

ORDINANCE NO. 06-2010

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES, ENTITLED "SOLICITATION" TO CREATE A NEW ARTICLE III PERTAINING TO MOBILE VENDORS PROVIDING FOR DEFINITIONS; PROVIDING THAT A LICENSE IS REQUIRED; PROVIDING FOR CERTAIN EXEMPTIONS; PROVIDING FOR LIMITATIONS ON CERTAIN ACTIVITIES; PROVIDING FOR A LICENSE APPLICATION AND LICENSE FEE; PROVIDING FOR THE EXPIRATION OF LICENSES; PROVIDING FOR THE REQUIREMENT THAT LICENSES BE DISPLAYED IN PLAIN VIEW; PROVIDING FOR THE TRANSFER OF LICENSES; PROVIDING FOR CERTAIN HEALTH REGULATIONS; PROVIDING FOR MOBILE VENDOR STANDARDS; PROVIDING THAT MOBILE VENDORS SHALL HAVE AND MAINTAIN INSURANCE; PROVIDING FOR THE REVOCATION OF LICENSES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Lake Park, Florida ("Town") is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has adopted general provisions pertaining to solicitation in the Town, which have been codified at Chapter 22, of the Code of Ordinances; and

WHEREAS, the Town staff has recommended to the Town Commission that Chapter 22 of the Town Code be amended to provide for a new Article III pertaining to Mobile Vendors; and

WHEREAS, Town staff has recommended to the Commission that it create Code regulations requiring that Mobile Vendors doing business in the Town be licensed and insured; and

WHEREAS, the Town Commission has reviewed the recommendations of the Town staff and has determined that amending Chapter 22 and creating a new Article III to the Town's Code of Ordinances would further the public's health, safety and general welfare.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA:

Section 1. The whereas clauses are incorporated herein and constitute the legislative findings of the Town Commission.

Section 2. Article III and Sections 22-101, 22-102, 22-103, 22-104, 22-105, 22-106, 22-107, 22-108, 22-109, 22-110, 22-111, 22-112 and 22-113 of the Code of Ordinances of the Town of Lake Park, Florida are hereby created as follows:

Chapter 22 – SOLICITATION

ARTICLE III. MOBILE VENDORS

Sec. 22-101 Definitions.

"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 therefore as lawfully approved in writing by the Community Development Department.

"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.

"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 License – Required.

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.

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 or products ordered or purchased by customers from a source or point of sale other than a mobile food 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.

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 food products, 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.

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 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 Palm Beach 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.

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.

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.

Sec. 22-109 Health regulations.

All mobile 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.

Sec. 22-110 Mobile vendor standards.

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

(a) Geographical Restrictions. No mobile vendor shall sell food 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 1000 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 1000 feet of a restaurant, cafe, deli or any type of eating establishment which is open for business; or

(4) Within 1000 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 1000 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 is being sold or offered for sale.

(d) No customer shall be served on the street side of the mobile unit. Service by mobile vendors is limited to the curb side when the mobile unit is on or abutting a public street.

(e) All mobile vendors shall provide garbage receptacles for customer use.

(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.

Sec. 22-111 Mobile vendor insurance requirement.

No license shall be issued to a mobile vendor selling 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 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 for damages on account of any one accident or occurrence.

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.

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 for the first offense and \$500 for each offense thereafter.

Upon First Reading this 19 day of May, 2010, the foregoing Ordinance, was offered by Commissioner Longtin, who moved its approval. The motion was seconded by Commissioner Hockman and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>Absent</u>	_____
VICE MAYOR PATRICIA OSTERMAN	<u>/</u>	_____
COMMISSIONER STEVEN HOCKMAN	<u>/</u>	_____
COMMISSIONER JEANINE LONGTIN	<u>/</u>	_____
COMMISSIONER KENDALL RUMSEY	<u>/</u>	_____

PUBLISHED IN THE PALM BEACH POST THIS 23 DAY OF May, 2010

Upon Second Reading this 2 day of June, 2010, the foregoing Ordinance, was offered by Vice-Mayor Osterman, who moved its adoption. The motion was seconded by Commissioner Rumsey and being put to a vote, the result was as follows:

	AYE	NAY
MAYOR DESCA DUBOIS	<u>/</u>	_____
VICE MAYOR PATRICIA OSTERMAN	<u>/</u>	_____
COMMISSIONER STEVEN HOCKMAN	<u>/</u>	_____
COMMISSIONER JEANINE LONGTIN	<u>/</u>	_____
COMMISSIONER KENDALL RUMSEY	<u>/</u>	_____

The Mayor thereupon declared **Ordinance No. 06-2010** duly passed and adopted this 2 day of June, 2010.

TOWN OF LAKE PARK, FLORIDA

BY: Desca DuBois
Mayor, Desca DuBois

ATTEST:

Vivian M. Lemley
Town Clerk, Vivian M. Lemley
(Town Seal)

Approved as to form and legal sufficiency:

Thomas J. Baird
Town Attorney, Thomas J. Baird

FLORIDA