

Agenda Item 12 (Quasi-Judicial Hearing)

LDC Text Amendment DEV2018-080 Mobile Food Vending

STAFF REPORT

DATE: September 17, 2018

TO: Planning Board Members

FROM: Hannah Ward, Planner

AMENDMENT REQUEST

A request by the Development and Administrative Services Department, Planning Division, to amend the Land Development Code (LDC) to allow for mobile food vending as a temporary use in various zoning districts and approve regulations and procedures for mobile food vending.

BACKGROUND

The proposed Land Development Code (LDC) text amendment is a result of input obtained from citizens and City officials in public discussions regarding mobile food vending. Below is a timeline of the recent discourse that has taken place to address mobile food vending:

- On June 21, 2017, the City Commission held a Food Truck Workshop to discuss the possibility of allowing mobile food vending throughout the City. As a result, Staff was authorized by the City Commission to proceed in the coordination and planning of a food truck special event.
- On November 18, 2017, the City sponsored the “Battle at the Beach” Food Truck Wars special event. Following the event, Staff responded to numerous inquiries regarding the City’s policy towards mobile food vending. The City Commission also expressed interest in revisiting the topic of mobile food vending as a discussion item.
- On June 28, 2018, Staff introduced a discussion item to the Planning Board for mobile food vending. The Planning Board expressed support for allowing mobile food vending within the City.
- On July 18, 2018, Staff introduced a discussion item to the City Commission for mobile food vending. The City Commission also expressed support for allowing mobile food vending within the City. As a result of the discussions before the Planning Board and City Commission, Staff has proceeded to draft a Land Development Code (LDC) text amendment to allow mobile food vending in various areas of the City.

PROPOSED LDC TEXT AMENDMENT

The proposed text amendment, shown in *Attachment A*, addresses the following regulations:

- Definition of mobile food vending:

The sale of food from a mobile food vendor vehicle, defined as 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, examples of which are shown in Attachment B.

- Allowable zoning districts for mobile food vending:

Residential Districts

- *Multifamily Residential-20 (MFR-20)*
- *Multifamily Residential-40 (MFR-40)*
- *Residential/Professional (RP)*

Business Districts

- *Office/Professional (OP)*
- *Business/Professional (BP)*
- *Business Retail-1 (BR-1)*
- *Business Shopping Center/Business Retail-2 (BR-2)*
- *Business Automotive (BA)*

Industrial Districts

- *Local Industry (M-1)*
- *General Industrial (M-3)*
- *Industrial Park (M-4)*
- *Heavy Industrial (M-5)*

Tourist Districts

- *Tourist/Office/Restaurant (T-2)*

Specialty Districts

- *Hospital/Medical (HM)*
- *Major Sports (MS)*

Redevelopment Districts

- *Redevelopment Beachside – Hotel/Mixed Use (RDB-1)*
- *Redevelopment Beachside – Retail (RDB-2)*
- *Redevelopment Beachside – Gateway Residential/Mixed Use (RDB-3)*
- *Redevelopment Beachside – Boardwalk Amusement (RDB-4)*
- *Redevelopment Beachside – Atlantic Avenue Retail (RDB-5)*
- *Redevelopment Downtown – Central Business District (RDD-2)*
- *Redevelopment Downtown – Commercial (RDD-3)*
- *Redevelopment Downtown – Riverfront Mixed Use (RDD-4)*
- *Redevelopment Downtown – Ridgewood Corridor Mixed Use (RDD-5)*
- *Redevelopment Downtown – Local Business Services (RDD-7)*
- *Redevelopment Midtown – Midtown Center Mixed Use (RDM-1)*

- *Redevelopment Midtown – Neighborhood Center Mixed Use (RDM-2)*
 - *Redevelopment Midtown – Activity Center Mixed Use (RDM-3)*
 - *Redevelopment Midtown – University Transition (RDM-4)*
 - *Redevelopment Midtown – Neighborhood Transition (RDM-5)*
- Locations (within zoning districts) for mobile food vending:

The LDC text amendment proposes to allow mobile food vending on both public and private property, subject to the conditions detailed below.

The text amendment restricts mobile food vendors in the following areas:

- *Private property developed with a single-family, duplex, or multifamily dwelling*
- *Public property or right-of-way abutting a single-family, duplex, or multifamily dwelling, except in designated food desert areas*
- *Within 250' of a licensed restaurant, as measured from the mobile food vendor to the entrance of the restaurant, during its hours of operation, unless the owner of the establishment allows for a closer proximity*
- *Vacant and/or unimproved lots not associated with a permanently licensed year-round business*

The text amendment also restricts mobile food vendors for safety purposes in the following additional areas:

- *Within an area that blocks vehicular visibility, such as the intersection of a driveway, alleyway, or public street*
- *Within 5' of a public sidewalk, utility box or vault, handicapped ramp, or emergency access/exit way*
- *Within any area that impedes, endangers, or interferes with pedestrian or vehicular traffic*
- *Within 15' of a fire hydrant (in all directions)*

- Hours of operation for mobile food vendors:

The City's Noise Ordinance, as provided in Article IV of the City's Code of Ordinances provides additional restrictions to noise levels between the hours of 10PM and 7AM. Consistent with these regulations, Staff proposes to restrict mobile food vendors from operating outside the hours of 7AM and 10PM.

