

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CITY'S CODE OF ORDINANCES ENTITLED, "LICENSES AND BUSINESS REGULATIONS", ARTICLE VIII, ENTITLED "MOBILE VENDORS", TO AMEND EXISTING REGULATIONS AND TO CREATE NEW REGULATIONS FOR MOBILE VENDOR USES WITHIN THE CITY; PROVIDING FOR CONFLICTS, SEVERABILITY AND CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City's Code of Ordinances regulates land uses within the City's municipal jurisdiction; and

WHEREAS, the City Code Section regulating mobile vendor uses was most recently amended in 2009 by Ordinance No. 3059; and

WHEREAS, since 2009, mobile vendor uses, including food trucks, have increased in popularity and desirability; and

WHEREAS, food trucks and vendors have been encouraged by municipalities nationally and have been utilized to promote economic activity within communities; and

WHEREAS, the City desires to allow food trucks within the Marina District Upland Area, including Bicentennial Park, in order to encourage additional economic activity within this newly renovated area; and

WHEREAS, amendments to the existing mobile vendor Ordinance must occur in order to accommodate and promote food trucks within the Marina District Upland Area; and

WHEREAS, the Planning and Zoning Board reviewed the proposed Ordinance amendments on July 27, 2017 and unanimously recommended approval to the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. The foregoing recitals are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

SECTION 2. Chapter 10 of the Code of Ordinances of the City of Riviera

Beach, entitled “Licenses and Business Regulations”, Article VIII, entitled “Mobile Vendors”, is amended to read as follows (additions are underlined and deletions appear in ~~strikethrough~~ format):

ARTICLE VIII. - MOBILE VENDORS

Sec. 10-260. - Title.

This article shall be known and cited as the Mobile Vendor Ordinance.

Sec. 10-261. - Intent and purpose.

The purpose of this article is to protect and preserve the health, safety and general welfare of the residents of the City of Riviera Beach. This article is being enacted to regulate mobile vendors operating in the city.

Sec. 10-262. - Definitions.

The following words, term and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicated a different meaning.

Certificate of occupancy: means a certificate issued by the City of Riviera Beach Building Official to a builder or renovator, indicating that the building is in proper condition to be occupied.

Disposable tableware: Eating and drinking utensils made of paper and/or plastic that are disposed of after initial use.

Ice cream truck: A motor vehicle utilized as the point of retail sales of prewrapped or prepackaged ice cream, frozen yogurt, frozen custard, flavored frozen water or similar frozen dessert products.

Mobile vending unit: Any motorized or non-motorized vehicle, trailer, kiosk, pushcart, stand or other device designed to be portable and not permanently attached to the ground from which goods, wares, merchandise or food is peddled, vended, sold, displayed, offered for sale or given away.

Mobile vendor: A person who peddles, vends, sells, displays, offers to sell or gives away merchandise from a mobile vending unit which is parked or located on a parcel of private property.

Mobile vending operation: Peddling, vending, selling, displaying, offering for sale or giving away goods, wares, merchandise or food from a mobile vending unit located on private property.

Prepackaged food: means any properly labeled and processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer, and prepared at an approved source.

Restricted mobile vendor: A mobile vendor offering only prepackaged food, snow cones, raw produce, or prepackaged ice cream from a mobile vending unit, or a mobile automobile detailer.

Street-side vendor or road-side vendor: A person who peddles, vends, sells, displays, offers to sell or gives away any food products, wares, or merchandise while located in or on a public street, sidewalk, or right-of-way.

Temporary mobile vendor: A person and or group who peddles, vends, sells, displays, offers to sell or gives away merchandise from a mobile vending unit for less than 15 days per calendar year.

Sec. 10-263. - Permitted locations.

