles.** The Mayor and City Council of the City of

North Miami, Florida, hereby amend Chapter 29 of the North Miami Code of Ordinances entitled "Land Development Regulations", by amending Article 5, entitled "Development Standards", and Article 7, entitled "Definitions" as follows:

CITY OF NORTH MIAMI CODE OF ORDINANCES
CHAPTER 29. LAND DEVELOPMENT REGULATIONS

* * * * *

ARTICLE 5. – DEVELOPMENT STANDARDS

DIVISION 1. - ACCESSORY USES AND STRUCTURES

Sec. 5-101. - Accessory uses and structures; Permits required.

A. Except as explicitly provided herein, no use designated as an accessory use in this division shall be established until after the person proposing such use has applied for and received all required development permits which may include; a building permit, zoning improvement permit (ZIP), certificate of use, and a certificate of occupancy all pursuant to the requirements of this division. No permit shall be issued for an accessory building for any use unless the principal building and established use exists on the property, or unless a permit is obtained simultaneously for both buildings and construction progress concurrently.

B. Prohibited uses. Any accessory use not specifically listed as permitted, or listed as a related use, and which the administrative official cannot categorize as similar to a permitted use or related use, shall be considered expressly prohibited.

C. Applicability of principal use and building regulations. An accessory use and building or structure shall be subject to the same regulations that apply to the principal use, building and structure in each district, except as otherwise provided.

D. Location. All accessory uses, buildings and structures, except for approved off-site parking, shall be located on the same lot as the principal or main use.

E. The following accessory use table shall be used to determine the required zoning district in which a use may be established. Unless otherwise stated, setback and spacing regulations shall adhere to the minimum requirements of this division. Additional standards shall be complied with for the establishment of the accessory use.

Zoning District/Accessory Use and Structures	R-1	R-2	R-4	R-5	R-6	C-1	C-2BE	C-2BW	C-3	M-1	PU	RO	BZ	PD	AOD	NRO
Management office, sales office	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P
Mobile food dispensing vehicles ^{1& 2}										P*						
Mobile medical, professional unit	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Multifamily recyclable material storage areas			P	P	P								P	P	P	P**
News kiosk						P	P	P	P		P			P	P	P
Off-street parking structures						P	P	P	P		P			P	P	P

Legend: P indicates permitted

P* indicates permitted through Admin. Site Plan approval

P** indicates permitted through the underlying zoning district

Blank indicates not permitted

Note: See additional standards, requirements, and criteria for specific accessory uses set forth in this division and the master permitted uses list in section 4-202.

¹ Subject to the standards in section 5-1611.

² This use may be accommodated in other zoning districts as a special event through the temporary use permit process as provided in section 5-1903.

DIVISION 16. - STANDARDS FOR SPECIFIC USES

Section. 5-1611. – Mobile food dispensing vehicles.

A. Purpose and intent. The purpose and intent of this section is to establish land use and zoning regulations for real property upon which a mobile food-dispensing vehicle (“MFDV”), e.g., “food truck” is authorized to operate within the jurisdictional limits of the city. Unless authorized by this section, or allowed under a temporary use permit, MFDVs on other real property are prohibited and unlawful. This section is intended to neither prohibit MFDVs from operating within the entirety of the city, nor regulate the licensing, registration, permitting and fees of MFDVs, preempted by the state under section 509.102, Florida Statutes.

B. Authorized locations. Subject to the terms and conditions set forth in this section, long-term MFDVs shall be allowed to operate within the jurisdictional limits of the city as an accessory use on property zoned M-1 on the city’s official zoning map. MFDVs, as part of a special event, may be accommodated in other districts through the temporary use permit as outlined in section 5-1903.

C. Land use conditions for MFDVs. With the exception of MFDVs operating as part of a special event approved under a temporary use permit, the following shall apply to all MFDVs operating within the city:

1. The property owner must obtain specific administrative site plan approval from the community planning and development department.
2. As required for all businesses operating in the City, the property owner shall assure that each MFDV obtain, and maintain a business tax license from the city, and a certificate of use, if determined necessary by the community planning and development department.
3. The subject property shall be developed with a legally operating permanent business. MFDVs shall operate only during such business' normal hours of operation.

D. Operational standards. The following operational standards shall apply to all MFDVs operating within the city, whether long-term or as part of a special event approved under a temporary use permit:

1. Unless otherwise approved under a temporary use permit, no portion of the MFDV shall extend onto an adjacent property or into any right-of-way.
2. The MFDV shall not interfere with vehicular and pedestrian movement or visibility, block access to loading/service areas, emergency access and fire lanes, driveways, sidewalks, or damage landscaped areas.
3. MFDVs must be located on a paved surface.
4. MFDVs that occupy any site parking space(s) shall only utilize those parking space(s) that are not required for the host business location, or any business-required parking space on the site. .
5. The food vendor shall provide receptacles, adjacent to the MFDV, for litter associated with the sales activity, and shall remove all litter, debris and other waste attributable to the vendor and/or customers on a daily basis.
6. The MFDV must not discharge waste, fat, oil, grease or such other similar substances from the vehicle. All such substances related to or generated from the vehicle shall be taken with the vehicle when the vehicle leaves the subject property.
7. No food shall be sold, prepared or displayed outside of the MFDV while in operation on the subject site.
8. Adequate sanitary facilities must be provided to serve employees and patrons.

9. Vendors shall not use any flashing, blinking, or strobe lights or similar effects to draw attention to the MFDV.
10. Vendors shall not use loud music, amplification devices, bullhorns, crying out, or any other audible methods to gain attention.
11. With the exception of one (1) A-frame sign located directly next to the MFDV's customer service area, there shall be no signage used by vendors except for what is allowed on the MFDV itself.
12. With the exception of dining furniture approved through the administrative site plan, vendors are prohibited from locating, placing or putting personal property outside of the MFDV, including but not limited, to fixtures, and equipment. All allowable dining furniture shall be removed at the end of daily operations.
13. Vendors shall comply with all applicable city laws, regulations, and ordinances, including those regulating noise, signage, and loitering.
14. With the exception of ancillary sales of branded items consistent with the food or vendor, such as a cup or tee shirt that bears the name of the company, restaurant or organization engaged in MFDV vending, the sale of products other than food and beverages under the permit authorized in this section is prohibited.
15. Unless otherwise approved as part of a temporary use permit issued under article 5, division 19, no more than two (2) MFDVs are allowed to operate simultaneously per site.
16. No overnight parking of the MFDV allowed on-site.
17. A MFDV shall not be located on private property upon which there are unpaid liens or open code violations.
18. MFDVs selling or dispensing of food to customers in a moving vehicle or otherwise engaging in drive-up sales is prohibited.

D. Additional permits and licenses. A copy of the appropriate license(s) issued from the Florida Department of Business & Professional Regulation (Division of Hotels and Restaurants) shall be maintained on the MFDV at all times when the vehicles is in operation on real property located within the city, and shall be made available for inspection upon request by the city's law or code compliance officers.

E. Penalties and appeals.

1. Owners and operators of MFDVs, property owners on which such vehicles operate, and the temporary use permittee, shall be jointly and severally liable for any violations of this section. The code compliance department shall revoke the property owners' MFVD site plan or the temporary use permit if any MFDV vendor ceases to meet any requirement of this section; or, who violates any other federal, state or local law, ordinance or regulation; or conducts activity in a manner that is adverse to the protection of the public health, safety, and welfare.
2. If the MFDV site plan approval is denied or revoked, the property owner may appeal the decision to the zoning appeals board pursuant to article 2, division 5, "Zoning Appeals Board".

DIVISION 19. - TEMPORARY USES

Sec. 5-1903. - Permit and Standards.

No temporary use shall be established on private or public property without obtaining a temporary use permit from the city manager or designee, establishing compliance with the following standards:

- A. The temporary use will not create hazardous vehicular or pedestrian traffic conditions.
- B. The design and installation of all practicable temporary traffic control devices including signage to minimize traffic congestion.
- C. Adequate sanitary facilities, utility, drainage, refuse management, emergency services and access, and similar necessary facilities and services will be available to serve employees, patrons or participants.
- D. Where a tent or similar structure is to be used, such structure shall:
 1. Comply with the requirements of the fire marshal.
 2. Provide the city with a certificate of insurance to cover the liability of the applicant or sponsor.
 3. Demonstrate that the tent is flame resistant by providing a certificate of flame resistance or other assurance that the structure has been properly treated with flame retarder and has been maintained as such.
- E. Signage, pursuant to 5-1501, related to the temporary use, including signs attached to vehicles associated with the use, shall not exceed twenty-four (24) square feet of sign face area and no more than one (1) sign face per street frontage shall be permitted. During the period of a declared disaster, additional allowances for banners and other removable signage may be considered.

F. Mobile food-dispensing vehicles (MFDVs), proposed as part of the temporary use permit, may be accommodated in all zoning districts, subject to the requirements herein, and the applicable standards outlined in section 5-1611.

No temporary use shall be permitted which allows the sale of Christmas trees or fireworks.

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ARTICLE 7. – DEFINITIONS

Sec. 7-101. - Definitions.

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Mixed-use development means a development that encompasses three (3) or more uses.

Mobile food dispensing vehicle, e.g., “food trucks”, shall have the same meaning as that term is defined in section 509.102(1), Florida Statutes, and upon the effective date of this section, means, “... a vehicle that is a public food service establishment that is self-propelled or otherwise moveable from place to place, and includes self-contained utilities, included, but not limited to, gas, water, electricity, or liquid waste disposal.”

Mobile home means a residential living unit, ten (10) feet or more in width, movable and equipped with a chassis, designed to be transported to and affixed to a site in accordance with Florida Statutes, where it is to be occupied as a dwelling, containing any of the following mechanical systems and equipment: plumbing, heating, electrical, cooking and refrigeration.

* * * * *

Section 3. **Repeal.** All Ordinances and part of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

Section 4. **Conflicts.** All Ordinances or parts of ordinances in conflict herewith the provisions of this Ordinance are repealed.

