


MEMORANDUM

TO: Mayor England
Vice Mayor Kostka
Commissioner George
Commissioner Samora
Commissioner Rumrell

FROM: Max Royle, City Manager 


DATE: November 30, 2020

SUBJECT: Ordinance 20-16, First Reading, to Amend the Land Development Regulations Regarding Allowing Mobile Food Sales in the City

While we did receive the ordinance from the City Attorney in time for it to be included in your agenda books, we decided that the ordinance needs some revising. Therefore, it will be on the agenda for your January 4th meeting.

MEMORANDUM

TO: Mayor England
Vice Mayor Kostka
Commissioner George
Commissioner Samora
Commissioner Rumrell

FROM: Max Royle, City Manager 

DATE: November 25, 2020

SUBJECT: Ordinance 20-16, First Reading, to Amend the Land Development Regulations Regarding Allowing Mobile Food Sales in the City

INTRODUCTION

Section 3.02.03 of the Land Development Code lists a number of prohibited uses in the City. Subsection A.6 states that the following is prohibited: "The operation of a business from any temporary quarters, such as but not limited to: tents, pushcarts, sheds, carports, motor vehicles and trailers."

In its 2020 session, the Florida Legislature passed a 103-page bill. One small section of that bill amends Section 509.102, Florida Statutes, by creating a new section that concerns mobile food dispensing vehicles. Section 509.102 (2) states that "a municipality, county, or other local government entity may not prohibit mobile food dispensing vehicles from operating within the entirety of the entity's jurisdiction."

This means that a city or county cannot prohibit throughout their boundaries mobile food dispensing vehicles from conducting business. However, a city or county may regulate where mobile food dispensing vehicles can do business within their limits, such as allowing them only in commercial land use districts.

ATTACHMENTS

Attached for your review is the following:

- a. Page 1, Section 3.02.03.4 from the Land Development Code.
- b. Pages 2-3, Section 509.102, Florida Statutes, that was approved by the Legislature.
- c. Page 4-5, a list of regulations governing the operation of mobile food dispensing vehicles in the City of Venice, Florida.
- d. Pages 6-7, a list of regulations proposed for the City of Cocoa Beach, Florida.
- e. Pages 8-11, a newspaper article about regulations proposed for Tarpon Springs, Florida.
- f. Pages 12-13, the minutes of that part of your November 9th meeting when you discussed whether mobile food sales should be allowed in the City.

ACTION REQUESTED

At your November meeting, you asked the City Attorney to prepare an ordinance. However, by the date of this memo, we have not received it from him. If it arrives before your meeting, we will forward it to you by email and will have a copy of it for each of you at the meeting.

Sec. 3.02.03. - Prohibited uses.

- A. In addition to the uses prohibited under section 3.02.02 and Table 3.02.02, and other provisions of this Code, the following uses are prohibited:
1. Keeping, breeding, or raising of bees, insects, reptiles, pigs, horses, cattle, goats, hogs, or poultry.
 2. The sale, offer for sale, rental, storage or display of any merchandise, outside of an enclosed building on the premises of any business except as provided herein.
 - a. As used herein the term "outdoor" shall mean any area which is outside of the heated or cooled area of a building and visible from a public street. Provided, however, that the outdoor display or sale of merchandise shall be permitted:
 - (1) In conjunction with and pursuant to any outdoor sale or display of merchandise authorized in conjunction with a special event pursuant to section 3.02.05 hereof:
 - (2) When the display is limited to merchandise identical to that actually in stock and available for purchase on the premises where the display is maintained, the display is limited in size to an area no greater than five (5) feet high, three (3) feet wide, and three (3) feet in length and is not located within six (6) feet of any other such display. No such display may be located within any public right-of-way, mandatory building setback under this chapter or so as to interfere with any fire exit required under any building code of the city. Any display rack, shelves or other device used in conjunction with the display of merchandise shall be made of wood which shall have either a natural finish or shall be painted only in colors which have been approved by the comprehensive planning and zoning board as a part of the supplemental criteria for community appearance standards or shall be made of brass, copper, bronze, nickel, tin or iron; provided, however, that painted, polished, anodized or chromed metals shall be prohibited.
 3. The sale, offer for sale, or rebuilding of secondhand merchandise on any business premises, including secondhand household and commercial goods, such as but not limited to: refrigerators, stoves, sinks, plumbing fixtures, carports, tents, air conditioners, windows, vehicle parts, and the like.
 4. The manufacture, assembly or preparation of any merchandise, food or beverages outside of an enclosed building on any business premises.
 5. The sale, offer for sale, or rental of any merchandise, food or beverages from a motorized or nonmotorized vehicle or trailer of any type on any business premises.
 6. The operation of a business from any temporary quarters, such as but not limited to: tents, pushcarts, sheds, carports, motor vehicles, and trailers.
 7. Package stores; provided, however, that package stores having an area of less than eight thousand (8,000) square feet and located within a shopping center having greater than fifteen thousand (15,000) square feet under roof and package stores operated in conjunction with a restaurant having a 4-COP license as of the effective date of this section shall be an authorized use within commercially zoned areas.

ENROLLED

CS/HB 1193, Engrossed 3

2020 Legislature

final order.

Section 74. Section 492.115, Florida Statutes, is amended to read:

492.115 Roster of licensed professional geologists.—A roster showing the names and places of business or residence of all licensed professional geologists and all properly qualified firms, corporations, or partnerships practicing ~~holding~~ ~~certificates of authorization to practice~~ professional geology in the state shall be prepared annually by the department. A copy of this roster must be made available to ~~shall be obtainable by~~ each licensed professional geologist and each firm, corporation, or partnership qualified by a professional geologist ~~holding a certificate of authorization~~, and copies thereof shall be placed on file with the department.

Section 75. Section 509.102, Florida Statutes, is created to read:

509.102 Mobile food dispensing vehicles; preemption.--

(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

ENROLLED

CS/HB 1193, Engrossed 3

2020 Legislature

2301 preempted to the state. A municipality, county, or other local
 2302 governmental entity may not require a separate license,
 2303 registration, or permit other than the license required under s.
 2304 509.241, or require the payment of any license, registration, or
 2305 permit fee other than the fee required under s. 509.251, as a
 2306 condition for the operation of a mobile food dispensing vehicle
 2307 within the entity's jurisdiction. A municipality, county, or
 2308 other local governmental entity may not prohibit mobile food
 2309 dispensing vehicles from operating within the entirety of the
 2310 entity's jurisdiction.

2311 (3) This section may not be construed to affect a
 2312 municipality, county, or other local governmental entity's
 2313 authority to regulate the operation of mobile food dispensing
 2314 vehicles other than the regulations described in subsection (2).

2315 (4) This section does not apply to any port authority,
 16 aviation authority, airport, or seaport.

2317 Section 76. Paragraph (i) of subsection (2) of section
 2318 548.003, Florida Statutes, is amended to read:

2319 548.003 Florida State Boxing Commission.-

2320 (2) The Florida State Boxing Commission, as created by
 2321 subsection (1), shall administer the provisions of this chapter.
 2322 The commission has authority to adopt rules pursuant to ss.
 2323 120.536(1) and 120.54 to implement the provisions of this
 2324 chapter and to implement each of the duties and responsibilities
 2325 conferred upon the commission, including, but not limited to:

Page 93 of 103

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1193-05-er

EXECUTIVE ORDER NO. 2020-05
COVID-19
MOBILE FOOD DISPENSING VEHICLE

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order No. 20-52, declaring a state of emergency in the State of Florida for COVID-19;

WHEREAS, on March 16, 2020, the City Manager of the City of Venice issued Executive Order No. 2020-01, as extended by Extension Nos. 1 and 2, that declared a Local State of Emergency due to COVID-19 which constitutes a potential life threatening situation for the citizens and visitors to the City for an undefined period of time;

WHEREAS, on March 16, 2020, the White House issued a new nationwide guideline calling all people to avoid gatherings of more than 10 people;

WHEREAS, on April 1, 2020, Governor Ron DeSantis issued Executive Order No. 20-91 which directed all persons in Florida to limit their movements and personal interactions outside of their home to only those necessary to obtain or provide essential services or conduct essential activities, but encouraged businesses to provide delivery, carry-out or curbside service;

WHEREAS, Section 252.38, Florida Statutes, authorizes the City of Venice to take whatever prudent action is necessary to ensure the health, safety and welfare of the community during a declared emergency;

WHEREAS, the Code of Ordinances of the City of Venice does not provide for the operation of mobile food dispensing vehicles;

WHEREAS, mobile food dispensing vehicles licensed by the State of Florida may facilitate the safe provision of essential services to the residents of the City of Venice during the COVID-19 emergency.

NOW, THEREFORE, I, Edward Lavalley, City Manager of the City of Venice, in accordance with the provisions of the State of Florida Office of the Governor Executive Order No. 20-52, Chapter 252.38, Florida Statutes, and Executive Order No. 2020-01, as extended, hereby order the following:

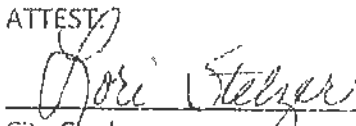
1. Any and all provisions of the City's Code of Ordinances that could be construed as prohibiting the operation of a mobile food dispensing vehicle are hereby waived. For purposes of this Executive Order, a "mobile food dispensing vehicle" shall mean any vehicle that is a public food service establishment 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, and is licensed by the State of Florida. The following requirements and restrictions shall apply to the operation of a mobile food dispensing vehicle within the City of Venice:

- (a) No mobile food dispensing vehicle shall operate on publicly owned property or public rights-of-way/sidewalks unless allowed by the public entity that controls the property.
 - (b) Mobile food dispensing vehicles shall be permitted to operate on privately owned property with the owner's consent providing the following are met:
 - (i) a valid license/permit from the Florida Department of Business and Professional Regulation or the Florida Department of Agriculture and Consumer Services, as applicable, is possessed;
 - (ii) the location of the mobile food dispensing vehicle shall not impede, endanger, or interfere with pedestrian or vehicular traffic;
 - (iii) the mobile food dispensing vehicle shall only operate between the hours of 6:00 a.m. and 10:00 p.m.;
 - (iv) the mobile food dispensing vehicle shall be set back from residential structures by at least 150 feet; and not be located within 500 feet of any actively operating restaurants;
 - (v) there may be no more than two (2) mobile food dispensing vehicles on any parcel.
 - (c) Overnight parking of a mobile food dispensing vehicle shall be allowed on private property. Overnight parking of a mobile food dispensing vehicle may be allowed on City owned property or rights-of-way only with advance approval of the City.
 - (d) The mobile food dispensing vehicle operator and the property owner shall be responsible for the proper disposal of waste and trash. No grease, waste, trash or other debris shall be deposited on or released onto public property, which includes streets, sidewalks or other public places nor into the gutter or storm drainage system.
 - (e) A mobile food dispensing vehicle shall be no larger than 10 by 27 feet, with each separate mobile component no more than two axes.
2. This Executive Order shall expire upon the expiration of Governor DeSantis' Executive Order No. 20-52, including any extension thereof, unless terminated earlier by further Executive Order of the City.

DONE AND ORDERED this 9th day of April, 2020, at Venice, Florida.



Edward F. Lavalley, City Manager
City of Venice, Florida

ATTEST


City Clerk

Dariana Fitzgerald

From: faccinfo@googlegroups.com on behalf of Loredana Kalaghchy
<lkalaghchy@cityofcocoabeach.com>
Sent: Thursday, September 24, 2020 3:45 PM
To: faccinfo@googlegroups.com
Subject: [FACC Discussion Forum] RE: Mobile Vendor

Hi

October 1, the Commission will be considering the adoption of the following:

A. Mobile food dispensing vehicles.

1. The operation of a vehicle which dispenses food for the public shall not be permitted to operate within the public right of way or any city owned property, except when associated with a city approved special event.
2. Operations are prohibited on properties with single family or multifamily structures, except in connection with a private event.
3. Within the Towncenter zoning district, mobile food dispensing vehicles are only permitted on the site of a food establishment with a physical location. On all other sites within the Towncenter zoning district, approval of a special exception is required.
4. The type of food offered for sale by a mobile food dispensing vehicle shall not be identical to an existing restaurant within three hundred (300) feet.
5. On properties where operations are permitted, mobile food dispensing vehicles shall be located least ten (10) feet from any property line, and no vehicle shall be permitted to interfere with sight visibility at intersections, as detailed in Section 3-07 of these regulations.
6. Except as may be provided as part of a special event, the following shall apply:
 - a. When a site is less than one half (1/2) acre in area there shall be a maximum of two (2) mobile food dispensing vehicles onsite at any one time.
 - b. When a site is greater than one half (1/2) acre in area, there shall be a maximum of four (4) mobile food dispensing vehicles onsite at any one time.
7. The location of a mobile food dispensing vehicle within a parking area shall not be permitted to reduce the available parking for the site beyond the minimum required for standard site operations.
8. Setup and operations are subject to inspection by the Chief Building Official (CBO) and/or Fire Marshal.
9. Appropriate trash and recycling containers shall be provided and all sidewalks, parking areas, and pedestrian spaces shall be kept clear of refuse or obstruction.
10. Any outdoor lighting shall be in compliance with the requirements of LDC Chapter III Article VI.
11. Outdoor signs shall meet the requirements of LDC Chapter V.
12. All outdoor areas, including seating and sidewalk areas, shall maintain the ADA required minimum five (5) foot unobstructed pathway at all times.
13. Any outdoor noise, music, or entertainment shall be in compliance with the requirements of City Code of Ordinances Section 15-23.
14. All mobile food dispensing vehicles shall be licensed to operate within the State of Florida and must u to date with all the requirements of the Florida Department of Business and Professional Regulations

(DBPR), the Florida Department of Health, the Florida Department of Agriculture and Consumer Services, and the City of Cocoa Beach.

15. When the operation of a mobile food dispensing vehicle is part of a special event, the requirements within the City Code of Ordinances Chapter 14 shall apply.



Loredana Kalaghchy | (MMC) | City Clerk
t: 321.868-3235 w: www.cityofcocoabeach.com

City of Cocoa Beach
P.O. Box 322430 | Cocoa Beach, FL. 32932-2430

E-mails are considered a public record, and are subject to disclosure

Citizen Engagement Tip: Did you know that you can sign up to receive City of Cocoa Beach agendas? Visit www.cityofcocoabeach.com, click on **Notify Me**, to get started. Whenever agendas are posted, you will receive an emailed notice with a direct link.

From: faccinfo@googlegroups.com <faccinfo@googlegroups.com> **On Behalf Of** Jabari Hopkins
Sent: Thursday, September 24, 2020 3:00 PM
To: faccinfo@googlegroups.com
Subject: [FACC Discussion Forum] Mobile Vendor

Good afternoon,

With the HB 1193 states in Sec 75. Sec 509.102, F.S., is created to read:

(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.

How do you all regulate these businesses? Being that this House Bill states that we cannot prohibit what do you have in this are we to just allow mobile vendors to just set up and operate? Please shed some guidance.

Kind Regards,

Jabari Hopkins, Deputy City Clerk

City of Fruitland Park

Phone: 352-901-6019

Web: www.fruitlandpark.org

Email: JXHopkins@fruitlandpark.org

506 W. Berckham St. Fruitland Park FL 34731

You received this message because you are subscribed to the Google Groups "FACC" group.
To unsubscribe from this group and stop receiving emails from it, send an email to faccinfo+unsubscribe@googlegroups.com.



2% Listing Commission



http://www.suncoastnews.com/news/tarpon-wrangles-with-new-food-truck-law/article_21501d68-f833-11ea-aa75-cb01d6337b88.html

Tarpon wrangles with new food truck law

A new state law prohibits cities from banning mobile food trucks, but Tarpon officials and residents are split as to where they should be allowed to operate

By JEFF ROSENFELD, Suncoast News

Sep 16, 2020



City commissioners recently voted 4-1 in favor of allowing mobile food trucks to operate in the city's industrial districts and on U.S. Highway 19, and not downtown or at the Sponge Docks. The decision comes in the wake of a new state law that prohibits municipalities from banning mobile food vendors. The second and final reading of the ordinance is scheduled for Tuesday, Sept. 22.

JEFF ROSENFELD

TARPON SPRINGS — In the wake of a new state law prohibiting cities from banning food trucks, officials throughout the Sunshine State have been scrambling to enact regulations regarding where mobile food vending vehicles should be allowed operate in their communities.

Following several discussions on the subject, the Tarpon Springs' Planning and Zoning Board and the City Commission came to a general consensus that the vehicles could operate in industrial areas and certain sections of U.S. Highway 19 only and not in the historic downtown district or at the Sponge Docks.

The issue drew considerable public feedback during the board's first reading of the proposed changes to the city's Land Development Code on Sept. 8, with roughly a half a dozen residents and merchants calling for more relaxed restrictions regarding food trucks.



"It comes to my attention that the food trucks must be on U.S. 19 only. This is very disappointing," Irene Manglis, owner of Meli Greek Street Donuts, wrote.

Noting she had an agreement in place with a business owner at the docks, Manglis' email said she "does not want to work on US Highway 19. That is not fair," and she said the trucks should be able to operate at the Sponge Docks and downtown with support, in the form of a lease or written agreement, from the businesses in the area.

The Tarpon Springs Merchants Association supported Manglis' position in an email that stated, in part, "We have spoken to many of our merchants (and) we are hearing that the majority of our food, drink and retail store owners are in favor of a food and beverage truck or cart on their own property," adding they hoped the board would "look at this as an opportunity to give the business owners a venue to create something new and exciting for their establishments that will help them stay open."

Several local business owners also weighed in support of allowing food trucks all over town.

"While some merchants feel the food trucks or added businesses take away from their own business, I strongly disagree," Ginger Alemaghides, owner of the Bohemian Gypsea gift shop at 740 N. Pinellas Ave., wrote, adding, "Food trucks done correctly in our downtown and Sponge Docks can only enhance the charm of Tarpon Springs. The more food and shopping we have in the area the more people will be attracted to the area, and everyone will win."

Affordable. Dependable. Non-Medical In-Home Care

Seniors... Stay Safe at Home!

- Shopping / Errands
- Companionship
- Meal Prep
- Daily "Check-in" calls
- Light Housekeeping
- Medication Reminders
- Laundry



Making Life Easier

**CLICK FOR
MORE INFO**

Call: 727-942-2539  

Elijah Durham, owner of the SOL Burger food truck, argued that businesses such as his deserve to be treated as equal to brick and mortar establishments. "It is almost equally as expensive to open a food trailer or a food truck as it is to open a restaurant," he said. "It is certainly not a cheap endeavor."

Durham, who recently formed a partnership with the new Brighter Days Brewing Co., said, "we believe as locals in this community that we can start a food truck and still continue to have that charm that has brought us here and has wanted us to stay here."

Despite the pleas, Mayor Chris Alahouzos said he would not support allowing food trucks at the docks and downtown, and he said he was also against allowing the units as accessories for breweries, distilleries and other food and beverage establishments.

"I'm not convinced (it's) the right thing to have in Tarpon Springs," Alahouzos said. "But I do support (allowing them in the designated areas) and I'm flexible in regards to how late they stay open."