- (a) Mobile vendors, except for ice cream trucks and mobile automobile detailers, are not permitted in the following districts: RS-5, RS-6, RS-8, RML-12, RD-15, RM-15, RMH-15, RMH-20, or RM-20.
- (b) Mobile vendors are not permitted to conduct business in any area that is a public right-of-way.
- (c) Mobile vendors shall not operate in ~~parking spaces~~, driveways, drive aisles, landscape medians, easements, or fire lanes.
- (d) Mobile vendors shall not operate on vacant, unimproved lots.
- (e) Mobile vendors shall be located only on private property where an existing, permanent business operates in a building with a certificate of occupancy.
 - (1) Mobile vendors shall provide the city with a notarized copy of the "Mobile Vendor Access Agreement Form" on an annual basis.
- (f) During the application process, mMobile vendors shall submit a sketch depicting the location of the mobile vendor on the property, including the designated parking spaces.
- (g) Mobile vendors shall be located within 100 feet of an entrance of a primary building that holds the certificate of occupancy.
- (h) Mobile vendors shall be setback a minimum of 35 feet from all intersections.
- (i) Mobile vendors shall be setback a minimum of 20 feet from all roads.
- (j) Mobile vendors are not allowed within 300 feet of a school, playground, or childcare facility.
- (k) Mobile vendors are not allowed to operate within 100 feet of another licensed mobile vendor.
- (l) Mobile vendors are prohibited in a temporary building, tent, or structure.
- (m) Mobile vending activities located within the Marina District Upland Area are exempt from the abovementioned regulations as long as the following conditions are met:
 - (1) Mobile vending activities occur within approved areas specifically designated for mobile vending activities.
 - (a) The City and CRA are authorized to designate specific areas within the Marina District Upland Area for mobile vending activities.

(2) The mobile vendor possesses a valid City Business Tax Receipt, and if applicable, any required state, county, and food safety licensure.

Sec. 10-264. - Hours of operation.

(a) Mobile vendors may operate only during the business hours of the primary business on the property.

(1) Mobile vendors are restricted to the following hours of operation:

- a. Monday to Thursday: 7:00 a.m. to 10:00 p.m.~~Midnight.~~
- b. Friday and Saturday: 7:00~~8:00~~ a.m. to 11:30 p.m.~~Midnight.~~
- c. Sunday: 12:00 p.m. to 9:00~~6:00~~ p.m.

~~(b) A mobile vendor shall not operate between the hours of 12:00 a.m. and 6:00 a.m.~~

~~(b)~~(e) The mobile vending unit shall be removed from the site during the hours of nonoperation. Any semi-permanent structure used and/or associated with the mobile vending operation shall also be removed from the site during hours of nonoperation.

Sec. 10-265. - Signage.

(a) All signs advertising for the mobile vending unit must meet the following requirements;

(1) Signs must be placed flat against the mobile vending unit.

- a. Sandwich board signs are prohibited.
- b. Any type of design or artwork that advertises the use of the mobile vending unit is considered to be a sign.

(2) Signs may not be larger than nine square feet.

(3) No more than three signs may be placed on the mobile vending unit.

~~(4) All signs must be approved by the city prior to being posted.~~

(b) Mobile vendors are prohibited from using right-of-way signs and off-premises signs.

Sec. 10-266. - Exemptions and restrictions.

~~(a) Temporary connections to potable water are prohibited. Water shall be from an internal tank within the mobile vending unit, and electricity shall be from a generator or a main power supply via a portable cord that is in conformance with the City of Riviera Beach Electrical Code.~~

~~(b) A mobile vendor shall at no time make use of any outdoor cooking facilities.~~

~~(1) Exceptions to this rule may be made by the planning and zoning administrator when the outdoor cooking facility is permanently attached to the mobile vending unit.~~

~~(c) A mobile vendor shall at no time utilize outdoor storage, or warming or refrigeration devices, except for disposable tableware.~~

~~(d)~~(a) A drive through is not permitted in conjunction with the mobile vendor.

- (~~b~~e) The mobile vendor shall install signage in a visible location on the mobile vending unit in a visible location indicating that loitering is not permitted ~~and customers may only remain on the site for up to ten minutes after receiving their merchandise.~~
- (~~c~~f) The mobile vendor must keep the immediate area surrounding the mobile vending unit ~~The area within which a mobile vending unit is operating shall at all times be kept clean and free from litter, garbage, rubble and debris.~~
- (~~d~~g) Mobile vendors providing food or beverage intended for immediate consumption must provide a trash receptacle within ten feet of the mobile vending unit.
- (~~e~~h) The use of amplified music must adhere to existing City noise regulations ~~is prohibited, except when used in the operation of an ice cream truck.~~
- (~~f~~i) The use of temporary or portable lighting is prohibited except that which is required to illuminate the serving area of the mobile vending unit. Lighting must be shielded from adjacent properties to protect against light trespass.
- (~~j~~) ~~No mobile vending unit shall be larger than 20 feet long by ten feet wide by ten feet high.~~
- (~~g~~k) The current business tax receipt must be posted in a visible location on the mobile vending unit, in addition to any required state, county, and food safety licensure.
- (~~l~~) ~~A mobile vendor participating in a special event or event under this Code will be required to pay the registration fees set forth in section 10-121 and comply with the requirement of this article prior to participating in said event.~~

Sec. 10-267. - Restricted mobile vendors.

