




The CITY OF DAYTONA BEACH

— "THE WORLD'S MOST FAMOUS BEACH" —

MEMORANDUM

DATE: November 5, 2018

TO: James V. Chisholm, City Manager

FROM: Dennis Mrozek, Planning Director 

SUBJECT: Code of Ordinances – Adding Chapter 103, - Mobile Food Vendors

The City intends to create Chapter 103 – Mobile Food Vendors in the Code of Ordinances. This new Chapter will implement regulatory and licensing requirements for Mobile Food Vendors to work in conjunction with the Use Tables in the Land Development Code allowing mobile food vending as a temporary use in various zoning districts.

A summary of the Mobile Food Vending requirements is as follows:

- Mobile food vending on private property is generally allowed on business or commercial property, and certain multi-family property with the owner's consent.
- Mobile food vending is allowed on right-of-way in the City, in areas not dedicated to vehicular travel; and not adjacent to single-family, duplex, or certain multi-family property, except in food deserts.
- Mobile food vending may not occur on vacant or unimproved lots.
- Mobile food vending may not occur on public property (other than right-of-way) without consent from the government agency.
- Mobile food vending is not allowed within 250 feet of a licensed restaurant without consent from the restaurant owner, unless the mobile food vending occurs on property already improved with a licensed restaurant.
- Operations are limited to between the hours of 7 a.m. and 10 p.m., and the vending site must be cleared at the end of each business day.
- Mobile food vendors are required to obtain an annual license from the City, and procure insurance prior to operations. Violations of the ordinance are prosecuted to the Code Enforcement Board or Special Magistrate pursuant to Chapter 162, Fla. Stat. Upon a finding of a third violation, the license is automatically revoked subject to reapplication after 90 days.

This amendment will be adopted concurrent with the Land Development Code Text Amendment to introduce mobile food vending as a new business market in the City that is not currently permitted. The proposed amendment to the Code of Ordinances is attached.

CHAPTER 103 - MOBILE FOOD VENDORS

Sec. 1. Purpose.

- (a) The purpose of this article is to establish licensing procedures and governing regulations for mobile food vending businesses operating within the city.
- (b) It is also the purpose of this article to enhance business activity within the city, reduce vehicular traffic, and increase pedestrian mobility, by providing local and transient fresh produce and food service establishments accessible to the public and the city's workforce.

Sec. 2. Mobile Food Vending

(a) *Applicability.*

- i. The standards within this section shall apply to mobile food vending in the City where allowed pursuant to the Land Development Code, except as provided by subsection [ii] below.
- ii. *Exemptions.* Mobile food vending associated with a *Special Event* or a *Temporary Outside Activity Associated with a Festival* shall not be subject to the standards in this section, provided the city has approved such activities in accordance with *Section 5.4.C.5 – Special Events* or *Section 5.4.C.11 - Temporary Outside Activity Associated With a Festival*, of the Land Development Code.

(b) *Definitions.*

- i. *Food Trailer.* An attached or detached trailer that is equipped with facilities for vending fresh produce, or preparing, cooking or selling various types of food products.
- ii. *Mobile Food Vending.* The sale of food, including produce, as well as prepared foods, from a mobile food vendor vehicle or food trailer.
- iii. *Mobile Food Vendor.* Any person selling food from a mobile food vendor vehicle or food trailer.
- iv. *Mobile Food Vending Site.* A parcel of privately owned real property or right-of-way on which the Mobile Food Vendor intends to establish, or has established, operations from a mobile food vendor vehicle or food trailer.
- v. *Mobile Food Vendor Vehicle.* A self-contained, motorized vehicle-mounted food service unit that is used for vending fresh produce, or preparing, cooking, or selling various types of food products.

