


MEMORANDUM

TO: Commissioner England
Commissioner George
Commissioner Samora
Commissioner Rumrell
Commissioner Torres

FROM: Max Royle, City Manager 

DATE: December 21, 2020

SUBJECT: Ordinance 21-01, First Reading, to Amend the Land Development Regulations to Allow 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.
- g. Pages 14-20, a draft of Ordinance 21-01 that was prepared by the City Attorney

ACTION REQUESTED

It is that you discuss Ordinance 21-01. If it meets with your approval, then you can pass it on first reading.

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

2276 final order.

2277 Section 74. Section 492.115, Florida Statutes, is amended
2278 to read:

2279 492.115 Roster of licensed professional geologists.—A
2280 roster showing the names and places of business or residence of
2281 all licensed professional geologists and all properly qualified
2282 firms, corporations, or partnerships practicing ~~holding~~
2283 ~~certificates of authorization to practice~~ professional geology
2284 in the state shall be prepared annually by the department. A
2285 copy of this roster must be made available to ~~shall be~~
2286 ~~obtainable by~~ each licensed professional geologist and each
2287 firm, corporation, or partnership qualified by a professional
2288 geologist ~~holding a certificate of authorization~~, and copies
2289 thereof shall be placed on file with the department.

2290 Section 75. Section 509.102, Florida Statutes, is created
2291 to read:

2292 509.102 Mobile food dispensing vehicles; preemption.—

2293 (1) As used in this section, the term "mobile food
2294 dispensing vehicle" means any vehicle that is a public food
2295 service establishment and that is self-propelled or otherwise
2296 movable from place to place and includes self-contained
2297 utilities, including, but not limited to, gas, water,
2298 electricity, or liquid waste disposal.

2299 (2) Regulation of mobile food dispensing vehicles
2300 involving licenses, registrations, permits, and fees is

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

hb1193-05-er

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,
6 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:

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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.

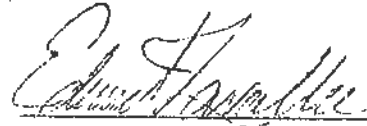
NOW, THEREFORE, I, Edward Lavalley, City Manager of the City of Venice, in accordance with the provisions of the State of Florida Office of the Governor Executive Order No. 20-52, Chapter 252.38, Florida Statutes, and Executive Order No. 2020-01, as extended, hereby order the following:

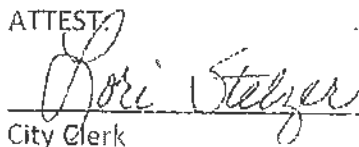
1. Any and all provisions of the City's Code of Ordinances that could be construed as prohibiting the operation of a mobile food dispensing vehicle are hereby waived. For purposes of this Executive Order, a "mobile food dispensing vehicle" shall mean any vehicle that is a public food service establishment 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 axles.

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. Lavallee, City Manager
City of Venice, Florida

ATTEST

City Clerk

Dariana Fitzgerald

From: facinfo@googlegroups.com on behalf of Loredana Kalaghchy
<lkalaghchy@cityofcocoabeach.com>
Sent: Thursday, September 24, 2020 3:45 PM
To: facinfo@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 of 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.cityofcocoa beach.com

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

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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

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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."

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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."

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.

AT, 10/10/10

ORDINANCE NO. 21-01

AN ORDINANCE OF THE CITY OF SAINT AUGUSTINE BEACH, FLORIDA, MAKING FINDINGS OF FACT; CREATING THE CITY'S POLICY ON MOBILE FOOD DISPENSING VEHICLES IN LAND DEVELOPMENT REGULATIONS, ARTICLE II OF SAINT AUGUSTINE BEACH; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WITNESSETH:

WHEREAS, the City of Saint Augustine Beach is required to comply with all requirements that are contained in Chapter 500, Florida Statutes (F.S.) and Chapter 5K-4, Florida Administrative Code (F.A.C.).

WHEREAS, the Florida legislature created Florida Statute §509.102, Mobile Food Dispensing; Preemption.

WHEREAS, the City of Saint Augustine Beach is desirous of the orderly regulation of mobile food establishments in the City of Saint Augustine Beach.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF SAINT AUGUSTINE BEACH:

SECTION 1. The foregoing recitals are incorporated as legislative findings of fact.

SECTION 2. From and after the effective date of this ordinance, Land Development Regulations of Saint Augustine Beach Article II -- Definitions is amended as follows:

Minor Replat—The subdivision of a single lot or parcel of land into two (2) lots or parcels, or the subdivision of a parcel into two (2) or more lots solely for the purpose of increasing the area of two (2) or more adjacent lots or parcels of land, where there are no roadway, drainage or other required improvements, and where the resultant lots comply with the standards of this Code.

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. (See Florida Statute 509.102)

Mobile Home—A structure, transportable in one (1) or more sections, that is eight (8) body feet, or more in width and is built on an integral chassis. It is designed to be used as a dwelling

when connected to the required utilities. All the plumbing, heating, air conditioning and electrical systems are contained within the unit.

SECTION 3. From and after the effective date of this ordinance, Land Development Regulations of Saint Augustine Beach Article III – Section 3.02.02 is amended to read:

<i>Services, Hotels, and Restaurants</i>								
Service establishments: barber and beauty shops, bakery (but not wholesale), bicycle rentals, costuming shops, dry cleaner (using nonflammable solvents only), electronic and light mechanical repair stores, florists, interior decorator, laundromat, photography studio, printing, shoe repair, tailor, travel agency, upholstery shop, and video rentals	X	X	X	X	P	X	X	X
Catering	X	X	X	X	C	X	X	X
Condominium hotels	X	X	X	X	C	X	X	X
Day care center	X	X	X	X	C	X	X	X
Equipment rental	X	X	X	X	C	X	X	X
Food and/or beverage service or consumption outside of an enclosed building on the premises of a restaurant or hotel/motel	X	X	X	X	C	X	X	X
Funeral home	X	X	X	X	C	X	X	X
Hotel/motel (including ancillary uses such as restaurants, lounges and night clubs)	X	X	X	X	P	X	X	X
Live theaters, satellite presentations, and motion pictures (not drive-in)	X	X	X	X	P	X	X	X
<u>Mobile Food Dispensing Vehicles</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>P</u>	<u>X</u>	<u>X</u>	<u>X</u>
Mini-storage warehouses	X	X	X	X	C	X	X	X

Pest control	X	X	X	X	C	X	X	X
Pharmacy	X	X	X	X	P	C	X	X
Restaurant operated wholly within an enclosed building including servicing of alcoholic beverages incidental to the restaurant business only (no drive-up facility)	X	X	X	X	P	X	X	X
Restaurant operated wholly within an enclosed building with drive-up facilities (including serving of alcoholic beverage incidental to the restaurant business only within the restaurant, but not at the drive-up facility)	X	X	X	X	C	X	X	X
Services, hotels (but not hotels in a condominium form of ownership), and restaurants	X	X	X	X	P	X	X	X
Veterinarian and animal hospital (without an outside kennel)	X	X	X	X	C	X	X	X

SECTION 4. From and after the effective date of this ordinance, Land Development Regulations of Saint Augustine Beach Article III – Section 3.02.03 is amended to read:

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 with the exception of Mobile Food Dispensing Vehicles as defined in Article II definitions.
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 with the exception of Mobile Food Dispensing Vehicles as defined in Article II definitions.
6. The operation of a business from any temporary quarters, such as but not limited to: tents, pushcarts, sheds, carports, motor vehicles, and trailers.

SECTION 5. From and after the effective date of this ordinance, Land Development Regulations of Saint Augustine Beach Article III – Section 3.11.00 is created to read:

Sec. 3.11.00. – Mobile Food Dispensing Vehicles (MFDV)

A. Purpose and intent; definitions.

1. **Purpose and intent.** The purpose and intent of this Ordinance is to implement F.S. § 509.102, by permitting Mobile Food Dispensing Vehicles within the City of St. Augustine Beach, Florida, subject to the terms and contained herein.
2. **Definitions.** See article II

B. Permit required; submittals.

1. **In order to protect the health, safety, and general welfare of the public, a Mobile Food Dispensing Vehicle is prohibited from operating in the City of Saint Augustine Beach unless it possesses a valid permit issued in accordance with this section.**
2. **The Mobile Food Dispensing Vehicle permit shall be fifty dollars (\$50.00).**

3. Applications for a permit under this section shall be made to the City of St. Augustine Beach on a form provided for such purpose by the St. Augustine Beach and shall include along with any other such information deemed reasonably necessary by the City of St. Augustine Beach in order to implement and enforce the provisions of this Section, including but not limited to the following:
 - a. The name and mailing address of the subject mobile food dispensing vehicle.
 - b. The name, mailing location, and telephone contact information of the permit applicant.
 - c. A description of the days of the week and hours of operation.
 - d. All application materials shall contain the proof of appropriate licenses required under Florida law which may include but are not limited to Florida Department of Agriculture and Consumer Services, Florida Department of Business and Professional Regulations (DBPR), the Florida Department of Health, and all local Fire Marshalls.
 - e. All applications must include proof of insurance as required by City Land Development Regulation 3-11-00(C)(3).

C. General regulations; cooperation; enforcement.

1. In order to protect the health, safety, and general welfare of the public, and pursuant to F.S. § 509.102, all permits issued pursuant to this section are subject to the following requirements:
 - a. Mobile Food Dispensing Vehicles are required to obtain and display all licensing required for the operation of such business in Florida which include but are not limited to licensing by the Florida Department of Agriculture and Consumer Services, the Florida Department of Business and Professional Regulations (DBPR), the Florida Department of Health, local Fire Marshalls, and the City of Saint Augustine Beach permit.
 - b. Mobile Food Dispensing Vehicles may only operate in Commercially Zoned areas unless special permission is granted by the City Manager.
 - c. Mobile Food Dispensing Vehicles may not obstruct vehicular or pedestrian traffic, may not obstruct handicapped access or obstruct vehicular parking, vehicular loading zones, taxi stands or franchised vehicles for hire stands.
 - d. No Mobile Food Dispensing Vehicle shall be permitted to interfere with sight visibility for traffic.

- e. The location of the Mobile Food Dispensing Vehicle shall not be permitted to reduce the available parking of the site beyond the minimum required for standard site operations.
 - f. Each location must be able to provide access to a restroom.
 - g. The type of food offered for sale by a Mobile Food Dispensing Vehicle shall not be identical to an existing restaurant withing three hundred (300) feet.
 - h. Setup and operations are subject to inspections by the Chief Building Official and/or the fire marshal.
- 2. A permit issued pursuant to this section shall not be transferred to a subsequent owner upon the sale or transfer of a Mobile Food Dispensing Vehicle but shall expire automatically upon such sale or transfer. The subsequent owner shall be required to reapply for a permit pursuant to this section.
 - 3. No person shall operate a Mobile Food Dispensing Vehicle unless the business is covered by a comprehensive liability insurance policy in a form and content satisfactory to the City insuring the public against injury or damage occasioned by negligence arising from or incidental to the business activity. At a minimum, the policy shall provide coverage of one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per incident. The policy shall list the City as a coinsured and shall provide that coverage shall not be cancelled or materially altered except after thirty (30) days' written notice has been received by the City. Proof that the insurance policy remains in full force and effect shall be provided upon the City Manager's request given on reasonable notice at any time that the Mobile Food Dispensing Vehicle's permit is valid and outstanding. Any failure to provide such proof shall render the Mobile Food Dispensing Vehicle's permit revoked, null and void and of no further use or effect.
 - 4. The holder's subsequent application for a new Mobile Food Dispensing Vehicle's permit shall be entitled to no special priority.
 - 5. Any Mobile Food Dispensing Vehicle that fails to comply with the requirements of this section shall be guilty of violating this section of the St. Augustine Beach City Code and shall be subject to any and all enforcement proceedings consistent with the applicable provisions of the St. Augustine Beach City Code and shall be subject to revocation by the city commission of the permit issued to the Mobile Food Dispensing Vehicle where the violation occurred. Each day a violation exists shall constitute a distinct and separate offense.
 - 6. Renewal. A city Mobile Food Dispensing Vehicle permit is subject to renewal on an annual basis. All application material should be updated with the City at that time. The renewal fee shall be \$50.00.

(Ord. No. _____, § 1(Exh. 1), _____)

SECTION 6. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 7. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the City of Saint Augustine Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 8. This Ordinance shall take effect immediately upon passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Commission of the City of Saint Augustine Beach, Florida this ____ day of _____, 2021.

MAYOR

ATTEST:

CITY CLERK

EXAMINED AND APPROVED by me this ____ day of _____, 2020.

MAYOR

Published in the _____ on the ____ day of _____, 2020. Posted on www.staugbch.com on the ____ day of _____, 2020.