Section 5. **Severability.** The provisions of this Ordinance are declared to be severable. If any section, paragraph, sentence, phrase, clause or word of this Ordinance shall, for any reason, be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, phrases, clause or words of this Ordinance, but they shall remain in

effect, it being the legislative intent that this Ordinance shall notwithstanding the invalidity of any part.

Section 6. Scrivener's Errors. The City Attorney may correct scrivener's errors found in this Ordinance by filing a corrected copy with the City Clerk.

Section 7. Codification. The provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or any other appropriate word.

Section 8. Effective Date. This Ordinance shall become effective ten (10) days after adoption on second reading.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 24th day of August, 2021.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 28th day of September, 2021.

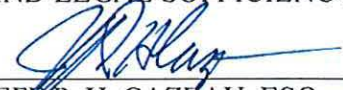

PHILIPPE BIEN-AIME
MAYOR

ATTEST:



VANESSA JOSEPH, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: COUNCILMAN GALVIN

CO-SPONSORED BY: COUNCILWOMAN TIMOTHE

Moved by: Estimé-Irvin

Seconded by: Timothe

Vote:

Mayor Philippe Bien-Aime
Vice Mayor Scott Galvin
Councilwoman Kassandra Timothe, MPA
Councilwoman Mary Estimé-Irvin
Councilman Alix Desulme, Ed.D.

<u>X</u>	(Yes)	<u> </u>	(No)
<u>X</u>	(Yes)	<u> </u>	(No)
<u>X</u>	(Yes)	<u> </u>	(No)
<u>X</u>	(Yes)	<u> </u>	(No)
<u>X</u>	(Yes)	<u> </u>	(No)

ORDINANCE 2020-04

AN ORDINANCE OF THE CITY OF WINTER SPRINGS, FLORIDA, GENERALLY RELATED TO LAND USE AND ZONING REQUIREMENTS; AUTHORIZING THE OPERATION OF "MOBILE FOOD DISPENSING VEHICLES" AS A TEMPORARY ACCESSORY USE IN CERTAIN LIMITED ZONING DISTRICTS IN FURTHERANCE OF SECTION 509.102(2), FLORIDA STATUTES AND AT SPECIAL EVENTS AUTHORIZED BY THE CITY; PROVIDING GENERAL STANDARDS FOR OPERATING MOBILE FOOD DISPENSING VEHICLES; PROVIDING FOR THE REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS; INCORPORATION INTO THE CODE; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under Section 2(b), Article VIII, of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Florida Legislature recently enacted Section 509.102, Florida Statutes, which defines the term "mobile food dispensing vehicle" as 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; and

WHEREAS, the City Commission recognizes that effective July 1, 2020, Section 509.102, Florida Statutes provides a limited state preemption regarding "mobile food dispensing vehicle" and that a municipality may not require a separate license, registration, or permit other than the license required by the state, or require the payment of any license, registration, or permit fee other than the fee required by the state, as a condition for the operation of a mobile food dispensing vehicle within the municipality; and

WHEREAS, the City Commission also recognizes that Section 509.102, Florida Statutes, provides that a municipality may not prohibit mobile food dispensing vehicles from operating within the *entirety* of a municipal jurisdiction; and

WHEREAS, the City Commission further finds that although Section 509.102, Florida Statutes does preempt municipalities in certain areas, Section 509.102, Florida Statutes is intended to be a partial preemption of municipal home rule authority because it expressly states 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 Section 509.102(2), Florida Statutes; and

WHEREAS, the City Commission hereby finds that despite Section 509.102, Florida Statutes, municipalities continue to enjoy significant home rule authority to regulate land use and zoning and operational standards related to mobile food dispensing vehicles; and

WHEREAS, under regulated circumstances, mobile food dispensing vehicles provide a valuable and convenient service to the community by providing food and beverage options at special events and other appropriate venues; and

WHEREAS, the City Commission wishes to support convenient food and beverage options at special events and other appropriate venues and encourage and support local business and entrepreneurship by adopting uniform regulations to allow the operation of mobile food dispensing vehicles within the City consistent with the preemption provided in Section 509.102, Florida Statutes; and

WHEREAS, the City Commission finds that the use and operation of mobile food dispensing vehicles on real property directly affects the use of land within the City, and therefore, such uses are subject to the City's legitimate land use and zoning powers under the Florida Municipal Home Rule Powers Act, Community Planning Act and other applicable law. *See also, Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365 (1926) (The concept of planning and zoning is a legitimate exercise of the police power of municipalities.); and

WHEREAS, unless the operation of mobile food dispensing vehicles within the City is limited to certain commercial and industrial zoning districts or temporary special events, and subject to some level of site plan review by the City to ensure that the real property on which they operate is suitable to accommodate such use, the operation of such vehicles may negatively impact the use of real property and surrounding properties and create public nuisances; and

WHEREAS, the City Commission desires to avoid such negative impacts and public nuisances; and

WHEREAS, the City Commission also finds that the use and operation of mobile food dispensing vehicles should be governed by other traditional land use and zoning requirements as more specifically stated herein in order to avoid adverse negative effects which may be caused by the operation of such vehicles on real property and safeguard the community; and

WHEREAS, the City Commission further finds that for mobile food dispensing vehicles to successfully operate their respective businesses for profit within the jurisdictional limits of the City, such vendors must also rely upon and use City streets; and

WHEREAS, the City Commission additionally finds and recognizes that Florida courts have long held that municipalities have the historic ability to regulate commercial use of City streets and that the use of public roads for profit is a privilege, not a right, and can be regulated and controlled by the government in furtherance of the public health, safety and welfare. *See*

Seaboard Air Line Ry. Co. v. Wells, 100 Fla. 1027, 1034, 130 So. 587, 591 (Fla. 1930); *Pennington v. Quigg*, 94 Fla. 1056, 1065, 114 So. 859, 862 (Fla. 1927) (The right to use city streets for conducting private business is not an inherent right and can only be acquired by permission or license from the city); *Jarrell v. Orlando Transit Co.*, 123 Fla. 776, 778, 167 So. 664, 665 (Fla. 1936) (There is then no such thing as a natural right to use the public highways for commercial purposes. A city may grant a limited right to use the streets for private business, but such is “a privilege that may be restricted or withdrawn at the discretion of the granting power. The power to do so is plenary and may extend to absolute prohibition”); and

WHEREAS, the City Commission deems that it is necessary to regulate mobile food dispensing vehicles operating upon streets within the City so such vendors operate in areas with sufficient pedestrian traffic and in a manner that avoids traffic conflicts and congestion and otherwise generally protects public safety and does not detract from the aesthetic beauty and attractiveness of the surrounding streetscape and properties; and

WHEREAS, the City Commission of the City of Winter Springs, Florida, hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Winter Springs.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF WINTER SPRINGS HEREBY ORDAINS, AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by this reference as legislative findings and the intent and purpose of the City Commission of the City of Winter Springs.

Section 2. **Mobile Food Dispensing Vehicles.** The City of Winter Springs Code of Ordinances, Chapter 20, Zoning, Article VIII, Mobile Food Dispensing Vehicles and Other Mobile Vendors is hereby created as set forth below (underlined type indicates additions and ~~strikeout~~ type indicates deletions):

CHAPTER 20 – ZONING

ARTICLE VIII. MOBILE FOOD DISPENSING VEHICLES

Sec. 20-650. Mobile Food Dispensing Vehicles.

(a) **Purpose and intent.** The purpose and intent of this section is to establish land use and zoning regulations for real property upon which a mobile food dispensing vehicle is authorized to operate within the jurisdictional limits of the City. Mobile food dispensing vehicles, except for those operating on real property authorized in this section, are prohibited and unlawful on other real property not so authorized. This section is neither intended to prohibit mobile food dispensing vehicles from operating within the entirety of the City nor regulate the licensing, registration, permitting and fees of mobile food dispensing vehicles preempted by the state under section

509.102, Florida Statutes.

(b) Definitions. As used in this section, the following words and phrases shall have the following meanings, unless the context clearly indicates that a difference meaning is intended:

Accessory shall mean clearly incidental or subordinate to and customary in connection with the principal building or use on a developed site and which is located on the same lot or parcel with such principal building or use.

City Manager shall mean the City Manager or designee thereof.

Developed site shall mean real property upon which a building and other permanent improvements have been legally constructed and which is currently in compliance with all land development regulations and the City Code.

Food shall mean all substances commonly used for human consumption as food, beverage, confectionery or condiments, whether simple, mixed or compound, and all substances or ingredients used in preparation thereof.

Mobile Food Dispensing Vehicle shall have the same meaning as that term is defined in Section 509.102(1), Florida Statutes, and upon the effective date of this Section means 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.

Public road shall mean any public right-of-way for cars and trucks in the city.

Special event shall mean any organized, temporary public or private celebration or gathering of people which requires a City special event permit including by way of example events relating to athletic contests, carnivals, fairs, cook-offs, entertainment, dancing, music concert, dramatic productions, art exhibitions, parades, fundraisers (such as religious, charitable, patriotic or philanthropic events), or the sale of merchandise, food or alcohol, or any combination of the foregoing.

(c) Authorized Locations. Subject to the terms and conditions set forth in subsection (d), mobile food dispensing vehicles shall be allowed to operate within the jurisdictional limits of the City in the following authorized areas:

- (1) As a temporary accessory use on property which is designated I-1, C-3 or C-2 on the City's official zoning map.
- (2) Within a clearly delineated area on City property or a public road which has

been specifically and temporarily set aside for a mobile food dispensing vehicle to operate during a special event which is open to the general public, provided the event has been lawfully permitted by the City and any mobile food dispensing vehicle has been contractually arranged by the event organizer to be part of the event.