(a) *Ice cream trucks.*

(1) *Permitted sales locations.*

- a. Sales from ice cream trucks shall occur only on public roadways with a speed limit of 25 miles per hour or less located within residential districts or on private ways with the consent of the owner or owners of the private roadway.
 1. Ice cream trucks shall pull as far as practicable to the side of the right of way when stopping for the purpose of making sales and shall operate four-way flashers when so stopped. In no event shall an ice cream truck stopped for the purpose of making sales prevent the passage of other motor vehicles on the right-of-way.
 2. Ice cream trucks may stop for the purpose of making sales only between the hours of 11:00 a.m. and 7:00 8:00 p.m., however, no sales are permitted after dusk.
 3. Sales from the ice cream truck shall occur only when the ice cream truck is lawfully stopped.
 4. Sales shall occur only from the side of the truck away from moving traffic and as near as possible to the curb or side of the street.

5. Sales shall not occur to a person standing in the roadway.

(2) *Prohibited locations.*

- a. No ice cream truck shall make any sales within 500 feet of a restaurant or retail store selling prepackaged food items.
- b. No ice cream truck shall make any sales within 500 feet of any public school.
- c. No ice cream truck shall stop at any time for the purpose of making sales in any area where parking is prohibited.

(3) *Safety requirements.*

- a. Signs stating "WATCH FOR CHILDREN" must be provided on the front, back and both sides of the vehicle in at least four inches letters of contrasting colors.
- b. A serving window capable of being closed when not in use must be provided and located on the curbside only.
- c. The vehicle must be equipped with left and right outside rear view mirrors as well as two additional outside wide-angle mirrors on the front and back of the vehicle to enable the driver to see around the entire vehicle.
- d. All vehicles must have operable four-way, yellow flashing hazard lights to warn approaching drivers of children.
- e. A rear bumper cover must be installed.

(b) *Raw produce vendors.*

(1) *Permitted locations.*

- a. Raw produce vendors shall be setback a minimum of 35 feet from all intersections.
- b. Raw produce vendors shall be setback a minimum of 20 feet from all roads.

(2) *Prohibited locations.*

- a. Raw produce vendors shall not operate in parking spaces, driveways, sidewalks, fire lanes, rights-of-way, or public roads.
- b. Raw produce vendors are prohibited in a temporary building, tent or structure.

(3) *Safety requirements.*

- a. All products must be the original produce or work of the vendor.
- b. No items offered for sale will be commercially grown, created or produced without value added by the vendor.

- c. Produce offered for sale must be free from harmful pesticide residues and any applications must have been made according to manufacturer's directions.
- d. All food items must be free from insects and spoilage.
- e. All produce must be washed.

(c) *Mobile automobile detailers.*

(1) *Permitted locations.*

- a. In all residential areas, mobile automobile detailers must operate in the driveway or parking lot.
- b. Mobile automobile detailers shall not operate on sidewalks, fire lanes, rights-of-way, or public roads.
- c. Mobile automobile detailers shall not block or impede traffic on any public or private road, easement, or right-of-way.
- d. All water or other substances used by the mobile automobile detailer must be fully contained on the site where the vendor is operating.
- e. Mobile automobile detailers shall not play music while operating in residential areas.
- f. Mobile automobile detailers may not operate as a home occupation. Vendors are prohibited from servicing vehicles from their primary residence.

(2) *Hours of operation.*

- a. Mobile automobile detailers are restricted to the following hours of operation in residential areas:
 - 1. Monday to Thursday: 8:00 a.m. to 6:00 p.m.
 - 2. Friday and Saturday: 7:00 a.m. to 7:00 p.m.
 - 3. Sunday: 12:00 p.m. to 6:00 p.m.
- b. Mobile automobile detailers are restricted to the following hours of operation in nonresidential areas:
 - 1. Monday to Thursday: 7:00 a.m. to 7:00 p.m.
 - 2. Friday and Saturday: 7:00 a.m. to 8:00 p.m.
 - 3. Sunday: 12:00 p.m. to 6:00 p.m.

Sec. 10-268. - Licensing requirements.

Prior to the issuance of a business tax receipt, mobile food vendors must comply with the following State of Florida and local requirements as applicable:

- (1) Mobile food vendors engaged in the selling of cooked or prepared food must be licensed by the Florida Division of Hotels and Restaurants.

