

ORDINANCE NO. 07-2024

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 22, ARTICLE III, SECTIONS 22-101 THROUGH 22-113 ENTITLED “STREET AND MOBILE VENDORS”; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Occupational Freedom and Opportunity Act (SB474/HB1171) (“the Act”) became effective on July 1, 2020; and

WHEREAS, the Act has been codified at §509.102, Florida Statutes; and

WHEREAS, the Act defines the term “mobile food dispensing vehicle” (“MFDV”) as “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”; and

WHEREAS, the Act defines the term “temporary commercial kitchen” (TCK) as any kitchen that is a public food service establishment used for the preparation of takeout or delivery-only meals housed in portable structures that are movable from place to place by tow or are self-propelled or otherwise axle-mounted, that include self-contained utilities”; and

WHEREAS, the Act preempts to the state the regulation of MFDVs and TCKs such that the Town may not require a separate license, registration, permit or fee from MFDVs or TCKs, and may not prohibit MFDVs or TCKs from operating within the entirety of the jurisdiction; and

WHEREAS, the Town permits MFDVs licensed by the Department of Business & Professional Regulation (DBPR), to operate within its commercial, downtown, mixed-use and industrial zoning districts; and

WHEREAS, MFDVs can provide opportunities for small businesses to startup and operate at relatively low cost; and

WHEREAS the Town Commission finds that it is in the best interest of the health, safety, and welfare of the public to amend Chapter 22, Article III pertaining to mobile vendors, and to create standards for regulating MFDVs; and

WHEREAS, the Town Commission finds that these amendments to the Chapter 22, Article III are consistent with all applicable policies including the Land Development Code and the Town's adopted Comprehensive Plan and not in conflict with the public interest.

NOW THEREFORE, BE IT ENACTED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, 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. Chapter 22, Article III "Street and Mobile Vendors", Sections 22-101 through 22-105 are hereby amended as follows:

Sec. 22-101. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Food has its usual and ordinary meaning, and includes all items designed for human consumption, including, but not limited to, ice cream, candy gum, popcorn, hot dogs, sandwiches, peanuts, soft drinks, coffee and dairy products.

Goods or merchandise means any materials or products, including but not limited to fruits, vegetables, or other edible items, souvenirs, trinkets, art objects, and other such items capable of being sold.

House of worship means premises used for worship and permitted customary accessory uses by an organization for religious services or activities.

Concessionaire means a person, firm or corporation engaged in the sale of food or other goods or services in a town park or on town property, including without limitation those who operate or maintain a concession stand, in accordance with a written agreement or franchise therefor as lawfully approved ~~lawfully approved in writing by the community development department~~ by the Town.

Mobile food dispensing vehicles means a vehicle that is used as a food service establishment and is self-propelled or otherwise mobile and which may include utilities, such as 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. § 509.102. A mobile food dispensing vehicle does not include roving vehicles that may periodically travel through residential neighborhoods selling pre-prepared or pre-packaged 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.

Mobile vendor shall mean any business operator or vendor who conducts business from a motor vehicle. Mobile food dispensing vehicles are a type of mobile vendor.

Permanent structure means a building containing no fewer than four outer walls and a roof enclosing said walls, constructed in accordance with the local building code and a duly issued building permit, and for which occupancy is authorized by a duly issued certificate of occupancy

Street vendor means a person who sells or offers for sale any goods, services or merchandise from a location other than a permanent structure located in a commercially zoned area. A street vendor does not include anyone that utilizes newspaper, magazine, or other self-service vending machines for the sale of such items.

~~Mobile vendor shall mean any business operator or vendor who conducts business from a motor vehicle.~~

~~Motor vehicle in this chapter shall mean a motorized vehicle or trailer that is registered and licensed with the Florida State Department of Motor Vehicles.~~

Sec. 22-102. Licensed—Required Prohibited acts.