- (3) Within a clearly delineated area on public or private school property which has been specifically and temporarily set aside for a mobile food dispensing vehicle to operate during a school sponsored event held entirely on school property which is open to the faculty and student body, provided the event has been lawfully permitted by the City and any mobile food dispensing vehicle has been contractually arranged by the school to be part of the event.
- (4) Within a clearly delineated area on private property which has been specifically and temporarily set aside for a mobile food dispensing vehicle to operate during a special event held entirely on private property which is private or open to the general public, provided the event has been lawfully permitted by the City and any mobile food dispensing vehicle has been contractually arranged by the event organizer to be part of the event. However, a mobile food dispensing vehicle shall not be allowed to operate on any existing single or multi-family residential use property unless the area being used is common area of a residential project with at least fifty (50) dwelling units. Additionally, a special event allowed on private property under this subsection shall be limited to no more than one event per calendar quarter.

(d) Conditions of Land Use and Operational Standards. The following land use and operational standards shall apply to all mobile food dispensing vehicles operating within the City:

- (1) When the mobile food dispensing vehicle will be operating on private property, a notarized affidavit signed by the property owner indicating that the vehicle has permission to operate and vend on the property. The affidavit must also indicate that the property owner acknowledges the following requirements:
 - a. The property owner shall comply with all ordinances regarding solid waste disposal and must provide the vehicle access to solid waste collection on the subject property;
 - b. The property owner shall require that the vehicle meet all applicable federal, state and local statutes, regulations, laws, ordinances, rules and codes including, but not limited to, applicable land use and zoning requirements regarding the subject property including site plan requirements;
 - c. The property owner shall acknowledge that the property owner

- understands the regulations governing mobile food dispensing vehicles and will be held responsible, along with the vehicle owner, for any code violations; and
- d. The property owner shall ensure that the property will be continuously maintained in a neat, clean, and orderly manner, and that the mobile food dispensing vehicle shall be limited to operating as a temporary accessory use on the subject property.
- (2) The subject property must be a developed site. The subject property must not be vacant or unimproved.
- (3) No more than one (1) mobile food dispensing vehicle shall be parked or in operation on a single property at any given time, except multiple mobile food dispensing vehicles may be allowed with express written permission of the City during an authorized special event.
- (4) A mobile food dispensing vehicle may operate at a single location up to a maximum of four (4) days per week but no more than three (3) consecutive days, or if operation is allowed as part of a special event permit, said vehicles may operate in accordance with the duration of the special event permit.
- (5) Except with the express written permission of the City during an authorized special event, hours of operation shall be limited between 7a.m. and 10p.m. The person in charge of the mobile food dispensing vehicle when in operation on the developed site must be present at all times during hours of operation.
- (6) When the mobile food dispensing vehicle will be operating on private property, the vehicle must be parked when in operation within an area on the property specifically authorized for accessory temporary outdoor sales on the property owner's master site plan previously approved by the City Commission. If the property owner does not have specific site plan approval for accessory temporary outdoor sales on the master site plan, the property owner shall be required to obtain supplemental site plan approval by the City Manager before the mobile food dispensing vehicle may operate as an accessory use on the subject property. For purposes of obtaining supplemental site plan approval, the property owner shall submit a site plan or detailed sketch depicting the proposed location of temporary mobile food dispensing vehicle operations; all parking spaces, entrances and exits to and from the site; and distances from any buildings or structures, sidewalks, rights-of-way, fire hydrants, fire lanes and landscaped areas, and such other information or documentation deemed by the City Manager to be reasonably necessary to authorize outdoor accessory temporary sales on the

subject property in a manner that is compatible with the existing uses on the subject property and the surrounding area and protects the public health, safety and welfare of the citizens of the City. The mobile food dispensing vehicle temporary sales area must be on a paved surface and not exceed an area of 600 square feet unless the City Manager determines more area is required and the subject property clearly has ample space to support a larger sales area. The approved area must not adversely affect existing uses on the subject property or the flow of pedestrian and vehicular traffic on the developed site. There must be an adequate number of parking spaces available for the general public visiting the developed site. Supplemental site plan approval granted by the City Manager under this subsection is subject to being suspended or revoked pursuant to subsection (e) or at such time the master site plan is revoked or modified by the City Commission.

- (7) Outdoor dining areas are prohibited including, but not limited to, tables, chairs, booths, bar stools, benches, and standup counters, except if dining areas are allowed with express written permission of the City during an authorized special event.
- (8) Mobile food dispensing vehicles selling or dispensing of food to customers in a moving vehicle or otherwise engaging in drive-up sales is prohibited.
- (9) A mobile food dispensing vehicle shall not be located on private property upon which uncorrected code violations exist, or which is under citation for code violations.
- (10) Mobile food dispensing vehicles and all materials associated with such vehicles must physically be moved at least daily and cannot remain on the subject property outside the approved hours of operation unless otherwise allowed by the City for special events. Overnight parking of mobile food dispensing vehicles is prohibited unless located within an enclosed garage or on property zoned for an authorized open storage use and said storage complies with the requirements set forth in section 20-256 of the City Code.
- (11) Mobile food dispensing vehicles shall not sell alcohol unless specifically approved as part of a special event or other permit approved by the City. The alcohol-related restrictions of Chapter 3 of the City Code are applicable unless otherwise authorized by the City Code, or, expressly waived by the City.
- (12) The operation of a mobile food dispensing vehicles must not obstruct or interfere with vehicular or pedestrian traffic, building access, fire lanes, crosswalks, driveways, fire hydrants, loading areas, stormwater drainage systems, or landscape buffers associated with the principal use.

- (13) Mobile food dispensing vehicles must not enter or park upon playgrounds, playing fields and courts, sidewalks, footpaths or bicycle paths.
- (14) Mobile food dispensing vehicles must not enter or park upon any "no parking" area, loading zone, driveway, handicapped parking space, or designated public safety lane (e.g., fire lanes) or within twenty (20) feet of a crosswalk or within fifteen (15) feet of a fire hydrant or storm drainage structure.
- (15) No additional signage shall be permitted on the developed site related to the mobile food dispensing vehicle except as to signage permanently affixed and displayed on the vehicle.
- (16) Amplified music or other sounds from any mobile food dispensing vehicle or from audio equipment installed on the developed site by the property owner or person in charge of the vehicle for purposes of vending, attracting or encouraging the congregation of customers shall be prohibited.
- (17) Mobile food dispensing vehicles shall maintain an appropriate number and size of operable fire extinguishers.
- (18) The operation of a mobile food dispensing vehicles shall not create or cause nuisance conditions to include, but not be limited to, displaying flags or unauthorized signage, loud noises, visual glare, flashing or animated lights, shouting or amplified music or sound, excessive fumes or smoke, environmental hazards, and any vehicular or pedestrian hazard.
- (19) The grounds around the mobile food dispensing vehicle and within the vending space shall be kept free of litter, trash, paper and waste at all times. Waste containers shall be provided and all trash shall be taken with the vehicle when the vendor leaves or with the permission of the property owner, placed inside a commercial dumpster in use and located on the developed site.
- (20) Mobile food dispensing vehicles must not discharge waste, fat, oil, grease or such other similar substances from the vehicle. All such substances related to or generated from the vehicle shall be taken with the vehicle when vehicle leaves the subject property.
- (21) Mobile food dispensing vehicles must comply, as applicable, with the standards specified by Chapter 5K-4.002, Florida Administrative Code, and the U.S. Food and Drug Administrative 2001 Food Code, as such codes may be amended from time to time. It is also prohibited and unlawful for a

mobile food dispensing vehicle to fail to comply with all state and City traffic and parking, and stopping and standing laws, codes, ordinances, rules and regulations.

- (22) A copy of the appropriate license(s) issued from the Florida Department of Business & Professional Regulation (Division of Hotels and Restaurants) shall be maintained on the mobile food dispensing vehicle at all times when the vehicle is in operation on real property located within the City, and shall be made available for inspection upon request by the City's law or code enforcement officers.

(c) Penalties.

- (1) Owners and operators of mobile food dispensing vehicles, and property owners on which such vehicles operate, shall be joint and severally liable for any violations of this section. The penalty provisions set forth in section 1-15 of the City Code shall apply to violations of this section.
- (2) In addition to the penalties authorized by subsection (1), the City Manager may also suspend or revoke the property owner's site plan approval for accessory temporary outdoor sales and/or special event permit, as may be applicable, upon a finding that a mobile food dispensing vehicle was operating on the subject property in violation of this section. Prior to suspending or revoking the applicable site plan approval and/or special event permit, the City Manager shall:
- (i) Afford the property owner notice of the violation(s) and a reasonable, informal opportunity to be heard regarding the violation(s);
- (ii) Consider the property owner's past record of compliance with this section and related laws; and
- (iii) Consider the degree of risk to public health, safety, and welfare arising from the alleged violation(s) in evidence.
- (3) The City Manager's decision under subsection (2) shall be rendered in writing and shall be deemed final.
- (4) Any site plan approval or special event permit suspended or revoked pursuant to this subsection shall immediately be void and of no further use and effect to any person. If revoked, the property owner shall be prohibited from seeking subsequent site plan approval for accessory temporary outdoor sales or a special event permit for the subject property for a period

of one (1) year from the date of the revocation.

- (5) The operation of a mobile food dispensing vehicle without a valid site plan approval for accessory temporary outdoor sales or special event permit (including if operated during a period of license suspensions or revocation) shall subject the owner of the property and the owner of the vehicle and operator thereof to code enforcement action, civil action, or action as otherwise allowed by state law or the City Code.

Section 3. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Commission, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 4. Incorporation Into Code. This Ordinance shall be incorporated into the Winter Springs City Code and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the City Code may be freely made.

Section 5. Severability. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

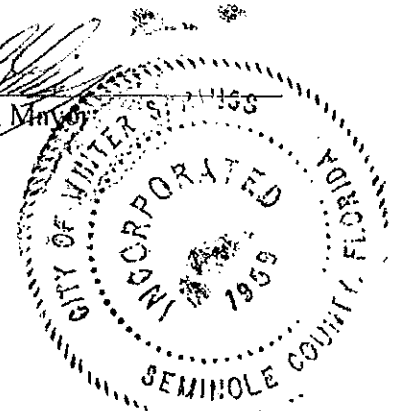
Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Springs, Florida, and pursuant to the City Charter.