- Sales area of a mobile food vending:

Staff proposes to allow a maximum sales area of two parking stalls, or approximately 400 square feet, in order to accommodate an area for the mobile food vendor vehicle and an area for potential customers visiting the vehicle. The text amendment also addresses a requirement for trash receptacles, access to restrooms for employees, and restrictions on illicit discharge, with regard to a mobile food vendor's sales area and operations.

- Storage and parking of a mobile food vendor vehicle:

The proposed text amendment restricts mobile food vendors from storing their vehicles on a mobile food vending site, while also requiring mobile food vendors to comply with the requirements in the LDC and Code of Ordinances regarding commercial vehicle parking.

TEXT AMENDMENT REVIEW STANDARDS

The purpose of Section 3.4.B.3, *Text Amendment Review Standards*, of the Land Development Code (LDC) is to provide a uniform means for amending the text of the LDC whenever the public necessity, convenience, general welfare, comprehensive plan, or appropriate land use practices justify or require doing so.

The advisability of amending the text of the Land Development Code (LDC) is a matter committed to the legislative discretion of the City Commission and is not controlled by any one factor. In determining whether to adopt or deny the proposed text amendment, the City Commission shall weigh the relevance of and consider whether and the extent to which the proposed amendment:

a. Is consistent with the comprehensive plan;

The proposed text amendment is consistent with the Comprehensive Plan.

b. Is not in conflict with any provision of this Code or the Code of Ordinances;

If approved, the proposed text amendment will be in compliance with the City's Land Development Code (LDC) and Code of Ordinances.

c. Is required by changed conditions;

Currently, the Land Development Code (LDC) does not provide for mobile food vending as a permitted use, while the popularity and demand for mobile food vendors has steadily increased in recent years. The proposed text amendment is a result of input received from both citizens and City officials regarding mobile food vending.

d. Addresses a demonstrated community need;

The proposed text will provide for greater access to food options in areas that are currently underserved by food availability.

e. Is consistent with the purpose and intent of the zoning districts in this Code, or would improve compatibility among uses and would ensure efficient development within the city;

The proposed text amendment will introduce a new business market to the City that is not currently permitted or contemplated under the current regulations in the City's Land Development Code (LDC).

f. Would result in a logical and orderly development pattern; and

The City's Technical Review Team (TRT) has reviewed the proposed text amendment and found it to be acceptable.

g. Would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

Staff does not have any indication that the proposed text amendment will result in adverse impacts to on the natural environment.

RECOMMENDATION

Staff recommends approval of the proposed text amendment to allow mobile food vending as a temporary use in various zoning districts and approve regulations and procedures regarding mobile food vending.

A majority vote of the Planning Board members present and voting is required to recommend approval to the City Commission.

The item is tentatively scheduled to be heard by the City Commission for first reading on November 7, 2018, and for second reading (public hearing) on November 21, 2018.

Sec. 5.4. - Temporary Uses and Structures.

- A. **Purpose.** This section allows for the establishment of certain temporary uses (including special events) of a limited duration and temporary structures, provided that such uses, structures, and events do not negatively affect adjacent land, are discontinued upon the expiration of a set time period, and do not involve the construction or alteration of any permanent building or structure.
- B. **General.**
1. *Applicability.* Section 5.4.B.2, Prohibited Temporary Uses and Structures, lists several temporary uses and structures that are expressly prohibited. Section 5.4.B.3, General Standards for All Temporary Uses and Structures, establishes general standards that apply to all allowed temporary uses and structures. Section 5.4.B.4, Abbreviations Used in Temporary Use/Structure District Tables, explains the abbreviations used in the tables showing whether a particular type of temporary use or structure is permitted or prohibited within the various zoning districts. Section 5.4.C, Standards for Specific Temporary Uses and Structures, establishes standards that apply to particular types of temporary uses or structures regardless of the zoning district in which they are allowed or the review procedure by which they are approved, unless expressly stated to the contrary. These standards may be modified by other applicable requirements in this Code. The uses are organized alphabetically.
 2. *Prohibited Temporary Uses and Structures.* Without limiting the standards of this Code, ~~the following activities are prohibited in all districts:~~
 - a. ~~Retail-retail~~ sales or display of goods, products, or services within the public right-of-way, is prohibited in all districts, except as part of an authorized not-for-profit, special, or City-recognized or authorized event-; and mobile food vendors licensed by the City.
 - b. ~~Retail sales or display of goods, products, or services from a motor vehicle, trailer, or shipping container.~~
 3. *General Standards for All Temporary Uses and Structures.* Unless otherwise specified in this Code, any temporary use or structure shall:
 - a. Obtain a Temporary Use Permit (if required) and any other applicable City, county, or State permits;
 - b. Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;
 - c. Be compatible with the principal uses taking place on the site;
 - d. Not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;
 - e. Not include permanent alterations to the site;
 - f. Meet all the setback requirements of the underlying base and overlay zoning districts;
 - g. Comply with temporary signage standards in Section 6.10, Signage.
 - h. Not maintain temporary signs associated with the temporary use or structure after the activity ends;
 - i. Not violate the applicable conditions of approval that apply to a site or a use on the site;
 - j. Not interfere with the normal operations of any permanent use located on the property; and
 - k. Be located on a site containing sufficient land area to allow the temporary use, structure, or special event to occur and accommodate associated pedestrian, parking, traffic movement without disturbing environmentally sensitive lands.

4. *Abbreviations Used in Temporary Use/Structure District Tables.* In the tables designating the zoning districts in which a temporary use or structure is allowed, the following abbreviations apply:
- a. A check "✓" indicates that the use or structure is allowed as a temporary use by right in the corresponding zoning district, subject to compliance with Section 5.4.B.3, General Standards for All Temporary Uses and Structures, any standards set forth for the specific use or structure, and all other applicable regulations of this Code. No Temporary Use Permit is required.
 - b. A "T" indicates that the use or structure is allowable as a temporary use in the corresponding zoning district only on approval of a Temporary Use Permit in accordance with Section 3.4.P, Temporary Use Permit, and subject to compliance with Section 5.4.B.3, General Standards for All Temporary Uses and Structures, any standards set forth for the specific use or structure, and all other applicable regulations of this Code.
 - c. A blank cell indicates that the use or structure is prohibited as a temporary use or structure in the corresponding zoning district. For the overlay districts, in which prohibitions of uses allowed by underlying base districts is an exception, an "X" indicates that the use or structure is prohibited as a temporary use or structure in the overlay district.
5. *Temporary Use/Structure Table for Residential, Business, Industrial, Tourist, and Specialty Districts.*

Table 5.4.B.5: Temporary Use/Structure Table for Residential, Business, Industrial, Tourist, and Specialty Districts																						
✓ = Temporary Use/Structure allowed without a Temporary Use Permit T = Temporary Use/Structure allowed with a Temporary Use Permit Blank Cell = Prohibited Temporary Use/Structure																						
Temporary Use/ Structure Type	Residential Districts				Business Districts					Industrial Districts					Tourist Districts				Specialty Districts			Use-Specific Standards
	SFR-5	MFR-12	MFR-20	MFR-40	RP	OP	BP	BR-1	BR-2	BA	M-1	M-2	M-4	M-5	T-1	T-2	T-4	T-5	AG	HM	MS	
Farmers' market				T			T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	5.4.C.1
Garage or yard sale	T	T	T	T	T																	5.4.C.2
<u>Mobile Food Vending</u>			✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓					✓	✓	<u>5.4.C.3</u>
Outside temporary promotional activity (TPA)						T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	<u>5.4.C.3-4</u>
Special event	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	<u>5.4.C.4-5</u>
Temporary construction-related structure or facility	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	<u>5.4.C.5-6</u>
Temporary factory-fabricated transportation building	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	<u>5.4.C.6-7</u>
Temporary mobile/manufactured home/trailer living unit	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	<u>5.4.C.7-8</u>

ATTACHMENT A

Temporary construction-related structure or facility	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	5.4.C. <u>5</u> <u>6</u>
Temporary factory-fabricated transportation building																								5.4.C. <u>6</u> <u>7</u>
Temporary mobile/manufactured home/trailer living unit																								5.4.C. <u>7</u> <u>8</u>
Temporary model sales home/unit	T			T					T	T	T	T		T		T		T	T	T				5.4.C. <u>8</u> <u>9</u>
Temporary not-for-profit carwash										✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	5.4.C. <u>9</u> <u>10</u>
Temporary off-street event parking																								5.4.C. <u>10</u> <u>11</u>
Temporary outside activities associated with a festival	Allowed in all districts with City Commission approval—see Section 5.4.C. <u>11-12</u>																							
Temporary portable storage unit	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	5.4.C. <u>12</u> <u>13</u>
Temporary redevelopment project parking lot	T			T			T																	5.4.C. <u>13</u> <u>14</u>
Temporary use of an accessory structure as a principal dwelling after a catastrophe					✓	✓			✓						✓						✓			5.4.C. <u>14</u> <u>15</u>

7. Temporary Use/Structure Table for Planned Development and Overlay Districts.

Table 5.4.B.7: Temporary Use/Structure Table for Planned Development and Overlay Districts ✓ = Temporary Use/Structure Allowed without a Temporary Use Permit T = Temporary Use/Structure Allowed with a Temporary Use Permit
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ATTACHMENT A

PD Districts: Blank Cell = Prohibited Temporary Use																	
Overlay Districts (Only Modifications of Underlying Base District Use Standards Are Shown):																	
X = Prohibited Temporary Use																	
Temporary Use/ Structure Type	Planned Development Districts		Overlay Districts													Use- Specific Standards	
			His- toric	Transitional				Airport		Other							
	PD-G	PD-RD	HO	TA	TB	TC	TD	AHO	ANO	STO	WO	EPO	NRO	E-Zone	AO		ISBGO
Farmers' market	T	T															5.4.C.1
Garage or yard sale	T	T															5.4.C.2
<u>Mobile Food Vending</u>	✓	✓															<u>5.4.C.3</u>
Outside temporary promotional activity (TPA)	T	T															5.4.C. 3 <u>4</u>
Special event	T	T															5.4.C. 4 <u>5</u>
Temporary construction-related structure or facility	✓	✓															5.4.C. 5 <u>6</u>
Temporary factory-fabricated transportation building	✓																5.4.C. 6 <u>7</u>
Temporary mobile/manufactured home/trailer living unit	✓																5.4.C. 7 <u>8</u>
Temporary model sales home/unit	✓	✓															5.4.C. 8 <u>9</u>
Temporary not-for-profit carwash	✓	✓															5.4.C. 9 <u>10</u>
Temporary off-street event parking	✓	✓															5.4.C. 10 <u>11</u>
Temporary outside activities associated with a festival	1	1															5.4.C. 11 <u>12</u>
Temporary portable storage unit	✓																5.4.C. 12 <u>13</u>
Temporary redevelopment project parking lot		T															5.4.C. 13 <u>14</u>
Temporary use of an accessory structure as a principal dwelling after a catastrophe	✓	✓															5.4.C. 14 <u>15</u>

NOTE:

1. Allowed with City Commission approval.

C. Standards for Specific Temporary Uses and Structures.

1. *Farmers' Market (as a temporary use)*. A farmers' market operating as a temporary use shall:
 - a. Operate on a continuous basis for no more than five months per year on a single site;
 - b. Renew all applicable Temporary Use Permits once per calendar year;
 - c. Be limited to the retail sale of fresh fruits and vegetables, herbs, mushrooms, nuts, honey, raw juices, molasses, dairy products, eggs, poultry, meats, fish, shellfish, fresh-cut or dried flowers, nursery stock, seedlings, plants, and other agriculture, aquaculture, and horticulture products produced by the vendor/producer, including the sale of products made by the vendor/producer from such agriculture, aquaculture, and horticulture products (e.g., baked goods, jams and jellies, juices, cheeses) and incidental sales of crafts or similar home-made products made by the vendor/producer.
 - d. Be located to minimize the visual impact of the structure from adjacent public streets;
 - e. Provide adequate ingress, egress, and off-street parking areas; and
 - f. Comply with applicable signage standards in Section 6.10, Signage.
2. *Garage or Yard Sale*. A garage or yard sale is allowed as a temporary use provided it complies with the requirements in Article III (Garage Sales) of Chapter 74 of the Code of Ordinances, as amended.

3. Mobile Food Vending.

a. Applicability.

- i. The standards within this section shall apply to mobile food vending throughout the City, except as exempted 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 of the LDC and Section 5.4.C.12 - Temporary Outside Activity Associated With a Festival of the LDC.

b. Definitions.

- i. Mobile Food Vending. The sale of food, including produce, as well as prepared foods, from a mobile food vendor vehicle.
- ii. Mobile Food Vendor Vehicle. A self-contained, motorized vehicle mounted food service unit that used for vending fresh produce, or preparing, cooking, or selling various types of food products.

c. Location.

- i. Mobile food vending shall not occur on private property developed with a single-family, duplex, or multifamily dwelling.

ATTACHMENT A

- ii. Mobile food vending shall not occur on public property or right-of-way abutting a single-family, duplex, or multifamily dwelling, except in designated food desert areas.
 - iii. Mobile food vending on private or public property shall not occur within 250 feet of a licensed restaurant, as measured from the mobile food vendor to the entrance of the restaurant, during the hours of operation of the restaurant, unless the owner of the establishment supports a closer proximity.
 - iv. Mobile food vending shall not be located so as to block vehicular visibility at the intersection of a driveway, alleyway, or public street, 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.
 - v. 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.
 - vi. Public rights-of-way regulated by entities other than the City will require approval from the regulating entity.
 - vii. *Vacant and/or Unimproved Lots.* It shall be prohibited for mobile food vending to occur on any vacant and/or unimproved lot or property within the City that is not associated with a permanently licensed year-round business.
- 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 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 a 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 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 for a 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 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. *Licensing Requirements.* Mobile food vendors shall be permitted to sell food and beverage products (excluding alcoholic beverages) subject to the following:

i. An active business license/Business Tax Receipt issued by the City

ii. A copy of an active State Mobile Food Permit

iii. A Certificate of Insurance – General Liability coverage listing The City of Daytona Beach as Certificate Holder (\$1,000,000 policy).

iv. A copy of the current vehicle registration for the mobile food vending unit

v. Proof of Volusia County Commissary & current inspection report from the Department of Business and Professional Regulations (DBPR) or the Department of Health and Agriculture.

—If the vendor has more than one vehicle, each vehicle must be registered and all information must be provided as stated above.

34. *Outside Temporary Promotional Activities.* Temporary promotional activities (TPAs) shall be permitted outside in connection with any permitted nonresidential use, provided:

- a. No TPA permit shall be issued for any lot or site that has been the subject of a Code Enforcement Board order finding noncompliance or imposing a fine within the three-year period prior to the date of TPA application, unless the Special Magistrate specifically waives this requirement for good cause. In determining whether just cause exists to waive this requirement, the Special Magistrate shall consider:
 - i. Where the applicant is an individual: the fault of the applicant in creating the condition that led to the order;
 - ii. Where the applicant is a corporation, limited liability company, or similar business firm: the fault of the firm's principals in creating the condition that led to the order;

- iii. The gravity of the violation; and
- iv. Any prior opportunity that the applicant (or where the applicant is a business firm, the applicant's principals) had to remedy the condition.
- b. TPA permits shall be personal to the permittee. TPAs shall not be transferable and shall not authorize itinerant vending.
- c. Except where modified pursuant to subparagraph [d] below, all of the following conditions shall apply:
 - i. No lot or parcel shall be the site of TPAs for more than 20 days per calendar year.
 - ii. TPAs shall not be held during the seven days before or the seven days after a major event period as proclaimed by the mayor.
 - iii. TPAs shall consist solely of outside displays or sales.
 - iv. Only products customarily sold as part of the principal use may be displayed or sold, except for promotional items bearing the logo of the business—provided, however, that promotional items may not be displayed or sold out of temporary structures such as tents or trailers.
 - v. The outside sales area shall be located within 100 feet of the main entrance to the business, and during major event periods declared by the mayor, shall be limited in size to 500 feet maximum.
 - vi. The outside sales area shall not occupy or block driveways, drive aisles, fire lanes, or required parking spaces.
 - vii. If the outside sales area occupies sidewalk areas, the outside sales area shall not impede the safe ingress and egress of pedestrians.
 - viii. Supplemental parking may be used for the display and sale of merchandise provided pedestrians are not compelled to walk across unmarked drive aisles or through parking spaces to reach the temporary sales area.
- d. The City Commission may adopt, by resolution, conditions that are more or less restrictive than those set forth in this paragraph [3], for TPAs to be held during national holidays or major event periods as declared by the Mayor.
- e. The TPA permittee shall fully comply, and shall require compliance from all employees, agents, invitees, and guests, with all federal, State and local laws, including City Codes and ordinances.
- f. It shall be a violation of this Code to violate the terms of any TPA permit. In addition to other remedies such as Code Enforcement Board action, the City Manager is authorized to immediately suspend a TPA without prior warning if the City Manager determines that the TPA is being conducted in a manner that violates this paragraph [3], or in a manner that poses imminent threat to public health, safety, or welfare. Upon suspension of a TPA permit, the TPA permittee must close down the temporary promotional activities authorized by the TPA permit until the suspension order is lifted. The conduct of a TPA after the permittee is notified of suspension shall be presumed to be an "irreparable" or "irreversible" violation, as those terms are used in F.S. § 162.09(1) or any successor provision, in any Code Enforcement Board proceeding. Suspension shall be effective immediately upon notice to the permittee. Notice to the permittee shall be deemed to be given when delivered to the permittee or to any person listed in the permit application as managing or supervising the TPA; or, if no such person appears to be on the site of the TPA at the time of issuance, to any other person who appears to be in control of the TPA or who appears to be acting on the TPA permittee's behalf.

45. *Special Event.*

- a. *Applicability.*

- i. *General.* Except where exempted by provision [ii] below, the standards in this paragraph apply to any special event conducted outside on property other than temporary events permitted elsewhere in this Code.
 - ii. *Exemptions.* The following events or activities are exempt from the standards of this paragraph (though are still subject to all other applicable procedures and standards of this Code):
 - (a) Any special event occurring within, or on the grounds of, a dwelling or on the common areas of a residential development.
 - (b) Any organized special event conducted at sites or facilities typically intended and used for such activities as permitted uses.
- b. *Standards.*
- i. Special events may be permitted outdoors on properties in use as shopping centers, public, semi-public, or institutional uses in any district provided the standards set forth in provision [ii] are met.
 - ii. A special event subject to this paragraph shall be subject to the following standards:
 - (a) The special event shall not create an unreasonable risk of significant:
 - (1) Damage to public or private property, beyond normal wear and tear;
 - (2) Injury to persons;
 - (3) Public or private disturbances or nuisances;
 - (4) Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel;
 - (5) Additional and impracticable or unduly burdensome police, fire, trash removal, maintenance, or other public services demands; or
 - (6) Other adverse effects upon the public health, safety, or welfare.
 - (b) The special event shall not be of such a nature, size, or duration that the particular location requested cannot reasonably accommodate the event. Off-street parking available during the event must be sufficient to accommodate the needs of all persons working, supplying, and attending the event. Where parking spaces are in existing parking lots serving other permitted uses, it must be sufficient to serve both uses without adversely affecting the neighborhood. Within residential districts, the off-street parking shall be contiguous to the carnival or circus, or the parking area shall buffer the proposed event from existing residences.
 - (c) Within residential districts, setting up, taking down, or operating between the hours of 10:00 p.m. and 8:00 a.m. is prohibited. If located in any other zoning district but within 500 feet of a residence, the event shall be prohibited from operating between the hours of 12:00 midnight and 8:00 a.m. No rides or shows shall be located adjacent or in close proximity to a residential unit.
 - (d) The special event shall be limited to a maximum duration of 14 days per site per calendar year. No permit may be issued for a site for at least 90 days after the expiration of the most recent special event for that site.
 - iii. In approving a Temporary Use Permit for a special event subject to this paragraph, City staff is authorized to impose such conditions on the premises benefited by the permit as may be necessary to comply with the standards in provision [ii] above, as long as the condition relates to a situation created or aggravated by the proposed special event. Such conditions, where appropriate, may require:

- (a) Provision of temporary parking facilities, including vehicular access and egress;
- (b) Prevention or control of nuisance factors—including, but not limited to, glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat;
- (c) Regulation of temporary buildings, structures, and facilities—including placement, height and size, location of equipment, and open spaces, including buffers;
- (d) Provision of sanitary and medical facilities;
- (e) Provision of solid waste collection and disposal;
- (f) Provision of security and safety measures;
- (g) Use of an alternative location or date for the proposed special event;
- (h) Modification or elimination of certain proposed activities;
- (i) Regulation of operating hours and days, including limitation of the duration of the special event to a shorter time period than that requested or specified in this paragraph; or
- (j) Submission of a performance guarantee to ensure that any temporary facilities or structures used for such proposed special event will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition.

56. *Temporary Construction-Related Structure or Facility.*

- a. All temporary construction-related structures and facilities shall not be moved onto the project site prior to the issuance of a building permit and shall be removed within 30 days after issuance of the final certificate of occupancy for the constructed development.
- b. A temporary construction-related structure or facility may be placed on a property adjacent to the construction site if site constraints make it infeasible to locate the structures or facilities on the construction site, provided the adjacent site is restored to its previous condition within 60 days after issuance of the final certificate of occupancy of the constructed development.
- c. Parking for employees of the temporary construction-related structure and facility shall be provided.
- d. Construction site fencing may remain in place provided the building permit remains active and has not expired.

67. *Temporary Factory-Fabricated Transportable Building.* A temporary factory-fabricated transportable building shall comply with the following standards:

- a. The building may be placed on a lot and temporarily used only for the following uses:
 - i. Temporary on-site expansion of classroom space for an existing school or other education use pending implementation of City-approved plans for the permanent expansion of classroom space or alternative means of meeting growing classroom needs.
 - ii. Temporary on-site expansion of space for an existing community services use, government administrative offices, health care use, place of worship, or other community-serving institutional use (other than education uses) pending implementation of City-approved plans for the permanent expansion of existing facilities.
 - iii. Temporary on-site office space for construction management and security uses during construction of new development in accordance with City-approved plans.

- iv. A temporary on-site space for real estate sales or leasing activities associated with a new development pending construction of the development.
 - v. Temporary on-site space for recreational use for a new residential development pending construction of permanent recreational facilities approved by the City as part of the development.
 - vi. A temporary building providing temporary quarters for the occupants of a principal dwelling or nonresidential building damaged or destroyed by a fire, hurricane, or other physical catastrophe while the dwelling or building is being repaired or reconstructed.
- b. Except as otherwise provided in this Code, the temporary building may be located anywhere on the site except within the following areas:
- i. Existing required landscaping or perimeter buffer areas;
 - ii. Areas designated as future required landscaping areas, whether or not vegetation currently exists; and
 - iii. Other areas designated on the site for open space, vehicular access, or parking.
- c. Adequate off-street parking for the temporary building use shall be provided in accordance with the minimum standards for number of off-street parking spaces in Section 6.2.C, Off-Street Parking Space Standards.
- d. All permits required by applicable building, electrical, plumbing, and mechanical Codes shall be obtained before placement of the temporary building.
- e. The temporary building shall be compatible with any existing buildings on the site in terms of exterior color. Bright, luminescent, or neon colors and highly reflective surfaces are prohibited.
- f. The exterior of the temporary building shall not be used to display advertising other than signage authorized by Section 6.10, Signage.
- g. The temporary building shall be removed from the site within 30 days after issuance of the final certificate of occupancy for the permanent expansion, new development, permanent recreation facility, permanent facility, or repaired or reconstructed dwelling/building, as appropriate.

78. *Temporary Mobile/Manufactured Home/Trailer Living Unit.* The use of trailers, travel trailers, mobile campers, and mobile/manufactured homes on public property as living quarters shall be permitted in connection with sporting or recreational events where the allowance for use of temporary mobile living quarters by event participants is essential to success of the event, as determined by the City Manager, subject to the following conditions:

- a. Use shall be limited to event participants and shall not include spectators.
- b. Health and sanitary facilities shall be available at all times for the uses permitted herein, in sufficient capacity to serve the temporary residents.
- c. The use shall be limited to temporary periods not in excess of 21 consecutive days.

89. *Temporary Model Sales Home/Unit.* A single model sales home/unit may be located on a new development site and temporarily used for sales or leasing uses associated with the development, subject to the following standards:

- a. A model sales home shall be located on a lot or building site approved as part of the development, and a model sales unit shall be located within a building approved as part of the development.
- b. The model sales home/unit shall be aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building

materials, and landscaping. Bright, luminescent, or neon colors and highly reflective surfaces are prohibited.

- c. The exterior of the temporary model sales home/unit shall not be used to display advertising other than signage authorized by Section 6.10, Signage.
- d. Adequate off-street parking for the real estate sales/leasing use of the model sales home/unit shall be provided, in accordance with the minimum standards for number of off-street parking spaces in Section 6.2.C, Off-Street Parking Space Standards, (including requirements for compliance with the Florida Accessibility Code for Building Construction),
- e. One model home may be constructed for every 20 lots, or one model home for every 15 lots if the model homes are contiguous to each other under construction, up to a maximum of three model homes for a subdivision.
- f. A model sales home/unit may be used for temporary sales/leasing until such time as the last lot in the subdivision is developed.
- g. On termination of the temporary real estate sales/leasing use of a model sales home/unit, the home/unit shall be converted into, or removed and replaced with, a permanent permitted use, and any excess parking shall be removed and landscaped in accordance with Section 6.4, Landscaping.
- h. No model home may be constructed or occupied prior to plat recording.
- i. No model home may be converted to a single family unit and occupied until all subdivision improvements are accepted in accordance with Article 7: Subdivision and Infrastructure.
- j. Temporary structures such as modular buildings may be allowed as a temporary sales office, only while the model home is being constructed in accordance with this section. There shall be no more than one temporary sales office per subdivision.
- k. City water and wastewater facilities shall be operating and accessible to the public.
- l. A stabilized road access shall be in place.
- m. A Certificate of Completion will be in effect for a model sales home until a change of occupancy is permitted for a single-family dwelling unit, then a certificate of occupancy will be issued for a single-family dwelling.
- n. A model sales home shall not be used for storage of building materials.
- o. If the space for a required garage has been converted to space for purposes other than a garage, the space must be converted back to a residential garage and equipped with a standard garage door prior to the sale and use of the home as a dwelling unit.