After much discussion the commission ultimately voted in favor of the ordinance, allowing mobile food trucks to operate in the designated areas between 7 a.m. and 10 p.m. with exemptions for breweries, wineries and distilleries and other food and drink establishments, by a vote of 4-1. Alahouzos voted against it.

The second and final reading of the item is scheduled for Tuesday, Sept. 22.

"In the city of Tarpon Springs, we've worked very hard to improve the CRA district and the Sponge Docks through façade and other grants as well as many beautification projects, to make these areas attractive to visitors and businesses to our community," Alahouzos said by phone a few days later. "Now you can have someone put a trailer in back of their business and become a restaurant in a matter of days, and I don't think that was fair. I like food trucks, when they're in the right place and at our special events and festivals, which will continue. But to have them in back (of places) right in the middle of town competing with other restaurants? I don't agree with that and I don't support it."

FROM MINUTES OF CITY COMMISSION MEETING, NOVEMBER 9, 2020

11. Mobile Food Sales: Discussion of Allowing Such in the City Because of New State Law (Presenter: Max Royle, City Manager)

Mayor England introduced Item 11 and asked for a staff report from City Manager Royle.

City Manager Royle explained due to state law the City cannot prohibit food trucks and recommends considering other cities' regulations that were supplied in the Commission books to allow vehicles in commercial districts, set time limits on operations, to only allow food trucks on public property only during special events, prohibit them from operating on the beach, set a size limit on food trucks, require food trucks to conform to the City sign regulations, require that have state licenses, and comply with health department regulations.

Mayor England asked the Commission if they have any suggestions to give to the City Attorney when drafting the ordinance. She suggested on pages 6 and 7 to put those items in the drafted ordinance. She advised that they could not use the parkettes.

City Manager Royle advised that the City should have the same regulations that St. Johns County has for consistency reasons.

Mayor England asked to think of the City as well because our City is smaller and has less public property. She advised that she would like the businesses also to review the ordinance.

Commissioner George agreed with using St. Johns County's ordinance and requested that the sample ordinances from other municipalities be provided again in the next Commission book for a checklist purpose.

Commissioner Rumrell suggested that the City Attorney look at the City of St. Augustine's ordinance as well.

Vice Mayor Kostka asked if a franchise fee could be added. She commented that she likes the City of Venice's ordinance, but it talks about COVID-19 and it made it confusing. She liked the City of Venice's language where they must be 150 feet away from a residential structure and consider only one food truck on a parcel. She also would not like overnight parking in the City.

Commissioner Rumrell advised that St. Johns County regulates the beaches, not the City.

City Manager Royle advised that the beaches within the City's limits are governed by the City, however, St. Johns County's ordinance says that there is no vending on the beach.

City Attorney Taylor advised that he would check about vending on the beach, per Commissioner George's request.

Commissioner George advised that vending on the beach would upset a lot of people.

Commissioner Samora asked why the City of Venice's ordinance is wrapped around the Governor's orders.

City Attorney Taylor advised that he would check into that.

Commissioner George advised that the City of Venice probably did a looser ordinance due to COVID-19 state of emergency.

Commissioner Samora suggested to allow them in only one place in the City and consider restrooms when the ordinance is considered.

Mayor England advised that the state regulations prohibit food trucks to one area with the City limits. She asked City Attorney Taylor to reach whether a food truck would be allowed on private property.

City Attorney Taylor advised he would.

Mayor England opened the Public Comments section. The following addressed the Commission:

Ed Slavin, P.O. Box 3084, St. Augustine, FL, advised that previous Commissions have banned food trucks, which he disagreed with and wished the food truck at the time would have sued the City for not following anti-trust laws.

Mayor England closed the Public Comments section and asked for any further Commission discussion.

Vice Mayor Kostka asked to include that the food trucks give a copy of their state license and health department licensing to the City if they are in the City.

It was the consensus of the Commission to have City Attorney Taylor to draft an ordinance and bring it back to the Commission.

COMMISSION CLOSED

COMMISSION ADJOURNS