ADOPTED by the City Commission of the City of Winter Springs, Florida, this 10th day of August, 2020.

ATTEST:


CHRISTIAN GOWAN, Interim City Clerk


CHARLES LACEY, Mayor



APPROVED AS TO LEGAL FORM AND SUFFICIENCY
FOR THE CITY OF WINTER SPRINGS ONLY.



ANTHONY A. GARGANESE
City Attorney

First Reading June 8th, 2020
Second Reading: August 10th 2020
Effective Date: August 10th 2020

**CITY OF WINTER SPRINGS NOTICE OF CITY
COMMISSION PUBLIC HEARING
NOTICE IS HEREBY GIVEN THAT
THE CITY COMMISSION
PROPOSES TO CONSIDER:**

ORDINANCE NO. 2020-04

**AN ORDINANCE OF THE
CITY OF WINTER SPRINGS,
FLORIDA, GENERALLY
RELATED TO LAND USE AND
ZONING REQUIREMENTS;
AUTHORIZING THE OPERATION
OF "MOBILE FOOD DISPENSING
VEHICLES" AS A TEMPORARY
ACCESSORY USE IN CERTAIN
LIMITED ZONING DISTRICTS
IN FURTHERANCE OF
SECTION 509.102(2), FLORIDA
STATUTES AND AT SPECIAL
EVENTS AUTHORIZED BY THE
CITY; PROVIDING GENERAL
STANDARDS FOR OPERATING
MOBILE FOOD DISPENSING
VEHICLES; PROVIDING FOR
THE REPEAL OF PRIOR
INCONSISTENT ORDINANCES
AND RESOLUTIONS;
INCORPORATION INTO THE
CODE; SEVERABILITY; AND AN
EFFECTIVE DATE.**

**PUBLIC HEARING
FOR SECOND READING
WILL BE HELD ON**

**MONDAY, AUGUST 10, 2020 AT 6:30
P.M. OR SOON THEREAFTER IN
THE COMMISSION CHAMBERS
LOCATED AT THE WINTER
SPRINGS CITY HALL, 1126 EAST
STATE ROAD 434, WINTER
SPRINGS, FLORIDA. THE
CITY COMMISSION RESERVES
THE RIGHT TO POSTPONE
OR CONTINUE THE PUBLIC
HEARING ON THIS ORDINANCE
AT THIS MEETING WITHOUT
FURTHER NOTICE.**

The proposed ordinance may be inspected by interested parties between 8 a.m. and 5 p.m., Monday through Friday, at the City's Clerk's Office, located at 1126 East State Road 434, Winter Springs, Florida. For more information call (407) 327-1800, Extension 253. Interested parties may appear at the meeting and be heard with respect to the proposed ordinance. Persons with disabilities needing assistance to participate in any of these proceedings should contact the Employee Relations Department Coordinator, 48 hours in advance of the meeting at (407) 327-1800, Extension 236. This is a public hearing. If you decide to appeal any recommendation/ decision made by the City Commission with respect to any matter considered at this meeting, you will need a record of the proceedings, and for such purposes, you may need to ensure that a verbatim record of the proceedings is made upon which the appeal is based. Interested parties are advised that they may appear at the meeting and be heard with respect to the proposed ordinance.

OS6774517

7/29/2020

ORDINANCE NO. 03-2022

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING CHAPTER 22 - BUSINESSES, ARTICLE VI - STREET VENDORS, SECTION 22-186-DEFINITIONS BY ADDING A NEW DEFINITION FOR MOBILE FOOD DISPENSING VEHICLE AND ADDING A NEW SECTION 22-191 REGULATING THE OPERATION OF MOBILE FOOD DISPENSING VEHICLES WITHIN CITY LIMITS; DELETING SECTION 2-190 AS TO FOOD SALES AT HOUSES OF WORSHIP SAME WILL BE PROVIDED FOR UNDER SPECIAL EVENTS AND NEW SECTION 22-191; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Governor of the State of Florida signed into law the Occupational Freedom and Opportunity Act (SB474/HB1171) (“Act”), which became effective on July 1, 2020; and

WHEREAS, the Act created Florida Statutes Section 509.102 – mobile food dispensing vehicle (“MFDV”) preemption in which a municipality, county or other local governmental entity may not require a separate license, registration, permit or fee from MFDVs and may not prohibit MFDVs from operating within the entirety of the jurisdiction; and

WHEREAS, the City only allows mobile food dispensing vehicles (MFDV) licensed by the Department of Business & Professional Regulation (DBPR), which include mobile hot dog carts and food trucks to operate on established, occupied commercially zoned and developed properties, established/occupied church/house of worship property meeting the requirements of Section 22-191, but excluding vacant property, or commercial zoned properties primarily used for residential; and (See Sec. 22-187)

WHEREAS, Mobile Food Dispensing Vehicles can provide opportunities for entrepreneurs and small businesses to startup and operate at relatively low cost. They may add interest, vibrancy, and activity to the city. However, without proper regulation they can have potentially negative effects by posing a threat to brick-and-mortar restaurants, blocking of public right-of-ways, creating traffic, negatively impacting the function and flow of parking facilities, posing a fire and life safety risk, etc.; and

WHEREAS the Planning & Zoning Board held a public hearing on December 15, 2021, to provide recommendations regarding the regulation of MFDVs to the City Commission for approval; and

WHEREAS the City Commission finds it is in the best interest of the health, safety, and welfare of the public to adopt standards for the location and operation of MFDVs within the City to address and mitigate the potential negative effects as recited above; and

WHEREAS, the City of Deltona finds and determines that these amendments to the City's Code are consistent with all applicable policies including the Land Development Code and the City's adopted Comprehensive Plan and not in conflict with the public interest.

NOW THEREFORE, BE IT ENCTED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA:

SECTION 1. The foregoing whereas clauses are incorporated herein as legislative findings by this reference and made a part hereof for all intents and purposes.

SECTION 2. Underlining denotes additions and ~~strike through~~ denote deletions.

SECTION 3. Chapter 22 - Businesses, Article VI – Street Vendors, Section 22-186 – Definitions is hereby amended by adding a new definition for “Mobile Food Dispensing Vehicles” and inserted in alphabetical order as follows:

Mobile Food Dispensing Vehicles. Is a vehicle that is a public food service establishment and 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, sometimes referred to as a food truck or trailer or food cart, and otherwise regulated by the Department of Business and Professional Regulation (DBPR) requiring a mobile food vendor license subject to F.S. Section 509.102 and in compliance with Section 22-191 of the City Code. Mobile Food Dispensing Vehicles are stationary for periods greater than 10 minutes while foodstuffs are prepared, served and/or sold. A Mobile Food Dispensing Vehicle does not include roving vehicles, like an ice cream truck, that periodically travel through residential neighborhoods selling pre-prepared or prepackaged food items, or a street peddler of unprepared foodstuffs, makeshift, standalone restaurants or buffets such as a food tent, or a mobile vendor selling anything other than food/foodstuffs.

SECTION 3. Section 22-191 – Supplementary regulations, is added as a new section to Chapter 22 – Businesses, Article VI – Street Vendors, to regulate mobile food dispensing vehicles within the City limits as follows:

A. Section 22-191. - *Mobile Food Dispensing Vehicles.* This section applies to vendors operating Mobile Food Dispensing Vehicles as defined in Florida Statute and herein can operate in compliance with the following requirements:

1. Provide a copy of the following documents to the Planning & Development Services Department:

- a. The Department of Business and Professional Regulation (DBPR) mobile food dispensing vehicle license.
 - b. A completed fire safety inspection report performed by a fire department within Volusia County. A fire inspection shall be conducted every six months.
 - c. A notarized authorization of owner permitting the operations of a food truck on an eligible private property. The authorization shall include a phone number contact for the property owner and an acknowledgment the owner shall be responsible for any infractions associated with the food truck operator/owner including a fine of no less than \$200.00 per infraction/day.
 - d. Licenses associated with alcohol sales if applicable.
2. A site plan at least a scale of 1" = 100' depicting the location of the mobile food dispensing vehicle and associated seating (if any) in relation to all on-site improvements including buildings, drive aisles, parking places, pedestrian facilities, etc. The site plan shall depict all property boundaries, parking on site, driveway cuts, buildings and improvements and related dimensions as applicable. The basis for the site plan can be a scaled aerial photo downloaded from the internet.
3. Location standards.
 - a. Mobile food dispensing vehicles may operate on a property developed with an existing, active commercial use in the C-1, C-2, or C-3 zoning districts. In addition, unless explicitly prohibited by an associated Development Agreement, mobile food dispensing vehicles may operate on property developed with existing and active uses zoned IPUD or BPUD. Vacant, undeveloped lots/parcels or non-active commercial use areas are not eligible for MFDV operation.

- b. Commercially zoned properties used principally for residential are not eligible.
- c. Actively used and developed house of worship properties, regardless of zoning classification, may be used for mobile food dispensing vehicles consistent with the requirements set forth in this section unless there are specific conditions prohibiting or regulating mobile food dispensing activities under an approved Conditional Use.
- d. Mobile food dispensing vehicles must be placed on a paved surface only.
- e. Mobile food dispensing vehicles shall not be located within any public right-of-way or otherwise obstruct any drive aisle, driveway throat, or cross access area associated with any parking facility or obstruct any sight triangle or otherwise be situated in an unsafe manner.
- f. Mobile food dispensing vehicles may not be located at eligible facilities where parking is not adequate to serve the business facility as per the Land Development Code.
- g. Mobile food dispensing vehicles may not occupy, obstruct/impede access to any handicapped parking stalls.
- h. Mobile food dispensing vehicles may set up ancillary tents, chairs or tables subject to the following:

Seating and tables must be located on a paved surface;

Seating and tables must be located outside of drive aisles and cannot obstruct any loading area, cross access, driveway throat, etc.;

Seating and tables must be limited to 342 square feet or two parking spaces per Mobile Food Dispensing Vehicle. However, all seating and table areas must be clearly demarcated and otherwise physically

cordoned off from drive aisles and/or parking stalls. Demarcation includes the use of clearly visible tape or rope to allow motorist and/or patrons to distinguish the seating area from a parking stall or drive aisle;

Any canopy must be secured in a way that will not allow the canopy to blown down by the wind;

All tables, seating and canopies can only be set up during the operation of the MFDV and must be removed at the end of every business cycle; and

Tables, seating and canopies shall not obstruct fire lanes and adhere to all fire clear zones/widths as applicable.