910. *Temporary Not-For-Profit Car Wash.* Temporary not-for profit car wash services shall comply with the following standards:

- a. The use shall be limited to no more than a total of 14 days per calendar year, per individual site.
- b. The use shall comply with NPDES requirements and Section 7.2.N, Illicit Discharge and Connection to the Stormwater Drainage System.

4011. *Temporary Off-Street Event Parking.* Civic centers that are designed and intended for multiple uses and varying patronage and racetracks may meet the parking requirement set forth in Section 6.2.C, Off-Street Parking Space Standards, by providing at least one-half of the required spaces onsite and the remainder of the spaces offsite in any nonresidential district provided the following conditions are met:

- a. For all events exceeding on-site parking capacity, the facility shall provide shuttle service between the off-street parking and the facility. Alternatively, parking can be located within a reasonable walking distance of the facility it is intended to serve.

- b. The property shall be used for parking no more than 20 days per year, and no other temporary use of the property shall be permitted at any time.
- c. The property shall be a grassed surface with perimeter landscaping.
- d. No fee shall be charged for parking on the property.
- e. The off-street parking area shall be under the same ownership or control as the property it is intended to serve.

4412. *Temporary Outside Activities Associated with a Festival.*

- a. By resolution, the City Commission may authorize temporary outside activities associated with a festival in distressed or blighted areas unless inconsistent with the applicable Redevelopment Area Plan. All outside activities shall be confined to the distressed or blighted area and designed to promote interest in year-round activity in the area.
- b. The following additional standards shall apply:
 - i. Temporary outside activities shall not be approved for:
 - (a) Any lot that has been the subject of a Code enforcement order finding noncompliance or imposing a fine within the three-year period prior to the date of application, or that is subject to an unpaid lien or assessment in favor of the City; or
 - (b) Any person who at the time of application is indebted to the City where the debt is in arrears.
 - (c) A person may seek a waiver from the prohibition in provision (b) above by filing a written request for hearing before a Special Magistrate.
 - (1) The hearing on the request shall be held within 40 days of the date that the request for hearing is filed by a Special Magistrate appointed for such purpose by the City Commission pursuant to Section 2.8.
 - (2) A waiver may only be granted for just cause based on the following considerations:
 - (A) Where the applicant is an individual: the fault of the applicant in creating the condition that led to the order;
 - (B) Where the applicant is a corporation, limited liability company, or similar business firm: the fault of the firm's principals in creating the condition that led to the order;
 - (C) The gravity of the violation; and
 - (D) Any prior opportunity that the applicant (or where the applicant is a business firm, the applicant's principals) had to remedy the condition.
 - (3) A waiver may be conditioned upon compliance with additional requirements determined to be helpful or necessary in maintaining public health, safety, and welfare.
 - ii. There shall be no variances or waivers to the requirements of this paragraph [11] except as allowed by provision [i(c)] above.

4213. *Temporary Portable Storage Unit.* Temporary storage in a portable storage unit may be permitted to serve an existing use on the same lot, subject to the following standards:

- a. *Number.* No more than two units shall be located on a lot.
- b. *Size.* No unit shall be more than eight feet wide, 16 feet long, or eight feet high.
- c. *Duration.*

- i. No unit shall be placed on a lot in a residential zoning district for more than three consecutive days, or for more than six days within any calendar year.
 - ii. No unit shall be placed on a lot in a nonresidential zoning district for more than 14 consecutive days, or for more than 28 days within any calendar year.
- d. *Location.*
- i. In a residential zoning district, a unit may be placed only in a driveway or, if alley access to the rear of the lot exists, in the rear yard. If no driveway or alley access to the rear of the lot exists, a unit may be placed in the front yard of the lot provided City staff determines that such placement does not obstruct the free, convenient, and normal use of the public right-of-way.
 - ii. In a nonresidential district, a unit may be placed only in the rear yard or side yard. In no case may a unit be placed in the front yard, in any front parking lot of a commercial use, or in fire lanes, passenger loading zones, commercial loading areas, or public rights-of-way.
- e. *Removal upon Hurricane Warning.* Notwithstanding the time limitations established in subparagraph [c] above, all portable storage units shall be removed immediately upon issuance of a hurricane warning by a recognized government agency.
- f. *Maintenance and Security.*
- i. The owner and operator of the lot containing a portable storage unit shall ensure that the unit is in good condition, free from evidence of deterioration, weathering, discoloration, rust, ripping, tearing, or other holes or breaks.
 - ii. The unit shall be kept locked when not being loaded or unloaded.
- g. *Hazardous Materials Prohibited.* The owner and operator of the lot containing a portable storage unit shall ensure that no hazardous material is stored within the unit.
- ~~4314.~~ *Temporary Redevelopment Project Parking Lot .* A temporary parking lot may be allowed in conjunction with an approved redevelopment project, subject to the following standards:
- a. The applicant shall identify a redevelopment project for the site and a schedule for completion of the redevelopment project in an approved development agreement.
 - b. The temporary or interim use of the land for a parking lot shall be authorized for a period of two years from the date of approval of the Temporary Use Permit for the parking lot through site plan approval.
 - c. The City Commission may authorize extensions of the two-year period for additional two-year periods on findings that there is a need to extend the schedule to complete the redevelopment project and that all conditions herein are satisfied.
 - d. The parking lot surface shall be stabilized with crushed shell, crushed concrete, open-jointed pavers, pervious concrete, pervious asphalt, gravel, or sod. A crushed shell, crushed concrete, or gravel surface shall be treated with a soil stabilizer, such as Soiltec®; or DirtGlue™ to control dust and erosion on-site. Construction details and a maintenance plan, approved by City staff, shall be submitted with the application.
 - e. A stormwater permit or a determination that a permit is not required shall be obtained from the St. John's River Water Management District. If a district permit is not required, the City will, at a minimum, require any necessary improvements to prevent erosion sediment from entering the public drainage system.
 - f. A fence shall be provided along the perimeter of the parking lot—excluding permitted access points—to screen it from abutting rights-of-way. The fence shall:
 - i. Be at least four feet high, measured from the top of the fence to the finish grade of the ground.