- a. Obtaining licensing from the Florida Division of Hotels and Restaurants does not guarantee approval by the City of Riviera Beach Planning and Zoning Division.
 - b. Mobile food vendors must pass all inspections conducted by the Florida Division of Hotels and Restaurants to maintain the business tax receipt for their establishment.
 - c. Current inspection results must be conspicuously posted on the mobile vending unit.
- (2) Mobile food vendors engaged in the selling of prepackaged ice cream, popcorn, raw produce, or smoothies must be licensed by the Florida Department of Agriculture and Consumer Services.
- a. Obtaining licensing from the Florida Department of Agriculture and Consumer Services does not guarantee approval by the City of Riviera Beach Planning and Zoning Division.
 - b. Mobile food vendors must pass all inspections conducted by Florida Department of Agriculture and Consumer Services to maintain the business tax receipt for their establishment.
 - c. Current inspection results must be conspicuously posted on the mobile vending unit.
- (3) Mobile food vendors must pass an inspection by the City of Riviera Beach Fire Department.
- a. Obtaining a passing inspection does not guarantee approval by the City of Riviera Beach Planning and Zoning Division.
 - b. Mobile food vendors must pass all inspections conducted by the City of Riviera Beach Fire Department to maintain the business tax receipt for their establishment.

Sec. 10-269. - Parking requirements.

- (a) Mobile food vendors shall secure a minimum of two dedicated parking spaces for customers utilizing their services.
 - (1) Parking spaces shall be marked as required by zoning regulations.
 - (2) Parking spaces must meet the size requirements established by the city.
- (b) Mobile food vendors shall not utilize more than ten percent of the required parking for the primary business holding the certificate of occupancy.
- (c) Mobile food vendors shall not sell to customers parked in areas designated as public rights-of-way.
- (d) Mobile food vendors shall not solicit or conduct business with any customers in motor vehicles.

Sec. 10-270. - Enforcement.

The provisions of this article may be enforced through the city's code enforcement compliance procedures or as otherwise authorized in this Code and may

be pursued by appropriate remedy in a court of competent jurisdiction at the city's discretion. If code enforcement compliance is utilized to enforce this article, a resulting code enforcement lien may be assessed against the private property upon which the mobile vending operation operates or operated.

SECTION 3. A Location Map of the Marina District Upland Area has been attached to this Ordinance and made a specific part thereof as Exhibit 'A', having the following description:

“The Marina District Upland Area shall be defined as follows; Beginning at the northwest point of the intersection of Broadway and East 17th Street, travel east to Avenue "C," south down Avenue "C" to the northernmost property line of Bicentennial Park, east to the Intracoastal Waterway, south to the southernmost Municipal Marina property line, west along the southernmost Municipal Marina property line to Avenue "C," south along Avenue "C" to East 11th Street, west along East 11th Street to the westernmost right-of-way line for Broadway, north along said line to West 13th Street, west along the southernmost boundary of 13th Street to the western boundary of Avenue "E," north to the northern boundary of West 13th Street, east along the northern boundary of West 13th Street to Broadway, then north to the point of beginning.”

SECTION 4. Should any word, phrase, clause, subsection, section, part of provision of this Ordinance be declared by court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared invalid.

SECTION 5. All Ordinances or parts of Ordinances in conflict herewith or to the extent of such conflict shall be repealed.

SECTION 6. Specific authority is hereby granted to codify the Ordinance as it is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Riviera Beach, and the sections of this Ordinance may be renumbered to accomplish such intentions.

SECTION 7. This Ordinance shall become effective immediately upon its final adoption by the City Council.

PASSED AND APPROVED on the first reading this _____ day of _____,
20_____.

PASSED AND ADOPTED on second and final reading this _____ day of _____,
20_____.

APPROVED:

THOMAS A. MASTERS
MAYOR

KASHAMBA L. MILLER-ANDERSON
CHAIRPERSON

ATTEST:

CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK

TONYA DAVIS JOHNSON
CHAIR PRO TEM

LYNNE L. HUBBARD
COUNCILPERSON

DAWN S. PARDO
COUNCILPERSON

TERENCE D. DAVIS
COUNCILPERSON

1ST READING

2ND & FINAL READING

MOTIONED BY: _____

MOTIONED BY: _____

SECONDED BY: _____

SECONDED BY: _____

K. MILLER-ANDERSON _____

K. MILLER-ANDERSON _____

T. DAVIS JOHNSON _____

T. DAVIS JOHNSON _____

L. HUBBARD _____

L. HUBBARD _____

D. PARDO _____

D. PARDO _____

T. DAVIS _____

T. DAVIS _____

REVIEWED AS TO LEGAL SUFFICIENCY

ANDREW DEGRAFFENREIDT
CITY ATTORNEY

DATE: _____