- i. Mobile food dispensing vehicles and related operations shall be consistent with Florida Fire Prevention Code to include, but not limited to, the following:
 - i. Mobile food dispensing vehicles shall be not less than 10 feet from all buildings;
 - ii. Mobile food dispensing vehicles shall be not less than 10 feet from all other vehicles.
 - iii. Mobile Food dispensing vehicles shall be not less than 10 feet from combustible materials;
 - iv. Access to fire lanes and/or fire prevention devices shall be maintained;
 - v. L/P gas and generator storage and use shall be consistent with the Florida Fire Prevention Code.
 - vi. The location and/or operation of a mobile food dispensing vehicles inconsistent with any of the above provisions shall be enforced as per City Code.

- j. Mobile Food Dispensing Vehicles shall be equipped with at least one trash receptacle per MFDV and at least one trash receptacle per ancillary seating area. Each trash can shall be no less than 32 gallons. Trash cans must be emptied and removed from the site when the MFDV is not on the site. In addition, trash can(s) shall be secure and stable so as not to be toppled during a wind or other event. Venders shall be responsible for all trash generated from the use.
- k. No Mobile Food Dispensing Vehicle shall discharge or cause to discharge any water, grease or other liquid waste on site of which they do business or within any stormwater system or within any public utility infrastructure.
- 4. Mobile Food Dispensing Vehicles shall not be associated with any hazardous or unsafe condition and shall not produce excess noise, vibration, electronic interference, excess heat or glare, electronic interference, etc. Noise levels from any generator must not exceed manufacture specifications.
- 5. Duration: Hours of operation are limited to 7:00 am to 10:00 pm.
- 6. The number of mobile food dispensing vehicles allowed on a site will be controlled by the separation terms of this ordinance and by the number of parking spaces available to support the existing developed use on the property. Parking calculations will be based on parking standards outlined as per Sec. 110-828 of the City Land Development Code. In addition, consistent with Sec. 110-828, uses with non overlapping hours of operation may be a factor with regard to the allowance of the number of mobile food dispensing vehicles. For example, a house of worship parking facility that may not be in use during non-worship times may be eligible for a greater number of mobile food dispensing vehicles based on the parking being not actively used.

7. Notwithstanding subsections 5 and 6 above, businesses with 100 or more full time equivalent (FTE) employees per eight (8) hour shift, at a single, developed commercial or industrially used/zoned parcel, may have multiple food dispensing vehicles. However, all other provisions of this section apply including but not limited to site plan submittal.
8. Advertising will be limited to identifying copy depicted on a single vehicle or trailer engaged in the mobile vending activity. No signs, banners, flags, sandwich boards, or similar will be allowed in any City right-of-way or on private property - including all prohibited signs under Article 1, Chapter 102, Section 102-10. In no cases shall people hold signs, merchandise or attempt to advertise for a mobile food dispensing vehicle within the public right of way. In addition, no other attention getting devices such as lighting beyond normal illumination, music, noise or scintillating lights or material shall be used in conjunction with any mobile food dispensing vehicle.

B. Exemptions

1. Mobile Food Dispensing Vehicles operating under an approved special event permit shall operate under the terms of the special event permit including date, hours of operation, location, and compliance with all codes as applicable.

C. Enforcement

1. City Code Compliance shall be responsible for the enforcement of the provisions within Section 22-191. Mobile food dispensing vehicles operating in non-compliance of any of the provisions of this section will have the option to immediately cease all operations and leave the location. If there is refusal leave the site, a citation in the amount of no less than \$200.00 per infraction/per day will be issued to the landowner and the City will bring forward a code compliance case against the

underlying landowner with the intent of collecting the fine in accordance with City Code Compliance enforcement procedure.

SECTION 5. Section 22-190 - Food sales on house of worship property. This section is deleted.

SECTION 6. That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. That this Ordinance shall take effect immediately upon its final adoption by the City Commission of Deltona, Florida.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, THIS _____ DAY OF _____, 2021.

FIRST READING: _____

ADVERTISED: _____

SECOND READING: _____

BY: _____

Heidi K. Herzberg, MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK

Approved as to form and legality for use
and reliance of the City of Deltona, Florida

CITY ATTORNEY

ORDINANCE 21-37

AN ORDINANCE OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING ARTICLE II OF CHAPTER 22 OF THE WINTER GARDEN CITY CODE RELATING TO PEDDLERS, SOLICITORS AND ITINERANT VENDORS TO BE CONSISTENT WITH THE RECENTLY ADOPTED STATE PREEMPTION OF LICENSING OF MOBILE FOOD DISPENSING VEHICLES AND TO CHANGE THE REGULATIONS FOR SUCH TYPE OF BUSINESSES; AMENDING SECTION 74-38, CITY CODE TO PROHIBIT MOBILE FOOD DISPENSING VEHICLES FROM CONDUCTING BUSINESS WITHIN PUBLIC RIGHTS-OF-WAY; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 509.102, Florida Statutes, the licensing of mobile food dispensing vehicles is preempted to the state and are regulated as public food service establishments; and

WHEREAS, the City desires to amend Article II of Chapter 22 to make the City's regulation of mobile food dispensing vehicles consistent with Section 509.102, Florida Statutes and to amend Section 74-38, City Code to clarify that mobile food dispensing vehicles are not allowed to conduct business within public rights-of-way.

NOW THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA:

SECTION I: ADOPTION. Article II of Chapter 22 of the City of Winter Garden Code is hereby amended as set forth below (underlined language are additions; ~~stricken-through~~ language are deletions; provisions not included are not being amended):

CHAPTER 22 - BUSINESSES

ARTICLE II. - PEDDLERS, SOLICITORS, ITINERANT VENDORS

Sec. 22-26. - Definitions.

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

Agent means a person engaged in a house-to-house canvass for the purpose of demonstrating or taking orders for any goods, wares or merchandise or taking orders from samples where goods are to be delivered later in the same manner, not in interstate commerce.

Chief of police shall mean the Chief of the Winter Garden Police Department or his/her designee.

City manager shall mean the City Manager of Winter Garden or his/her designee.

Event sponsor shall mean the person or entity that sponsors an open air event and has the legal authority to enter into contractual arrangements regarding such.

Goods, wares or merchandise, in addition to those items encompassed by the ordinary meaning of such terms, such term also may encompass and include photographs, food, beverages, and coupons or tickets good in whole or in part for a photograph or other merchandise.

Mobile food dispensing vehicle means any vehicle that is a licensed public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal, or as may be from time to time defined in section 509.102, Florida Statutes.

Mobile food vendor means an open air vendor who sells prepared food or beverages, ~~or an open air vendor who is otherwise operating except such does not include a mobile food dispensing vehicle as described in section 509.102, Florida Statutes Rule 61C-1.002(5)(a)2., F.A.C.~~ All mobile food vendors shall be subject to the same requirements as open air vendors unless otherwise noted. Mobile food vending operations shall be further classified as either itinerant or stationary in the following manner:

- (a) Itinerant operations shall mean and refer to the conduct of business operations at one or more locations or properties throughout the day provided that the mobile food vendor does not remain or linger at any particular property or location for longer than 30 minutes.
- (b) Stationary operations shall mean and refer to the conduct of mobile business operations at or on a single location or property for longer than 30 minutes.

Open air vendor means any person who offers, for sale or lease, goods, wares or merchandise from a stand, trailer, vehicle, tent, table or other area that is not completely enclosed by a permanent structure, on real property owned, controlled, or leased by another person or entity. The following types of businesses shall not be considered open air vendors for the purposes of this article:

- (a) A person or entity whose business is principally located within a permanent structure and lawfully operates and controls an outdoor dining or sales area as part of its primary business, which outdoor dining or sales area is located adjacent to such permanent structure.
- (b) A person or entity who, upon the request and consent of the business entity in possession and control of real property, lawfully delivers and conveys ownership of pre-ordered goods, wares and merchandise via a motor vehicle to the requesting business entity, its agents, or employees.
- (c) Licensed caterers, restaurants, or permanent nonseating restaurants as defined in Rule 61C-1.002(5)(a)1. and 3., F.A.C., who prepare food or drink prior to delivering such to a contracted service location for consumption.
- (d) A person or entity operating under a valid permit issued pursuant to the requirements of article VII, chapter 62 of the City Code.
- (e) A person or entity operating at a city approved event when such person or entity has been hired or otherwise authorized by the city commission or city manager to operate at such event.
- (f) Children under the age of 16 engaged in de minimis outdoor sales activities in residential neighborhoods, provided that such children are conducting such activities of their own accord and not at the behest of any other person or entity.
- (g) A state licensed mobile food dispensing vehicle.

Open air event means an outdoor or partially outdoor festival, carnival, celebration, or other special event of a temporary nature, which includes or will otherwise be serviced by open air vendors.

Peddler means a person who brings goods, wares or merchandise from outside the city, or where the goods, wares, or merchandise is manufactured in the city for sale at retail and is in this state at the time that all negotiations prior to and at the sale thereof are had, and the goods, wares or merchandise is not sold in original packages in interstate commerce but at retail, in small quantities, by means of house-to-house, or place-to-place canvass. Goods ordered or in transit that were so ordered without reference to particular sales shall be deemed to be in the state.