It shall be unlawful for any street vendor or mobile vendor to sell goods, merchandise or services from any property except in keeping with the requirements set forth under this Article. Street vendors are prohibited unless they fall under the exemptions set forth in Section 22-104.

~~It is unlawful for a mobile vendor to engage in business within the Town of Lake Park except when licensed by the Town of Lake Park as a mobile vendor or concession in compliance with the provisions of this article. A separate license is required for each concession location.~~

Sec. 22-103. Exemptions.—Citations/Fines.

Any person who is found to be in violation of any provision of this article may be issued a citation by a Town code enforcement officer or law enforcement officer in accordance with Chapter 162, Part II, F.S. and assessed a fine, or may be noticed for a code enforcement proceeding before the Town Magistrate. Each violation shall constitute a separate offense.

~~The following activities, businesses, and/or persons, as such are commonly known, are exempt from coverage of this article, but this exemption shall not be construed to limit or restrict the application of other laws and regulations pertaining to such activities, businesses and/or persons:~~

- ~~(a) Newspaper couriers;~~
- ~~(b) Lemonade stands;~~
- ~~(c) Stands used to sell or distribute flowers, fruit, vegetables, produce or plants grown on the property where — the stand is located; or at a town sanctioned public outdoor green market;~~
- ~~(d) Delivery or distribution of food, goods, services or products ordered or purchased by customers from a — source or point of sale other than a mobile vehicle operated for the~~

purpose of soliciting customers while ~~traveling or while located on town streets or~~
property;

~~(e) Delivery or distribution of food by or for any not-for-profit organization, governmental agency, or other charitable organization, including without limitation Meals on Wheels and the Food Bank; and~~

~~(f) Concessionaires as defined in this chapter, except that concession agreements with the town shall include health, sanitation and insurance requirements generally conforming to those established for similar businesses and vendors covered by this chapter.~~

Sec. 22-104. ~~Limitation on activities permitted by mobile vendor license.~~ Exemptions.

The following activities, businesses, and/or persons are exempt from coverage of this article, but this exemption shall not be construed to limit or restrict the application of other laws and regulations pertaining to such activities, businesses and/or persons:

- (a) Newspaper couriers;
- (b) Town special events, festivals or parades, any events hosted by the Town's Community Redevelopment Agency, or private special events with a permit issued by the Town;
- (c) Lemonade stands;
- (d) Stands used to sell or distribute flowers, fruit, vegetables, produce or plants grown on the property where the stand is located; or at a town approved green market;
- (e) Delivery or distribution of food, goods, services or products ordered or purchased by customers from a source or point of sale other than a mobile vehicle operated for the purpose of soliciting customers while traveling or located on town streets or property;
- (f) Delivery or distribution of food by or for any not-for-profit organization, governmental agency, or other charitable organization when conducted on private property; and
- (g) Concessionaires as defined in this chapter, except that concession agreements with the town shall include health, sanitation and insurance requirements generally conforming to those established for similar businesses and vendors covered by this chapter.

Mobile vendors shall not:

- (a) Operate the motor vehicle in such a manner as to impede the normal usage of the arterial streets;
- (b) Stop on the traveled portion of the street or within 50 feet from a corner to dispense food products;
- (c) Stop in dangerous locations for dispensing products or services, such as on streets with inadequate shoulders and restricted sight distance;
- (d) Be operated on any arterial street during the peak hours of traffic, generally between 4:00 and 6:30 p.m.

Sec. 22-105. ~~Application.~~ Standards for Mobile Vendors.

- (a) This section applies to the owners or operators of mobile vendors:
 - (1) Mobile vendors shall provide the following documents to the Community Development Department:
 - a. The Department of Business and Professional Regulation (DBPR) mobile food dispensing vehicle license, if applicable.
 - b. Compliance with the fire safety requirements of Palm Beach County Fire Rescue.

