

ORDINANCE NO. 03-2022

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Seating and tables must be located on a paved surface;

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

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

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

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

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

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

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

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

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

B. Exemptions

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

C. Enforcement

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

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

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

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

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

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

FIRST READING: _____

ADVERTISED: _____

SECOND READING: _____

BY: _____

Heidi K. Herzberg, MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK

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

CITY ATTORNEY