Seasonal vendor means any open air vendor, whose goods, wares or merchandise held for sale are seasonally themed or related to seasonal celebrations and occurrences, including but not limited to Christmas, Valentine's Day, Halloween, Thanksgiving, New Years, or the Fourth of July. Such goods, wares, or merchandise may include but shall not be limited to fireworks, Christmas trees and wreaths, flowers, roses, costumes, and other holiday-themed décor.

Solicitor means any agent or peddler who is otherwise permitted to do business in the city, whether or not such agent or peddler is engaged in interstate commerce; and shall include all servicemen or repairmen who engage in any activity as an agent or peddler, as defined in this section.

(Ord. No. 09-25, § 2, 9-21-09)

Sec. 22-27. - Prohibitions.

It is unlawful for any individual solicitor, agent or peddler to:

- (1) Enter the premises of a private residence, gated community or business establishment for the purpose of selling or soliciting orders for goods, wares or merchandise, personal services or information when a sign stating "no solicitors" is posted.
- (2) Remain upon any premises after the owner or occupant requests the solicitor to depart.
- (3) Conduct business before 9:00 a.m. and after 9:00 p.m. and on Sundays at any time.
- (4) Approach back or rear doors or the sides or rear of residential premises.

(Ord. No. 09-25, § 2, 9-21-09)

Sec. 22-28. - Open air vendor permit.

- (a) An open air vendor must pay applicable local business taxes as required in section 66-104. Furthermore, it shall be unlawful for any open air vendor to operate without a valid open air vendor permit granted by the city manager, and any such infraction shall be punished as set forth in chapter 2, article II of this Code. Permits for open air vendors may only be granted for business operations on commercially zoned properties or properties specifically zoned for open air vending operations.
- (b) To apply for an open air vendor permit, a vendor must submit a completed application to the city manager or his/her designee accompanied by the applicable permit processing fee and provide the city manager with the following information:
 - (1) The vendor's contact information, including the address and telephone number at which the vendor may be reached;
 - (2) The location(s) at which the vendor will be offering his/her goods, wares, or merchandise for sale;
 - (3) The name of the owner(s) of each real property upon which the vendor will offer his/her goods, wares or merchandise for sale;
 - (4) Proof of each real property owner's or lessee's permission for the vendor to use the property for the purpose of selling or leasing such vendor's goods, wares, or merchandise;
 - (5) A description of the goods, wares or merchandise the vendor will be offering for sale or lease;
 - (6) The number of days and the daily hours the vendor will be selling or leasing his/her goods, wares or merchandise at each location listed;
 - (7) If the applicant has previously held an open air vendor permit that was revoked, the facts and circumstances surrounding such revocation and any reasons or changes in circumstances as to why such permit should be reissued;

- (8) If the applicant intends to conduct stationary mobile food vending operations, a description of the access the vendor and its customers will have to onsite restroom and sanitation facilities;
 - (9) If the applicant intends to conduct itinerant mobile food vending operations, a description of the applicant's proposed routes, areas of operation, and method of service; and
 - (10) Any other appropriate information as requested by the city manager.
- (c) The city manager shall evaluate a completed application for an open air vendor permit and determine whether such applicant should be granted a permit based on whether the applicant has demonstrated compliance with the following criteria:
- (1) The vendor has the consent of the real property owner(s) or lessee(s) to conduct his/her business on the properties identified in the permit;
 - (2) The vendor's sales operations are unlikely to cause traffic or parking hazards;
 - (3) The vendor's proposed hours of business are reasonable when evaluated in light of all other city ordinances and applicable zoning criteria;
 - (4) The operation of the vendor's proposed business does not detract aesthetically from the surrounding area and is otherwise consistent with the character of the surrounding area and applicable law;
 - (5) The operation of the vendor's proposed business meets the requirements of this article and all other applicable code provisions;
 - (6) If the applicant has previously held an open air vendor permit that was revoked, the city manager or his/her designee must determine whether the applicant has presented sufficient reason and evidence of changed facts and circumstances that warrant reissuance of a permit;
 - (7) If the applicant intends to conduct stationary mobile food vending operations, the city manager or his/her designee must determine that the applicant will have suitable access to onsite restroom and sanitation facilities; and
 - (8) If the applicant intends to conduct itinerant mobile food vending operations, the city manager or his/her designee must determine that the applicant's proposed routes, areas of operation, and method of service are compatible with the character of the proposed areas of operation and applicable law.
- (d) *Mobile food vendors.* Mobile food vendors shall be subject to the same application and permitting requirements as all open air vendors, but, in addition to such requirements, shall be further subject to the following regulations:
- (1) Regardless of whether a mobile food vendor holds a valid open air vendor permit, no mobile food vendor shall simultaneously conduct business operations within 1,000 feet of another open air vendor. This restriction shall not apply to a mobile food vendor operating pursuant to an open air event permit or to a mobile food vendor engaged in bona fide itinerant mobile food vending operations pursuant to the conditions of such vendor's permit.
 - (2) Mobile food vendors may operate only in the following areas:
 - i. Areas Private property with a C-2 arterial commercial zoning designation and having frontage on State Road 50;
 - ii. ~~Properties located along the frontage of Dillard Street between the intersections of Story Road and Florida State Road 50.~~
 - iii. Itinerant mobile food vendors may service active construction areas in residential developments if properly permitted for such activity.
 - (3) The zoning restrictions specified in subsection (2) shall not apply to a mobile food vendor if such vendor is:

- i. Operating pursuant to the terms of a valid open air event permit, authorized by a city-sponsored event, events approved by city staff, or a city approved special event allowing such operations;
 - ii. Operating in an area governed by a duly enacted planned unit development or other similar development where mobile food vending operations are expressly authorized.
- (e) *Seasonal vendors.* Seasonal vendors shall be subject to the same application and permitting requirements as all open air vendors, but, in addition to such requirements, shall be further subject to the following regulations:
 - (1) Seasonal vendors shall be required to acquire a seasonal vending permit, which permit shall be obtained in the same manner as an open air vendor permit.
 - (2) A seasonal vendor permit, once granted, shall be valid for only 30 days from the date appearing on the face of the permit. A seasonal vendor may apply for a specified start date for such permit if the vendor submits his or her application sufficiently in advance of such date. Otherwise, the date of issuance shall be the date appearing on the face of the permit.
 - (3) A seasonal vendor may only receive a maximum of three seasonal vending permits within a 12-month period.
 - (4) No more than three seasonal vending permits may be issued for a single parcel of land within a 12-month period.
 - (5) Seasonal vendors may operate only in areas with the following zoning designations:
 - i. C-2 arterial commercial;
 - ii. I-1 light industrial and warehousing district;
 - iii. I-2 general industrial district.
 - (6) The zoning restrictions specified in subsection (5) shall not apply to a seasonal vendor if such vendor is:
 - i. Operating pursuant to the terms of a valid open air event permit;
 - ii. Operating in an area governed by a duly enacted planned unit development or other similar development where seasonal vending operations are expressly authorized.
- (f) *Attire.* In addition to being grounds for revocation of an open air vendor permit, failure to comply with the following rules during open air vending operations shall be punishable as a class III penalty pursuant to section 2-92 of the Winter Garden Code:
 - (1) No open air vendor or any employee, contractee, or agent thereof, shall expose to public view his or her genitals, pubic area, vulva, anus, anal cleft or cleavage, or buttocks or any simulation thereof.
 - (2) No female open air vendor or any female employee, contractee, or agent thereof shall expose to public view any portion of her breasts below the top of the areola or any simulation thereof.
 - (3) No male open air vendor or any male employee, contractee, or agent thereof shall expose to public view his covered male genitals in a discernably turgid state.
 - (4) Attire which is insufficient to comply with these requirements includes those items and applications commonly known as body paint, pasties, G-strings, T-backs, dental floss, and thongs.
- (g) An open air vendor permit shall be effective for a period of six months following its date of issuance, after which time, such permit shall expire. Such permit shall be valid only as to those locations and conditions listed in the vendor's permit application, and it shall be unlawful for the vendor to operate in contravention thereof.

- (h) *Permit conditions.* The city may impose reasonable restrictions and conditions on the granting of open air vendor permits, including but not limited to restrictions and conditions pertaining to the hours and days of operation, display of goods and merchandise, and positioning of the vendor's sales area. In the absence of any more specific restrictions contained in the permit, the following shall apply:
- (1) No open air vendor shall open or otherwise commence vending operations prior to 9:00 a.m., and each open air vendor shall close and conclude vending operations prior to 9:00 p.m.
 - (2) When not open for business, open air vendors shall secure and enclose all portable displays or signs, goods, wares, or merchandise in a location out of the sight of passers-by.
- (i) *Enforcement.*
- (1) *Suspension or revocation:* The approval of a permit under this section is conditional and grant thereof permissive at all times. Such permit may be suspended or revoked upon the occurrence of any of the following events in which the permittee or business owner has:
 - (i) Provided false information or fraudulently misrepresented information in the permit application;
 - (ii) Violated this Code, any local, state, federal law or any regulations of the county health department or other applicable regulatory agency;
 - (iii) Failed to comply with the requirements of this section, the terms under which the permit is issued, or an order of the code enforcement board relating to the use of the public way;
 - (iv) Operated under the permit in such a manner as to create a public nuisance, constitute any hazard to the public health, safety or welfare, or destroy or otherwise damage public property;
 - (v) Failed to post conspicuously the permit at all times at the location where the activity is permitted; or
 - (vi) Had any necessary business or health permit suspended, revoked or cancelled.
 - (2) *Notice to permit holder:* If the city has knowledge that an open air vendor has engaged or is engaged in conduct warranting the suspension or revocation of his/her open air vendor permit, the city shall serve the permittee by certified mail or hand delivery at his/her business address as disclosed in the application for the permit or at the permitted premises a written statement of violation or a civil citation which affords reasonable notice of facts or conduct warranting the intended action. The statement of violation or civil citation shall state the action required to remedy the violation, if any. An adequate opportunity to request a hearing or appeal of the decision by the planning and zoning board shall be afforded to the permittee. A first time violation may result in a fine of up to \$250.00 per day. A second violation within 12 months may result in an additional fine as well as the revocation of the vendor's open air permit.
 - (3) *Emergency suspension or revocation:* If the city manager or his/her designee determines, in writing, that a permittee's operation of his/her open air vendor business poses an immediate and substantial risk to the health, safety, and welfare of the public, the city manager (or his/her designee) shall issue an emergency suspension or revocation of such vendor's open air vendor permit. In the case of such emergency suspension or revocation, the permittee shall immediately be advised of the city's actions and afforded a prompt post-suspension or revocation hearing in accordance with the procedures set forth in this Code. From the time such vendor is notified of the emergency suspension or revocation of his/her permit and continuing until a final decision is made as to whether such permit shall be reinstated, the vendor's continued operation of an open air vending business shall be deemed a violation of section 22-28(a) and shall be punishable as set forth in chapter 2, article II of this Code.
 - (4) *Appeals:* Any permittee whose open air vendor permit is suspended or revoked, or any applicant whose application for an open air vendor permit is denied pursuant to this section shall receive a statement, in writing, outlining the reasons for such suspension, revocation, or denial of the permit. An applicant may appeal such suspension, revocation or denial of the permit to the city

commission by filing a written request for appeal with the city clerk, accompanied by the administrative appellate fee as periodically determined by the clerk's office, within ten days after the date of the written suspension, revocation or denial. Appeals from decisions of the city manager's office, including decisions of revocation or suspension, made pursuant to this article shall be addressed by the city commission. When timely filed, an appeal shall be heard at the next regularly scheduled city commission meeting, which meeting is scheduled at least 14 days after the filing of such appeal. Appeals from the decisions of the city commission shall be as provided in section 98-32 of this Code.

(i) Mobile food dispensing vehicle. Pursuant to section 509.102, Florida Statutes, mobile food dispensing vehicles are not subject to the same application and permitting requirements as open air vendors. However, mobile food dispensing vehicles are subject to and must comply with the following regulations:

- (1) Mobile food dispensing vehicles may only conduct business on privately owned property having an I-1 or I-2 industrial zoning designation. Mobile food dispensing vehicles may not conduct business upon any property zoned with any residential or commercial zoning designation. A mobile food dispensing vehicle conducting business must be separated by a distance of at least 250 feet from another mobile food dispensing vehicle conducting business.
- (2) The zoning restrictions specified in subsection (1) shall not apply to a mobile food dispensing vehicles if:
 - i. Operating pursuant to the terms of a valid open air event permit, an authorized by a city-sponsored event, or a city approved special event allowing such operations; or
 - ii. Operating in an area governed by a duly enacted planned unit development or other similar development where mobile food dispensing vehicles operations are expressly authorized.
- (3) Mobile food dispensing vehicles must have and maintain a valid state license as a public food establishment and shall at all times operate and conduct business in compliance with state law and regulations.
- (4) Mobile food dispensing vehicles must have a local business tax receipt from the city.
- (5) Mobile food dispensing vehicle may not conduct business on any city owned or controlled property or public right-of-way, unless expressly authorized in writing by the city.
- (6) Mobile food dispensing vehicles may not operate on any private property without the prior written consent of the property owner.

SECTION II: ADOPTION. Section 74-38 in Chapter 74, Article II of the City of Winter Garden Code is hereby amended as set forth below (underlined language are additions; ~~stricken~~ ~~though~~ language are deletions; provisions not included are not being amended):

Chapter 74 – Traffic and vehicles.

Art. II - STOPPING, STANDING, PARKING

Sec. 74-38. - Certain purposes prohibited.

No person shall stand or park a vehicle upon a public or private street, unpaved portion of public right-of-way, public parking lot or any other public property for the purpose of:

- (1) And intent of displaying such vehicle thereon for sale, hire or rental.

- (2) Painting, greasing or repairing such vehicle, except repairs necessitated by an emergency.
- (3) Washing or polishing such vehicle or any part thereof.
- (4) Displaying advertising.
- (5) Selling merchandise from the motor vehicle, except in a duly established marketplace or when so authorized or licensed under the laws of the city.
- (6) Conducting business from a mobile food dispensing vehicle, except as duly authorized for a city sponsored or approved special event.

SECTION III. CONFLICTS. If any ordinances or parts of ordinances are in conflict herewith, this Ordinance shall control to the extent of the conflict.

SECTION IV. SEVERABILITY. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION V. CODIFICATION. That Section I and Section II of this Ordinance shall be codified and made a part of the City of Winter Garden Code of Ordinances; that the Sections of this Ordinance may be renumbered or relettered to accomplish such intention; the word "Ordinance" may be changed to "Section", "Article", or other appropriate word. The City Clerk is given liberal authority to correct typographical errors and to renumber the sections and subsections. Grammatical, typographical and similar like errors may be corrected, and additions, alterations, and omissions not affecting the construction or meaning of this Ordinance or the City Charter may be freely made.

SECTION VI. EFFECTIVE DATE. This Ordinance shall become effective upon adoption by the City Commission at its second reading.

FIRST READING:

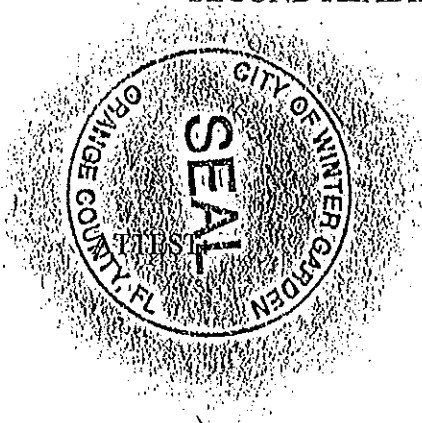
OCTOBER 14, 2021

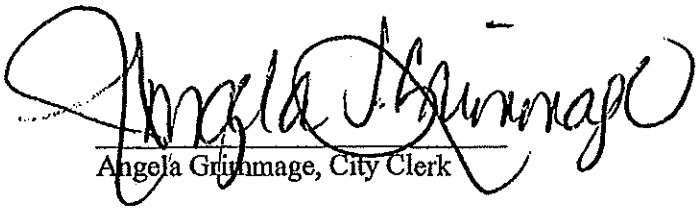
SECOND READING:

OCTOBER 28, 2021

APPROVED:


John Rees, Mayor/Commissioner





Angela Grunmage, City Clerk

ORDINANCE NO. 1010

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, AMENDING CHAPTER 16. BUSINESS TAX AND REGISTRATION; OTHER BUSINESS REGULATIONS. OF THE CODE OF ORDINANCES OF THE VILLAGE OF ROYAL PALM BEACH, TO ADD AN ENTIRELY NEW ARTICLE IV. MOBILE FOOD VENDORS. IN ORDER TO IMPOSE REQUIREMENTS ON SUCH VENDORS IN ACCORDANCE WITH CHAPTER 509, FLORIDA STATUTES; FURTHER PROVIDING THAT SECTIONS 16-65 THROUGH 16-70 SHALL BE RESERVED FOR FUTURE VILLAGE PURPOSES; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUB-SECTION OF CHAPTER 16. BUSINESS TAX AND REGISTRATION; OTHER BUSINESS REGULATIONS. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village of Royal Palm Beach, Florida (the "Village") is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, mobile food vendors have existed in various forms over several centuries, distinguished as much by their physical characteristics, as their operational requirements; and

WHEREAS, the Florida Legislature recently passed Senate Bill 1193 – Deregulation of Professions and Occupations, which was signed into law by the Governor on June 30, 2020, which became effective on July 1, 2020, and which amends Section 509.102, Florida Statutes, as it relates to mobile food dispensing vehicles; and

WHEREAS, pursuant to Section 509.102, Florida Statutes, the Village cannot require "mobile food dispensing vehicles" to obtain a separate license, registration, or permit, or pay related fees for such licenses, registrations, or permits beyond those established by the State Department of Business and Professional Regulation ("DBPR") as a condition for the mobile food dispensing vehicle's operation within the Village; and

WHEREAS, pursuant to Section 509.102, Florida Statutes, the Village further cannot prohibit mobile food dispensing vehicles from operating within the entirety of the Village's jurisdiction; and

WHEREAS, Section 509.102, Florida Statutes, does not prohibit the Village from enforcing its other regulations against mobile food dispensing vehicles, including, but not limited to, its zoning regulations, except as stated above; and

WHEREAS, the Village Council desires to recognize this specialized mobile food vendor market segment; classify the types of permitted mobile food trucks; and establish appropriate standards allowing for the typical range of activities while mitigating any associated, detrimental impacts to the community at large; and

WHEREAS, the Village of Royal Palm Beach has held all required public hearings and has provided public notice in accordance with applicable State statutes and Village ordinances; and

WHEREAS, the Village Council of the Village of Royal Palm Beach has determined that the proposed revisions to Chapter 16. are in the best interests of the general welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, THAT:

Section 1: Chapter 16. Business Tax and Registration; Other Business Regulations. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended to add an entirely new Article IV. Mobile Food Vendors. in order to impose requirements on such vendors in accordance with Chapter 509, Florida Statutes; further providing that sections 16-65 through 16-70 shall be reserved for future Village purposes; providing that new Article IV. Mobile Food Vendors. shall hereafter read as follows:

ARTICLE IV. – MOBILE FOOD VENDORS.

Sec. 16-61. - Definitions.

As used in this article, the following terms shall be defined as follows:

Mobile food truck shall mean any vehicle that is self-propelled or otherwise movable from place to place, and is used to vend food and beverage products. Mobile food trucks shall be classified as one of the following:

Class I – Mobile kitchens. In addition to the vending of products allowed for class II and class III mobile food trucks, these vehicles may cook, prepare and assemble food items on or in the unit, and serve a full menu. Customers may be notified of the vehicle’s location by social media or other forms of advertising. These vehicles may be classified as “mobile food dispensing vehicles,” as defined by section 509.102, F.S., if they include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

Class II – Canteen trucks. These vehicles vend fruits, vegetables, hot dogs, pre-cooked foods, pre-packaged foods and pre-packaged drinks. No preparation or assembly of foods or beverages may take place on or in the vehicle. However, the heating of pre-cooked foods is allowed. A cooking apparatus or grill top for the heating of pre-cooked foods is permitted so long as it complies with state regulations. These vehicles are limited to providing catering services to employees at a specific location. These vehicles may be classified as “mobile food

dispensing vehicles,” as defined by section 509.102, F.S., if they include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

Class III – Ice cream trucks. These vehicles vend only pre-packaged frozen dairy or frozen water-based food products, soft serve or hand-dipped frozen dairy or frozen water-based food products and pre-packaged beverages. These vehicles may be classified as “mobile food dispensing vehicles,” as defined by section 509.102, F.S., if they include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

Mobile service base shall mean a place for food storage, the cleaning of the equipment, the filling of water tanks and proper disposal of waste water and grease, and shall not include the use of a private home as a mobile service base.

Property owner shall mean the owner of real property on which the mobile food truck operates.

Vehicle shall mean a motorized vehicle, including a trailer or other portable unit attached to a motorized vehicle, that is intended for use in vending.

Vend shall mean to sell or offer to sell products from a mobile food truck.

Village-issued special-event permit shall mean a permit issued by the village for special events per the requirements of chapter 16 of village code.

Sec. 16-62. – Requirements applicable to all mobile food trucks.

The following requirements shall apply to all mobile food truck operations within the village:

- (a) *Food truck special event requirements.* Gatherings of two (2) or more class I, class II, and/or class III mobile food trucks on a property at any given time shall be classified as a food truck special event. In order for such events to occur, the property owner shall be required to obtain a special event permit from the village prior to the event taking place. Applications for special event permits shall be made by the property owner to the village in accordance with the requirements of chapter 16 of village code.
- (b) *Health and safety regulations; display of state license.* A mobile food truck shall comply with all federal, state, 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 the same. The license under which the mobile food truck is operating shall be firmly attached and visible on the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.
- (c) *Business tax receipt requirements.* A mobile food truck shall comply with all state and local business tax requirements. A copy of such business tax receipt shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.

- (d) Written consent of property owner. A mobile food truck shall not operate on any private property without the written consent of the property owner. A copy of such written permission shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.
- (e) Stock-in-trade; outsides storage; and patron seating. All materials, equipment, and stock-in-trade, including, but not limited to, tables, chairs, or other furniture for patron seating, shall be stored entirely within the mobile food truck, unless the property owner has obtained a special-event permit from the village.
- (f) Food vending. Food vending shall only be conducted from the mobile food truck, unless the property owner has obtained a special-event permit from the village.
- (g) Alcohol sales. A mobile food truck shall not sell alcoholic beverages, unless the property owner has obtained a special-event permit from the village.
- (h) Conducting business near existing food service establishments. A mobile food truck shall not be located within 200 feet of any existing food service establishment during such establishment's hours of operation without the prior written permission from the food service establishment. A copy of such written permission shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.
- (i) Conducting business near village-sponsored or village-sanctioned special event. A mobile food truck shall not be located within 200 feet of any village-sponsored or village-sanctioned special event, unless the mobile food truck is permitted by the village to operate at such event.
- (j) Conducting business in public right-of-way. A mobile food truck, except for ice cream trucks, shall not conduct business or operate in the public right-of-way, unless the adjacent property owner has obtained a special-event permit from the village. Where mobile food trucks are authorized to operate, such trucks may stop, stand or park in designated parking areas on the property.
- (k) Conducting business near street intersections or pedestrian crosswalks. A mobile food truck shall not be located within fifteen (15) feet of any street intersection or pedestrian crosswalk, unless the property owner has obtained a special-event permit from the village.
- (l) Interference with vehicular and pedestrian traffic. A mobile food truck shall not impede the flow of vehicular traffic, sidewalks, the ingress or egress of other businesses, building entrances, or emergency exits, unless the property owner has obtained a special-event permit from the village.
- (m) Limitations on number of operating days. A mobile food truck shall not operate on a given property more than two (2) consecutive days per calendar month, and further shall not operate on a given property more than ten (10) days in total per calendar year, unless the property owner has obtained a special-event permit from the village.

- (n) *Use of designated parking spaces.* At properties where mobile food trucks are authorized to operate, such food truck shall stop, stand or park only in designated parking spaces on said property. A mobile food truck shall not occupy more than ten (10) percent of the designated parking spaces on a given property if there are thirty (30) parking spaces or less on said property. If there are more than thirty (30) parking spaces on said property, then a mobile food truck shall not occupy more than five (5) percent of the designated parking spaces on said property. A property owner may apply for a special-event permit with the village to deviate from these requirements.
- (o) *Hours of operation.* A mobile food truck shall operate only between the hours of 7:00 a.m. to 9:00 p.m., unless the property owner has obtained a special-event permit from the village.
- (p) *Storage of mobile food trucks.* Mobile food trucks, when not in active operation, may only be parked/stored in a location where onsite storage of vehicles is a permitted use and shall be parked/stored to the rear of the onsite building(s) in areas not visible from any public rights-of-way.
- (q) *Noise limitations.* Except for class III ice cream trucks, a mobile food truck shall not make sounds, announcements, or amplify music to call attention to its vending or products either while traveling on public or private rights-of-way, or when stationary. All mobile food trucks, including, but not limited to, class III ice cream trucks, shall comply with the village's noise ordinance contained in section 26-101 of village code. A property owner may apply for a special-event permit with the village to deviate from these requirements.
- (r) *Restroom facility.* Mobile food trucks operating on a property for a duration of more than three (3) hours shall have a written agreement with the property owner that confirms the food truck employees have access to a flushable restroom within 400 feet of the vending location during the hours of operation. A copy of such written permission shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.
- (s) *Waste disposal.* Mobile food trucks shall provide a waste receptacle for public use. The area shall be kept neat and orderly at all times and garbage or trash shall be removed prior to departure of the mobile food truck each day. Class I mobile food trucks further shall have a current written agreement, with a state or local licensed facility, for the proper disposal of grease. A copy of such written agreement shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.
- (t) *Signage.* No more than two (2) A-frame signs shall be permitted during approved special events so long as all requirements of section 20-75 of village code are met. During all other times, menu boards shall be affixed to the mobile food truck. When in operation, section 20-41(11) of the village code shall not apply to mobile food trucks.

Sec. 16-63. – Vending locations by zoning district.

A mobile food truck shall be permitted to operate only on the properties designated below, unless the property owner has obtained a special-event permit from the village allowing for a deviation from these requirements.

(a) Class I – Mobile food trucks.

(1) Residential zoning districts.

- a. Individual single-family lots only if there is a written contractual agreement between a mobile food truck and the property owner for catering services. A copy of such written agreement shall be maintained in the mobile food truck at all times during the event, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand. The term “catering services” shall not include the vending of products from the mobile food truck itself during a catered event, and does not include events that are open to the public.
- b. Properties owned by homeowners associations or property owners associations.
- c. Rental apartment complexes.

(2) Nonresidential zoning districts and mixed-use districts. Class I mobile food trucks shall be permitted on any nonresidential or mixed-use property where retail sales and restaurants are a permitted use under the applicable zoning regulations.

(3) Public ownership districts. The vending of products from a class I mobile food truck on properties zoned as public ownership shall be allowed only on designated grassed parking areas, unless the property owner has obtained a special-event permit from the village.

(b) Class II – Canteen trucks. Class II canteen trucks are prohibited in all zoning districts except to provide catering to employees on-site at locations within clearly delineated boundaries of the site. Boundaries shall be delineated through the use of fencing or other materials enclosing a construction site, where there is a currently valid construction permit.

(c) Class III – Ice cream trucks.

(1) Residential zoning districts.

- a. Individual single-family lots only if there is a written contractual agreement between a mobile food truck and the property owner for catering services. A copy of such written agreement shall be maintained in the mobile food truck at all times during the event, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand. The term “catering services” shall not include the vending of products from the

mobile food truck itself during a catered event, and does not include events that are open to the public.

d. Properties owned by homeowners associations or property owners associations.

e. Rental apartment complexes.

(2) Nonresidential zoning districts and mixed-use districts. Class III ice cream trucks shall be permitted on any nonresidential or mixed-use property where retail sales and restaurants are a permitted use under the applicable zoning regulations.

(3) Public ownership districts. The vending of products from a class III ice cream truck on properties zoned as public ownership shall be allowed only on designated grassed parking areas, unless the property owner has obtained a special-event permit from the village.

(4) Rights-of-way. A class III ice cream truck shall not stop, stand or park for more than ten (10) minutes, unless there are customers waiting in line to buy products.

Sec. 16-64. – Penalties for violations.

It shall be unlawful for any person to violate any of the provisions of this section. This section may be enforced by any means allowed by law, including, but not limited to, code enforcement citation under F.S. ch. 162, and chapter 2 of village code, or legal action. If the citation method is used to punish violators, the violation shall be treated as a civil infraction, and fines shall be set forth in the schedule of fees and charges adopted by resolution of the village council and such fines may then be revised from time to time by resolution of the village council; however, any fine amount set forth in such resolution of the village council shall not to exceed five hundred dollars (\$500.00) per offense. Each day a violation occurs shall constitute a separate offense and shall be punishable hereunder as a separate offense.

Secs. 16-64 65—16-70. - Reserved.

Section 2: Each and every other Section and Sub-section of Chapter 16. Business Tax and Registration; Other Business Regulations. shall remain in full force and effect as previously enacted.

Section 3: All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5: Specific authority is hereby granted to codify this Ordinance.

Section 6: This Ordinance shall take effect immediately upon passage.

FIRST READING this 21st day of January, 2021.

SECOND AND FINAL READING this 18th day of February, 2021.

VILLAGE OF ROYAL PALM BEACH

MAYOR FRED PINTO

ATTEST:

(Seal)

DIANE DISANTO, VILLAGE CLERK