

ORDINANCE NO. 04-16

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING TITLE XI, "BUSINESS REGULATIONS", OF THE CODE OF ORDINANCES OF THE CITY OF DELRAY BEACH, FLORIDA, BY CREATING CHAPTER 120, "OPERATION AND SALE OF FOOD FROM MOBILE FOOD TRUCKS", PROVIDING REGULATIONS FOR MOBILE FOOD TRUCKS OPERATING WITHIN THE CITY OF DELRAY BEACH; PROVIDING A GENERAL REPEALER CLAUSE, A SAVING CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the food truck industry has expanded over the past five years as consumers have increasingly favored unique, gourmet cuisine at budget-conscious prices; and

WHEREAS, the City Commission authorized a pilot program regulating Mobile Food Trucks for a six month time period that commenced in September 2014. The pilot program was extended twice and expires on February 28, 2016; and

WHEREAS, approximately 14 Mobile Food Trucks have been issued temporary permits under the pilot program to operate within the City of Delray Beach; and

WHEREAS, the people have a right to and should be ensured that food purchased from a Mobile Food Truck is safe for consumption; and

WHEREAS, the City Commission has determined that it is in the interest of the health, safety and welfare of the residents of Delray Beach that minimum regulatory standards of conduct be enacted to permit Mobile Food Trucks to continue operating within the City of Delray Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That Title XI, "Business Regulations", of the Code of Ordinances of the City of Delray Beach is amended by creating Chapter 120, "Operation and Sale of Food From Mobile Food Trucks", to read as follows:

**Sec. 120.01 – OPERATION AND SALE OF FOOD FROM MOBILE FOOD TRUCKS.**

(A) Definitions. For the purpose of this Chapter:

(1) Mobile Food Truck means a vehicle which is used to vend food and beverage products and is classified as one of the following:

(a) Class I – Mobile Kitchens. These vehicles may cook, prepare and assemble food items on or in the unit and serve a full menu. These vehicles may also vend the products permitted for Class II Mobile Food Trucks.

(b) Class II – Canteen Trucks. These vehicles vend pre-cooked foods, pre-packaged foods, pre-packaged drinks and incidental sales of pre-packaged frozen dairy or frozen water-based food products, fruits and vegetables. No preparation or assembly of food or beverage may take place on or in the vehicle; however, the heating of pre-cooked food is permitted.

(2) Mobile Food Vendor means a person who prepares, dispenses or otherwise sells food from a Mobile Food Truck.

(B) Administrative Rules and Regulations. The City Manager shall adopt, enact and amend Administrative Rules and Regulations for Mobile Food Trucks. These Administrative Rules and Regulations shall cover the Mobile Food Vendor permit application requirements, permit fees and the permit renewal procedure.

(C) Permit Requirements.

(1) Any person engaged in the selling, preparation or dispensing of food from a Mobile Food Truck must purchase a Mobile Food Vendor permit in accordance with this Chapter and the Administrative Rules and Regulations promulgated by the City Manager.

(2) An applicant for a Class I Mobile Food Vendor permit shall make their Mobile Food Truck available for inspection by the City of Delray Beach Fire Department at a location determined by the Fire Department. The City of Delray Beach Fire Department shall ensure compliance with all applicable federal, state and local fire safety statutes, regulations, ordinances and codes. Subsequently, every Class I Mobile Food Truck must undergo an inspection by the City of Delray Beach Fire Department every six months.

(3) All Mobile Food Vendors must display the Mobile Food Vendor permit issued by the City in a prominent and visible manner.

(D) Permitted Zoning Districts for Operation of a Mobile Food Truck. Mobile Food Trucks will be permitted to operate in the following zoning districts:

(1) Automotive Commercial (AC)

(2) General Commercial (GC)

(3) Planned Commercial (PC)

(4) Planned Office Center (POC)

- (5) Planned Commerce Center (PCC)
- (6) Mixed Industrial & Commercial (MIC)
- (7) Planned Office District (POD)
- (8) Mixed Residential Office & Commercial (MROC)
- (9) Light Industrial (LI)
- (10) Industrial (I)

(E) Prohibitions. Mobile Food Vendors are prohibited from the following:

- (1) Selling or distributing alcoholic beverages;
- (2) Operating in a City park or City parking lots, municipal beach, state road A-1-A and public rights-of-way, municipal cemetery or residentially zoned neighborhoods unless pursuant to a separate agreement with the City;
- (3) Operating outside of the permitted zoning districts listed in Section 120.01(D) above unless pursuant to a separate agreement with the City or this Chapter;
- (4) Operating on unimproved surfaces, vacant lots and abandoned business locations;
- (5) Providing or allowing a dining area, including but not limited to tables, chairs, booths, bar stools, benches and standup counters;
- (6) Selling or dispensing food to customers in a moving vehicle or otherwise engaging in drive-up sales;
- (7) Parking a Mobile Food Truck:
  - (a) Within 20 feet of a crosswalk;
  - (b) Within 200 feet of any brick and mortar restaurant or outdoor dining area;
  - (c) Within 15 feet of any fire hydrant or storm drainage structure

(F) Food Truck General Regulations.

- (1) Mobile Food Vendors shall remove all waste and trash at the end of each day.