- c. A letter or other documentation which has been notarized by the property owner indicating that the mobile vendor is permitted to operate on the property owner's property. The authorization shall include the contact information of the property owner and the owner's acknowledgment they shall be responsible for any violations of state or town laws associated with the mobile vendor.
- d. Licenses authorizing the mobile vendor to sell and dispense alcohol, if applicable.
- (2) A site plan or survey at a scale of 1" = 20' depicting the location of the mobile vendor and associated seating (if any) on the owner's property which depicts all existing site conditions including buildings, property lines, drive aisles, parking, and pedestrian facilities inclusive of all associated dimensions.
- (1) Location standards.
 - a. Mobile vendors may operate on properties having an existing use in the downtown, mixed-use, commercial, or commercial/light industrial zoning districts only. Mobile vendors may operate on public property only upon the advance written approval of the Town.
 - (2) Mobile vendors are prohibited from operating on vacant lots/parcels or within residential zoning districts, or where active residential uses are in existence.
 - (3) Mobile vendors may operate on properties that have been developed as religious institutions.
 - (4) Mobile vendors may be placed on paved surfaces only.
 - (5) Mobile vendors shall not be located within any public right-of-way or otherwise obstruct any road, drive aisle, driveway, or cross access connection associated with any business, or parking lot or obstruct any sight visibility triangle or otherwise be situated in an unsafe manner as determined by the town. Mobile vendors may not occupy, obstruct/impede access to any handicapped parking spaces.
 - (6) Mobile vendors shall not create any hazardous or unsafe condition and shall not produce excessive noise, vibration, odor, excess heat or glare, or electronic interference as set forth in the performance standards of Section 78-283.
 - (7) No mobile vendor shall sell any food or merchandise within 500 feet of a business establishment which is offering for sale the same or similar food products or merchandise as measured from property line to property line, except restaurants or microbreweries that maintain a business tax receipt with the Town may apply for a food truck as an accessory use under the provisions of this section.
- (b) Owners and operators of MFDVs shall observe the following:
 - (1) Seats and tables shall be located on a paved surface;
 - (2) Seats and tables shall be located outside of public right of ways, driveways, drive aisles and any loading area, cross access, driveway, or fire lanes;
 - (3) All seating and table areas must be clearly demarcated and cordoned off from drive aisles and/or parking stalls. Demarcation includes the use of clearly visible tape or rope

or physical barriers to allow motorist and/or patrons to distinguish the seating area from a parking stall or drive aisle;

- (4) Tables and seats associated with a MFDV may only be provided during the hours the MFDV is permitted to operate. Tables and seats associated with a MFDV's operation shall be removed at the end of every business day and no later than 11PM;
- (5) MFDVs shall be equipped with at least one trash receptacle per vehicle and at least one trash receptacle per ancillary seating area. Each trash can shall be no less than 32 gallons and must be emptied and removed from the site at the conclusion of business each day. Mobile vendors shall be responsible for all trash generated from their operations.
- (6) No MFDV shall discharge any water, grease or other liquid waste from the property upon which it is located off-site or onto public land or any road or stormwater system.
- (7) The hours in which a mobile vendor may operate is limited to 7:00 AM to 11:00 PM. MFDVs shall be removed from the property upon the cessation of business operations each day, unless approved by the Town Commission and provided the outdoor storage is determined to be consistent with the Town's land development regulations that are applicable to zoning district where the mobile vendor is operating.
- (8) MFDVs may not be located upon properties where parking is not adequate to serve the property's businesses. In such cases where it is determined that the MFDV is unlawfully parking on private property or is within any right-of-way, the owner of the MFDV and/or property may be cited for a violation of this code.

A person, firm, or corporation desiring to secure a license as a mobile vendor shall make application to the community development department. Such application shall be made on a form provided by the department, which at a minimum shall include:

- (a) The name or names and address of the applicant;
- (b) Vehicle license number of all vehicles from which the applicant proposes to conduct business;
- (c) Description of the general type of food, service or merchandise to be sold if applicable;
- (d) The place or places where the applicant proposes to engage in business;
- (e) A letter from the county health department, certifying that the motor vehicle vending business has complied with health department regulations.