- ii. Be located behind required landscaping.
 - iii. Have an appearance that meets the design standards for fences in Redevelopment Areas.
 - iv. Be constructed of vinyl or the finest grade cypress or pressure treated pine utilizing "dog eared" or "stockade" pickets with posts of sufficient strength and depth to hold the fence plumb and erect during anticipated wind loads.
 - v. Be white on both sides.
- g. The parking lot shall be landscaped in accordance with Section 6.4.D, Vehicular Use Area Landscaping, except that:
- i. The perimeter landscaping strip may be five feet wide along public rights-of-way; and
 - ii. Parking lots with an area less than one acre are not required to have landscaped islands and areas within the vehicular use area.
- h. One ground sign along each right-of-way shall be permitted provided it has a maximum sign area of 15 square feet and meets the design standards for signs in Redevelopment Areas.
- i. The parking lot shall have lighting that is capable of providing adequate illumination for security and safety, but does not cause a nuisance to adjoining properties.
- j. Proper maintenance of all site improvements is required.
- k. Temporary parking lots shall be used for public parking only and may not be used or approved for use for outside activities.
- l. Upon expiration of authorization of a temporary parking lot, the parking lot shall promptly be restored and maintained in accordance with Section 6.18.D, Site Restoration.
- m. A complete and automatic underground irrigation system shall be installed and maintained which provides 100 percent coverage to all landscaped areas. An irrigation plan shall be approved prior to construction.

4415. *Temporary Use of an Accessory Structure as a Principal Dwelling After a Catastrophe.* An existing structure that is accessory to an existing principal dwelling that has been damaged or destroyed by a fire, hurricane, or other physical catastrophe may be temporarily used as the principal dwelling on the lot while the damaged or destroyed principal dwelling is being repaired or reconstructed, provided it meets the following standards:

- a. The building or inhabited part thereof shall meet all applicable building, health, and other regulations for a habitable dwelling.
- b. The building shall comply with any additional standards set forth in a Declaration of Emergency issued by authorized officials in response to the catastrophe.
- c. The building shall be removed or converted to an authorized accessory use within 30 days after issuance of the certificate of occupancy for the permanent principal dwelling. In no case shall the building be used as the principal dwelling for more than four years unless authorized by a longer time period set forth in a Declaration of Emergency issued by authorized officials in response to the catastrophe.

4516. *Temporary Overnight Parking (RVs only).* Temporary overnight parking of recreational vehicles (RVs) only shall be permitted with the following conditions:

- a. Temporary overnight RV parking shall not occur on any lot or site which adjoins a residential use.
- b. Temporary overnight RV parking shall be permitted only on parcels which regularly operate a permitted use year-round. No other temporary uses are permitted, including but not limited to food and beverage services and entertainment uses.

ATTACHMENT A

- c. Temporary overnight RV parking shall be permitted on any one lot or site for no more than 30 days per calendar year.
- d. Temporary overnight RV parking shall not occur on any lot or site which is less than three and one-half acres.
- e. Temporary overnight RV parking shall not occur on any lot which is more than one mile from the Daytona International Speedway PD-G district boundary.
- f. Notwithstanding the provisions of this section, temporary overnight RV parking shall not be permitted unless the property owner obtains all additional permits and licenses required by the City or any other governmental body for such use.
- g. The following shall be provided on site at all times while the conditional use is in operation:
 - i. Hose bibs with a minimum ratio of one hose bib for every ten recreational vehicles;
 - ii. A first aid station;
 - iii. Overhead lighting, which shall be oriented inward to avoid impacting neighboring properties;
 - iv. 24-hour security;
 - v. An office, open and staffed 24 hours per day;
 - vi. Signage notifying the customers of the site of limitation on access to right-of-way as set forth in subsection [h] of this section (when applicable); and
 - vii. A solid waste pick-up site.
- h. Temporary overnight RV parking shall not be permitted in required landscape areas.
- i. Every RV parked on the lot during the last day of the Daytona 500 shall be prohibited from exiting the lot until 5:30 p.m. The owner of the lot shall require each party utilizing the lot for RV parking to sign a written agreement which provides clear notice of this prohibition.
- j. Temporary overnight parking shall not be permitted on any lot or site which has been the subject of an enforcement action related to this use within the three-year period prior to the date of use, including any order issued by the City Code Enforcement Board finding noncompliance with one or more City Codes or ordinances, any order issued by a State or Federal court enjoining the use, and any other enforcement action regarding this request.

(Ord. No. 15-312, § 2, 12-16-2015; Ord. No. 16-26, § 1(Exh. A), 1-20-2016; Ord. No. 17-395, § 1, 12-6-2017)

Examples of Mobile Food Vendors



Mobile Food Trucks Serving from Right-of-Way



Mobile Food Trailer Parked in Lot



Mobile Food Cart on Public Sidewalk



Mobile Produce Bus