(2) Under no circumstances shall grease be released into the City's sanitary sewer system. No liquid waste or grease is to be disposed in tree pits or onto the sidewalks, streets or other public spaces.

(3) In accordance with the Florida Department of Business and Professional Regulation guidelines, all necessary control measures shall be used to effectively minimize, or eliminate when possible, the presence of rodents, roaches and other vermin and insects on the premises of all Mobile Food Trucks. Each Mobile Food Vendor shall maintain a log containing a written record of the control measures performed by exterminators or other pest control businesses on the Mobile Food Truck. This log shall be open to inspection by City Code Enforcement Officers.

(4) Mobile Food Vendors must not engage in food preparation if the vehicle does not provide water and waste systems as required by the Florida Department of Business and Professional Regulation or otherwise fails to meet sanitation and safety requirements.

(5) All food service equipment utilized by the Mobile Food Vendor shall be maintained in good repair and a clean condition.

(6) A Mobile Food Vendor shall use only single-service food utensils. All single-service food utensils such as cups, straws, knives, forks, spoons and stirrers shall be individually wrapped, kept in a clean place, properly handled and shall be used only once. All cups and containers for bulk drinks shall be stored in closed cartons and served from dispensers which protect their rims from contamination by customers, dust, dirt or flies.

(7) All pre-packaged food must be individually wrapped and must comply with the labeling requirements provided in 21 CFR Part 101, as amended. No person shall keep or offer for sale individual portions of perishable food products which have been rewrapped or repackaged or portions of which the identifying date on the wrapper has been altered, disfigured or changed in any manner.

(G) *Operating Requirements.*

(1) Mobile Food Trucks shall be permitted to operate between 9:00 a.m. and midnight each day of the week.

(2) Mobile Food Trucks shall not be parked at one location for longer than six hours.

(3) A Mobile Food Truck may operate at a single location up to a maximum of four days per week but no more than three consecutive days.

(4) Mobile Food Trucks shall not exceed ten feet in width, including any side extensions of awnings, 24 feet in length, including the length of any trailer hitch, the trailer or other extensions.

(5) Mobile Food Trucks must be self-contained when operating, except for the required trash and/or recycling receptacles, which must be attached to the Mobile Food Truck, and shall not impede free movement of automobiles or pedestrians. The Mobile Food Vendor shall keep all areas within five feet of the Mobile Food Truck clean of grease, trash, paper, cups or cans associated with the vending operation.

(6) No more than one Mobile Food Truck shall operate on any property at any one time, except as may be permitted by a special event or special use permit issued by the City.

(7) Mobile Food Trucks operating at a site for a duration of more than three hours shall have a written agreement, available upon request, which confirms that employees have access to a flushable restroom within 150 feet of the vending location during the hours of operation.

(8) Mobile Food Trucks shall be operated only by the Mobile Food Vendor permittee or by an authorized employee of such permittee.

(H) Refrigeration and Heating Equipment.

(1) All Mobile Food Trucks shall have adequate mechanical refrigeration equipment that is capable of maintaining food or drink at a temperature of 40 degrees Fahrenheit or less, if any food or drink is required to be kept cold.

(2) All Mobile Food Trucks shall have adequate mechanical heating equipment that is capable of maintaining food or drink at a temperature of 140 degrees Fahrenheit or more, if any food or drink is required to be kept hot, or capable of heating food or drink to a temperature of 165 degrees Fahrenheit or more, if any food or drink is required to be heated.

(3) All mechanical refrigeration and heating equipment shall be equipped with a thermometer.

(I) Food Service Provided to Persons Engaged in Construction. Class II Mobile Food Trucks that are being used to provide food and drink to persons engaged in construction in the City of Delray Beach are exempt from the provisions of Section 120.01(D) above, provided such vehicles are only parked for a maximum of 15 minutes.

(J) Penalty.

(1) A Code Enforcement Officer or a Law Enforcement Officer may issue a civil citation for a violation of this Chapter pursuant to the procedures and amounts listed in Section 37.45 of this City's Code of Ordinances. Each violation shall constitute a separate instance for which a separate penalty may be imposed in accordance with the penalties listed below:

(a) If the offense is the first offense, a maximum fine of three hundred twenty-five dollars (\$325.00) may be imposed.

(b) If the offense is the second offense within the preceding 12 months, a maximum fine of five hundred dollars (\$500.00) may be imposed.

(c) If the offense is the third offense within the preceding 12 months, the Mobile Food Vendor permit may be revoked.

(2) For the purposes of this section, "offense" shall mean a finding of violation by the Code Enforcement Board or payment of the noncontested civil penalty in Section 37.45(Q) of this City's Code of Ordinances. An offense shall be deemed to have occurred on the date the violation occurred. An offense occurring 12 months after the last offense shall be treated as a first offense for purposes of incurring new fines and penalties.

(3) If, at any time, the Florida Department of Business and Professional Regulation revokes or suspends the Mobile Food Vendor's license, the City's Mobile Food Vendor permit shall be deemed to have been simultaneously revoked or suspended.

Section 2. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 3. That all ordinances or parts of ordinances in conflict herewith be, and the same are hereby repealed.

Section 4. That this ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

First Reading\_\_\_\_\_

Second Reading\_\_\_\_\_