Sec. 22-106. -- License fee.

The license fee for an annual mobile vendor license shall be as established by a resolution of the town commission and shall be required for each vehicle or location. The town commission shall establish a license fee for temporary vendors which shall be charged on a per event basis.

(Ord. No. 06-2010, § 2, 6-2-2010)

Sec. 22-107. -- Expiration of license.

~~An annual license issued under this article shall expire on September 30 each year. A temporary license shall expire at the end of the event.~~

~~(Ord. No. 06-2010, § 2, 6-2-2010)~~

~~Sec. 22-108. — Exhibition of license — Transfer of license prohibited.~~

~~A license issued under this article shall be posted conspicuously at either the place of business or upon the motor vehicle as directed by the community development department. Licenses issued under this article are not transferable.~~

~~(Ord. No. 06-2010, § 2, 6-2-2010)~~

~~Sec. 22-109. — Health regulations.~~

~~All mobile food-related vendors shall comply with all laws, rules and regulations regarding food handling, and all vehicles, equipment, and devices used for the handling, storage, transportation and/or sale of food shall comply with appropriate county and state regulations, as presently worded and as may be amended by law, in addition to any other rules and regulations respecting such vehicles, equipment, devices as may be established by state or local governments.~~

~~(Ord. No. 06-2010, § 2, 6-2-2010; Ord. No. 14-2013, § 2, 10-2-2013)~~

~~Sec. 22-110. — Mobile vendor standards.~~

~~All mobile vendors licensed under this chapter shall conform to the following standards:~~

- ~~(a) Geographical restrictions for food, service and merchandise sales. No mobile vendor shall sell a food, service or merchandise from his or her vehicle or conveyance:~~
 - ~~(1) Within 400 feet of a public or private school grounds during the hours of regular school session, classes, or school related events in said public or private school, except when authorized by said school; or~~
 - ~~(2) Within 1,000 feet of the entrance to a business establishment which is open for business and is offering for sale the same or similar product as an item offered for sale by the mobile vendor; or~~
 - ~~(3) Within 1,000 feet of a restaurant, cafe, deli or any type of eating establishment which is open for business; or~~
 - ~~(4) Within 1,000 feet of a public park of the town where a town authorized concession stand is located during times other than during the course of a public celebration except as approved by the town manager or designate; or~~
 - ~~(5) Within 1,000 feet of town property where a town authorized concession stand is located during the course of a public celebration when nonprofit organizations are permitted to engage in the sale of merchandise and food in such park; or~~
 - ~~(6) Within any one block for more than one hour in any four-hour period, except this shall not apply in those situations where the mobile vendor is serving organized and sanctioned community-sponsored ball games at public parks and schools provided there is no town approved concession in the park or at the school.~~

- (b) ~~No mobile vendor shall conduct business so as to violate any ordinances of the town, including those regulating traffic and rights of way, as now in effect or hereafter amended.~~
 - (c) ~~No mobile vendor shall obstruct or cause to be obstructed the passage of a sidewalk, street, avenue, alley, or any other public place by causing people to congregate at or near the place where food, service or merchandise is being sold or offered for sale, or the service is being conducted.~~
 - (d) ~~No customer shall be served on the street side of the mobile unit. Service by mobile vendors is limited to the curb side, or on authorized private property, when the mobile unit is on or abutting a public street.~~
 - (e) ~~All mobile vendors shall provide garbage receptacles for customer use as may be needed.~~
 - (f) ~~No mobile vendor shall locate his or her vehicle or other conveyance in such a manner as to cause a traffic hazard or obstruct a designated customer parking space.~~
 - (g) ~~At the conclusion of business activities at a given location, the mobile vendor shall clean all the public way surrounding his or her vehicle of all debris, trash and litter generated by the vendor's business activities.~~
 - (h) ~~All mobile vendors preparing food by cooking, frying or other means shall be equipped with at least one 2A-40-BC fire extinguisher.~~
 - (i) ~~All mobile vendors shall conclude daily business activities at sunset.~~
- (Ord. No. 06-2010, § 2, 6-2-2010; Ord. No. 14-2013, § 2, 10-2-2013)

Sec. 22-111. -- Mobile vendor insurance requirement.