(c) *Location and Operational Requirements.*

- i. Mobile food vending shall not occur on private property unless the Mobile Food Vendor has written consent from the property owner.
- ii. Mobile food vending shall not occur on private property developed with a single-family, duplex, or multifamily dwelling.
- iii. Mobile food vendor vehicles or food trailers may stop, stand, or park in any area of the right-of-way not provided for vehicular travel (e.g. street-side parking areas), subject to the conditions of this section. Blocking of vehicular traffic by a mobile food vendor is prohibited.
- iv. Mobile food vending shall not occur on right-of-way abutting a single-family, duplex, or multifamily dwelling, except in food desert areas designated by the United States Department of Agriculture.
- v. Mobile food vending shall not occur within 250 feet of a licensed eating or drinking establishment, as measured from the mobile food vendor to the entrance of the establishment, during the hours of operation of the establishment, unless the Mobile Food Vendor has written consent from the owner. This restriction shall not apply to mobile food vending on private property improved with licensed eating or drinking establishments.
- vi. Mobile food vending shall not be located so as to block vehicular visibility at all street intersections and driveway access points as required by Section 6.3.G.9 – *Visibility Zone* of the LDC; or within 5' of a public sidewalk, utility box or vault, handicapped ramp, or emergency access/exit way; or within any area that impedes, endangers, or interferes with pedestrian or vehicular traffic; and must be located at a minimum distance of 15' (in all directions) from a fire hydrant.
- vii. A mobile food vendor vehicle or food trailer shall not be placed in any location that impedes the ingress or egress of other businesses, building entrances, emergency building exits, loading zones, or handicap accessible parking spaces. The mobile food vendor vehicle shall not be placed on unimproved surfaces.
- viii. Mobile food vending shall not occur on public property unless the Mobile Food Vendor has written consent from the government entity owning the property.
- ix. Mobile food vending shall not occur on right-of-way owned and controlled by another jurisdiction unless the mobile food vendor has written consent from the other government entity.
- x. *Vacant and/or Unimproved Lots.* It shall be prohibited for mobile food vending to occur on any vacant or unimproved lot or property.

(d) *Hours of Operation.* Mobile food vending shall not be allowed to operate outside the hours

of 7AM and 10PM. The mobile food vendor must be present at all times during hours of operation. At the end of each business day's operation, the mobile food vendor shall remove the mobile food vendor vehicle or food trailer and all materials associated with the business from the mobile food vending site.

- (e) *Sales Area.* A mobile food vendor's sales area shall not exceed the area of two (2) standard parking stalls (18' x 38'), or approximately 400 square feet, subject to the following additional standards and conditions:
 - i. A mobile food vendor operating at a mobile food vending site for more than three hours shall confirm that employees have access to a flushable restroom within 150 feet of the vending location during the hours of operation.
 - ii. A mobile food vendor shall be equipped with a suitable trash container readily accessible to the public, in which customers may deposit any litter, trash, or waste related to the vendor's sales. Prior to moving a mobile food vendor vehicle or food trailer from a mobile food vending site, a mobile food vendor shall pick up and remove all litter, trash, and waste related to the mobile food vendor's sales within 100 feet of the sales area. The mobile food vendor shall not use City trash receptacles for such pickup and removal.
 - iii. All mobile food vendors are required to comply with the City's Illicit Discharge Detection and Elimination Ordinance, as provided in Section 7.2.N of the LDC.
- (f) *Storage and Parking.* Outside of the hours of operation, a mobile food vendor vehicle or food trailer may not be stored on the mobile food vending site. If stored on private property within the City, the mobile food vendor vehicle or trailer must meet all applicable City codes and ordinances regulating commercial vehicle parking. Mobile food vendor vehicles and food trailers may not be stored, parked, or left overnight on any public street or sidewalk.
- (g) *Condition of Vehicles and Trailers.* A mobile food vendor vehicle or food trailer shall not be used for vending a product unless it is designed and constructed specifically for such purpose. All exterior body work of any mobile food vendor vehicle, food trailer, or motor vehicle used to transport a food trailer, shall be maintained in good and clean condition and free of substantial scratches, chips, rust, dents, abrasions, or excessive wear or damage.
- (h) *Merchandise.* The selling of non-food or drink items shall be limited to incidental sales of merchandise displaying the mobile food vendor company logo and/or branding. No items may be displayed outside of the vehicle.
- (i) *State Vehicle and Trailer Registration.* Mobile food vendor vehicles and food trailers shall be registered as required by state law.
- (j) *Equipment.* It is prohibited and unlawful for a mobile food vendor to operate any mobile food vendor vehicle or food trailer on a public roadway unless the vehicle is equipped as required by state law.

- (k) Mobile Food Vendor Vehicles must comply 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.
- (l) *Prohibited on Non-Compliant Properties.* A mobile food vending site may not be located on private property upon which uncorrected code violations exist, or which is under citation for code violations.
- (m) *Compliance with Laws.* It is prohibited and unlawful for a mobile food vendor to fail to comply with all state and city traffic and parking, and stopping and standing laws, codes, ordinances, rules and regulations.
- (n) *Mobile Food Vendor License Required.*
 - i. Except as expressly provided in this section, it shall be unlawful for any person to engage in business as a mobile food vendor within the city without first obtaining a mobile food vendor license from the city. Upon being granted a mobile food vendor license, the vendor must comply with the affirmative mandates of this article, and must not violate the prohibitions regarding sales, operations, locations, and restrictions contained therein. The failure to do so may result in the revocation or suspension of the mobile food vendor license.
 - ii. A mobile food vendor license fee in the amount of \$100.00 for each mobile food vendor vehicle or food trailer to be operated by a mobile food vendor shall be paid prior to the issuance of a license. The fee may be modified from time-to-time by resolution adopted by the city commission.
 - iii. Every mobile food vendor license issued under the provisions of this article shall expire one year after the date of issuance.
- (o) *Indemnification of the city; Insurance.* Prior to the issuance of a mobile food vendor license:
 - i. The applicant shall furnish the city with a signed statement on a form provided by the city that the licensee shall hold harmless the city, its officers, officials, employees and agents and shall indemnify the city, its officers, officials, employees and agents for, from and against any and all claims for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the Mobile Food Vendor License.
 - ii. The mobile food vendor licensee shall furnish to the city and maintain such public liability, food products liability, and property damage liability from all claims and damage to property or bodily injury including, but not limited to, death, which may arise from operations under the mobile food vendor permit or in connection therewith. Such insurance shall provide coverage of not less than \$1,000,000.00 for bodily injury, property damage, or any claims or injuries respectively per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein and shall name as additional insured the city, its officers, officials, employees and agents, and shall further provide that the policy

shall not terminate or be cancelled prior to the completion of the mobile food vendor license period without 45 days' written notice to the city at the address shown in the permit. The applicant shall provide proof of necessary insurance prior to receiving the Mobile Food Vendor License.

(p) *Licensing Requirements.*

Applications for mobile food vendor licenses shall be made on forms furnished by the city and which application when completed shall, at a minimum, contain:

- i. The applicant's full name and residential address;
- ii. The business name under which the applicant will be operating and the business address, if applicable;
- iii. If the applicant is a corporation or other business entity, whether the applicant is registered to do business in Florida;
- iv. A brief description of the type of mobile food vendor vehicle or food trailer to be utilized;
- v. The license or registration number of each mobile food vendor vehicle or food trailer from which sales will be made (if licensed to travel on public roads);
- vi. The applicant must provide proof that all other appropriate state and local licenses and permits have been acquired at the time of issuance of the mobile food vendor license.
- vii. The applicant must provide proof that all appropriate taxes (such as the local business tax) have been paid at the time of issuance of the mobile food vendor license. The business tax receipt issued by the city must be displayed by the permittee when conducting mobile food service operations.

(q) *License Revocation.*

Upon imposition of a third offense by the Code Enforcement Board or Special Magistrate pursuant to F.S. ch. 162, the mobile food vendor license issued pursuant to this section shall be revoked. A mobile food vendor who has had his or her license revoked shall not be allowed to reapply for a mobile food vending license for a period of 90 days after the effective date of such action.