~~No license shall be issued to a mobile vendor selling food, merchandise or services from a truck or other motor vehicle unless a certificate is furnished to the town showing that the mobile vendor is carrying the following minimum amounts of insurance:~~

- (a) ~~Public liability insurance in an amount of not less than \$500,000.00 for injuries, including those resulting in death, resulting from any one occurrence, and on account of any one accident; and~~
- (b) ~~Property damage insurance in an amount of not less than \$25,000.00 for damages on account of any one accident or occurrence.~~

(Ord. No. 06-2010, § 2, 6-2-2010; Ord. No. 14-2013, § 2, 10-2-2013)

Sec. 22-112. -- Revocation of license.

~~A license issued pursuant to this article may be revoked by the community development director for any of the following reasons:~~

- (a) ~~Any fraud, misrepresentation or false statement contained in the application for license;~~
- (b) ~~Any fraud, misrepresentation or false statement made in connection with the selling of products;~~

~~(c) Any violation of this article;~~

~~(d) Conviction of the licensee of a felony or of a misdemeanor involving moral turpitude; or~~

~~(e) Conducting business licensed under this article in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.~~

~~(Ord. No. 06 2010, § 2, 6 2 2010)~~

Sec. 22-113. -- Enforcement; fines.

~~Any mobile vendor, after having been warned by a Town of Lake Park Code Officer that the mobile vendor is in violation of this article, or any business that knowingly allows said mobile vendor to continue stopping at their place of business shall be in violation of this article and shall be subject to a fine of up to \$250.00 for the first offense and \$500.00 for each offense thereafter.~~

~~(Ord. No. 06 2010, § 2, 6 2 2010)~~

Secs. ~~22-114~~106—~~22-140~~. - Reserved.

Upon First Reading this 3 day of July, 2024, the foregoing Ordinance was offered by Commissioner Thomas, who moved its approval. The motion was seconded by Commissioner Hensley and being put to a vote, the result was as follows:

| | AYE | NAY |
|---------------------------------|----------|-------|
| MAYOR ROGER D. MICHAUD | <u>/</u> | _____ |
| VICE-MAYOR KIMBERLY GLAS-CASTRO | <u>/</u> | _____ |
| COMMISSIONER MICHAEL HENSLEY | <u>/</u> | _____ |
| COMMISSIONER MARY BETH TAYLOR | <u>/</u> | _____ |
| COMMISSIONER JUDITH E. THOMAS | <u>/</u> | _____ |

PUBLISHED IN THE PALM BEACH POST THIS 28 DAY OF July, 2024

Upon Second Reading this 21 day of August, 2024, the foregoing Ordinance, was offered by Commissioner Thomas, who moved its adoption. The motion was seconded by Commissioner Hensley and being put to a vote, the result was as follows:

| | AYE | NAY |
|---------------------------------|----------|-------|
| MAYOR ROGER D. MICHAUD | <u>/</u> | _____ |
| VICE-MAYOR KIMBERLY GLAS-CASTRO | <u>/</u> | _____ |
| COMMISSIONER MICHAEL HENSLEY | <u>/</u> | _____ |
| COMMISSIONER MARY BETH TAYLOR | <u>/</u> | _____ |
| COMMISSIONER JUDITH E. THOMAS | <u>/</u> | _____ |

The Mayor thereupon declared **Ordinance 09-2024** duly passed and adopted this 21 day of August, 2024.

TOWN OF LAKE PARK, FLORIDA

BY: Roger D. Michaud
Mayor, Roger D. Michaud

ATTEST:

Vivian Mendez
Town Clerk, Vivian Mendez

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird

