

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 122 ENTITLED "PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS" TO REVISE THE REGULATIONS FOR THE SALE OF FOOD FROM MOBILE FOOD DISPENSING VEHICLES SUCH AS FOOD TRUCKS AND FOOD CARTS.

WHEREAS, the City currently regulates the sale of food from mobile units in city parks, at locations in the city that are within 200 feet of an establishment that handles the same kinds of food, and on private property; and

WHEREAS, due to the increased popularity of mobile food vendors, it has been determined that a review and update of the current regulations is merited;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Section 122.02 is hereby repealed in its entirety and replaced with a new Section 122.02, as set forth herein:

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 122. PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS

GENERAL PROVISIONS

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§ 122.02 SALES OF FOOD FROM MOBILE FOOD VENDORS.

(A) DEFINITIONS. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(Coding: Words in ~~struck-through~~ type are deletions from existing law; words underscored are additions).

FOOD CART. A movable non-motorized cart, operated by a Mobile Food Vendor, which sells pre-packaged food, such as hot dogs, ice cream, snow cones, or non-alcoholic beverages.

FOOD TRUCK. A vehicle (including trailers), operated by a Mobile Food Vendor, used to prepare and sell food at multiple locations, typically operating at one location for more than 30 minutes.

LUNCH TRUCK. A vehicle, operated by a Mobile Food Vendor, used to sell pre-packaged food, such as sandwiches, snacks (such as potato chips) and non-alcoholic beverages, at multiple locations, typically operating at one location for less than 30 minutes.

MOBILE FOOD DISPENSING PERMIT. A written authorization that must be obtained from the Director of Parking and Intergovernmental Affairs, or his/her designee, to carry out Mobile Food Vending Services from Mobile Food Dispensing Vehicles on public property (other than in a Park) or on private property.

MOBILE FOOD DISPENSING VEHICLES. A vehicle-mounted public food service establishment that is self-propelled or otherwise movable from place to place which includes but is not limited to a Food Cart, Food Truck, or Lunch Truck.

MOBILE FOOD VENDOR. A person or persons, as defined herein, that has the required mobile food vendor license from the Florida Department of Business and Professional Regulation.

PARK. Any public park, community center, recreation or playground area, or building or facility or parking lot thereon, within the City of Hollywood, owned and maintained as a public park or community center, whether or not such areas have been formally dedicated for such purpose.

PERSON. Any person, firm, partnership, association, club, corporation, company or organization of any kind.

SPECIAL PARK MOBILE FOOD DISPENSING PERMIT. A written authorization that must be obtained from the Director of the Department of Parks, Recreation and Cultural Arts, or his/her designee, to operate a Mobile Food Dispensing Vehicle in a Park.

(B) MOBILE FOOD DISPENSING VEHICLES IN PARKS AND ON PARK PROPERTY.

(1) Mobile Food Vendors. It shall be unlawful for any Person to operate a Mobile Food Dispensing Vehicle within a City Park unless the following conditions have first been met:

- (a) The Mobile Food Vendor is contracted by the City, or by a Special Event Permit Holder, for a City approved event;
- (b) The owner/operator of the Mobile Food Dispensing Vehicle has obtained a Special Park Mobile Food Dispensing Permit, as set forth herein;
- (c) The Mobile Food Dispensing Vehicle must only serve in a temporary capacity, subject to the event specific requirements as determined by the Director;
- (d) The Mobile Food Dispensing Vehicle must be positioned at the location designated on the park map attached to the Special Park Mobile Food Dispensing Permit and may only operate during the days and times set forth in the Special Park Mobile Food Dispensing Permit;
- (e) The Mobile Food Dispensing Vehicle must be stationary at that designated location prior to selling food or beverages and must remain stationary for the entirety of the event for which the permit was issued;
- (f) Mobile Food Vendors that desire to have seating adjacent to their Mobile Food Dispensing Vehicle must obtain approval of a seating arrangement plan with the issuance of the Special Park Mobile Food Dispensing Permit. Seating arrangements shall be limited to no more than three (3) tables, each with no more than four (4) chairs, that are placed within fifteen feet of the Mobile Food Dispensing Vehicle. Such seating arrangements shall adhere to the Special Park Mobile Dispensing Permit conditions;
- (g) The owner/operator of a Mobile Food Dispensing Vehicle must provide proof of all applicable licensure, including but not limited to, licensure from the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, and Florida Department of Agriculture and local business tax receipt;
- (h) If the owner/operator of a Mobile Food Dispensing Vehicle is providing services to a Special Event Permit Holder other than the City, he/she must provide proof that they are an approved vendor for the event;
- (i) The owner/operator of Mobile Food Dispensing Vehicle shall obtain and maintain a liability insurance policy in an amount not less than \$1,000,000 and shall provide proof of insurance as a condition of obtaining the Permit;
- (j) The owner/operator shall be required to clean up and dispose of any litter, trash, garbage or other refuse generated from the sale of food at the designated location as set forth in the Special Park Mobile Food Dispensing Permit, including

providing a suitable receptacle for recycling materials, waste and litter (the Mobile Food Vendor is responsible for removal and disposal of garbage and recycling); and

(k) Owner/Operator shall not erect signage. Menu boards may be displayed with authorization of the Director of Parks, Recreation and Cultural Arts.

(2) Special Park Mobile Food Dispensing Permit Procedures.

(a) A Special Park Mobile Food Dispensing Permit application must be submitted to the Department of Parks, Recreation and Cultural Arts along with all required documentation set forth in Division (B)(1) above.

(b) All of the conditions set forth in Division (B)(1) above must be satisfied prior to the issuance of a Special Park Mobile Food Dispensing Permit. If the Special Park Mobile Food Dispensing Permit is approved, the Director, in consultation with the affected Departments, may also impose any necessary restrictions or conditions required to ensure public safety, environmental and administrative considerations are met.

(c) The Director reserves the right to assess charges for maintenance, clean-up, and/or damages to the area utilized by the Mobile Food Vendor.

(d) If electrical hook-up and services are required and supplied by the City, then the Mobile Food Vendor shall be charged additional fees for said hook-up and services. The decision to provide such electrical hookup is at the sole discretion of the Director.

(e) Insurance. ~~The amount of insurance liability will be determined by the City's Risk Manager, but may have a minimum limit of \$1 million general liability to protect the City.~~ The owner/operator of the Mobile Food Dispensing Vehicle shall obtain and maintain a liability insurance policy in an amount not less than \$1,000,000 naming the City as an additional insured and shall provide proof of insurance as a condition of obtaining the permit. If alcohol is sold, served, or consumed as a part of the event or pursuant to the Special Park Permit, the insurance policy shall be endorsed for liquor liability

(3) The City shall not issue a Special Park Mobile Food Dispensing Permit for the sale of food from a Mobile Food Dispensing Vehicle from property owned by the State of Florida or operated by Broward County. The right to sell from such property shall be granted solely by such authorities.

(4) Special Park Mobile Food Dispensing Permit Fee. The Special Park Mobile Food Dispensing Permit Fee shall be established and amended by resolution of the City Commission.

(C) MOBILE FOOD DISPENSING VEHICLES LOCATED ON PRIVATE PROPERTY ZONED COMMERCIAL OR INDUSTRIAL.

(1) No Person or Mobile Food Vendor shall park, stand or stop a Mobile Food Dispensing Vehicle for the purpose of selling food to the public on private property, zoned commercial or industrial, without the notarized written consent of the property owner, his lessee or agent or the person having custody or control of the property and obtaining the required Mobile Food Dispensing Permit in accordance with the permit requirements set forth below and in Division (D)(3). Said Mobile Food Dispensing Vehicles shall not remain on the property for a period to exceed four hours at any one time and shall not operate in the same location more than once in any 12-hour period. Mobile Food Dispensing Vehicles must not be located within 200 feet from any eating establishment. This separation requirement shall apply only during the normal hours of operation of the eating establishment. However, Mobile Food Dispensing Vehicles that sell food to the public on private property with the owner's consent for a period that does not exceed thirty minutes or less, shall not be required to comply with this subsection.

(2) All Mobile Food Dispensing Vehicles must be located within a paved pedestrian plaza on the private property and not on unimproved property.

(3) A Mobile Food Dispensing Vehicle may not be located within 5 feet of any right-of-way or public sidewalk and may not disrupt vehicular or pedestrian circulation for ingress and egress to the property.

(4) A Mobile Food Dispensing Vehicle may not locate or block access to required parking for a simultaneously operating business on the property according to the City's parking requirements. Sites that do not have excess parking during the operation of the primary uses are not eligible locations for Mobile Food Dispensing Vehicles.

(5) Mobile Food Dispensing Vehicles shall not sell or distribute alcoholic beverages.

(6) Mobile Food Dispensing Vehicles shall not be permitted within the following areas of the Beach and or Downtown Districts of the CRA:

(a) Downtown: Polk Street to Van Buren Street, and U.S. 1 to 21st Avenue.

(b) Beach: The area between Thomas Street to the north, the southern city limits, A1A to the west and the Boardwalk to the east.

(D) MOBILE FOOD DISPENSING PERMITS ON CITY PROPERTY.

(1) Mobile Food Dispensing Vehicles shall not be permitted within the following areas of the Beach and or Downtown Districts of the CRA:

(a) Downtown: Polk Street to Van Buren Street, and U.S. 1 to 21st Avenue.

(b) Beach: The area between Thomas Street to the north, the southern city limits, A1A to the west and the Boardwalk to the east.

(2) Mobile Food Dispensing Vehicles shall not be located on City Public Property or rights-of-ways unless approved by the Director of Parking & Intergovernmental Affairs, or his/her designee. A Mobile Food Vendor who desires to utilize City public property or rights-of-way shall submit a Mobile Food Dispensing Permit application along with the required information set forth in Division (D)(3) below. Permit applications for locations in the public rights-of way shall be reviewed by the City Engineer. Such Mobile Food Dispensing Permit may be approved as long as the public purpose is compatible with the existing physical facilities and does not interfere with the health, safety and welfare of the public.

(3) Mobile Food Dispensing Permits. Permits for Mobile Food Dispensing Vehicles will be issued on a first come, first serve basis for specific locations designated for such purpose. No Mobile Food Dispensing Vehicle of any kind shall be located within 200 feet of an eating establishment during the hours of operation of said establishment. Not more than two vendors of similar food products will be permitted in close proximity, as determined by the Director of Parking and Intergovernmental Affairs. Said Mobile Food Dispensing Vehicles shall not remain on the property for a period to exceed four continuous hours and shall not operate in the same location more than once in any 12-hour period.

All Mobile Food Dispensing Permits shall be effective for the dates designated on the permit, but under no circumstance can a Mobile Food Dispensing Vehicle be permitted for the same designated location for more than thirty (30) consecutive days. Any permit issued under this part may include additional limitations on the hours of operation

Applications for Mobile Food Dispensing Permits must be submitted to the Office of Parking and Intergovernmental Affairs at least two weeks in advance of the requested

date(s) for usage. The Director of Parking and Intergovernmental Affairs, or his/her designee, shall coordinate review of the permit application with the appropriate City, County and /or State authorities. The application shall include the following information:

- (a) Name, address, telephone number of applicant, mailing/business address, electronic mail address and telephone number of the applicant;
- (b) Mobile Food Vendor's name, address and telephone number if different than the applicant and a copy of insurance for the Mobile Food Vendor;
- (c) Copy of the Florida Department of Business and Regulation License, City Business Tax Receipt, and a copy of the current vehicle registration and individual's drivers license;
- (d) Description of the type of vending;
- (e) Desired location(s);
- (f) Duration of the permit;
- (g) Indemnification and Hold Harmless Agreement and proof of insurance. The owner/operator of the Mobile Food Dispensing Vehicle shall indemnify the City and obtain and maintain a liability insurance policy in an amount not less than \$1,000,000 naming **the City** as an additional insured and shall provide proof of insurance as a condition of obtaining the permit. ~~The amount of insurance liability will be determined by the City's Risk Manager, but may have a minimum limit of \$1 million general liability to protect the City, naming the City as an additional insured as a condition of the permit approval;~~ and
- (h) Payment of a non-refundable permit fee.

Upon review of the Mobile Food Dispensing Permit application, the Director of Parking and Intergovernmental Affairs shall approve or deny the permit application. If the Permit is approved, the Director, in consultation with the affected Departments, shall also impose any necessary restrictions or conditions required to ensure public safety, environmental and administrative considerations are met.

(4) Charges for maintenance, clean-up or damage to City property. The Director of Parking and Intergovernmental Affairs reserves the right to assess charges for excessive maintenance, clean-up, and/or damages to the area utilized by the Mobile Food Dispensing Vehicle located on city property or in the public rights-of-way. Further, the Director may set additional fees for electrical hook up and services on city property or in the public rights-of-way.

(5) Special Events: A Mobile Food Dispensing Permit shall not be valid during a Special Event (approved by the Department of Parks, Recreation and Cultural Arts in accordance with Chapter 102 of the Hollywood Code of Ordinances) on adjacent City property, streets and sidewalks. The Department of Parks, Recreation and Cultural Arts will notify Permittees of the scheduled Special Events and of procedures for the Mobile Food Vendors to participate in those Special Events, if available. Mobile Food Vendors who are eligible to participate in the Special Event shall be required to submit a Vendor application and applicable permit fees to the sponsor of the Special Event separate from the Mobile Food Dispensing Permit.

(E) State roadways. A Mobile Food Vendor must obtain the approval of the State of Florida through the Department of Transportation in order to be located on any state roadway within the City of Hollywood. All Motor Food Dispensing Vehicles shall comply with all applicable state statutes regarding state maintained roads and rights-of-way and the unlawful commercial use thereof.

(F) Prohibitions. No Mobile Food Vendor that has been issued a Mobile Food Dispensing Permit shall be allowed to do the following:

(a) Sell or distribute alcoholic beverages.

(b) Operate a freestanding electric generator.

(c) Operate any type of amplified speaker system or play music of any kind.

(d) Park, stand or stop a Motor Food Dispensing Vehicle in any no-parking or safety zone or in any other zone where parking, standing or stopping is prohibited.

(e) Park, stand or stop a Motor Food Dispensing Vehicle in such a manner as to cause an obstruction to pedestrian or vehicular traffic or to cause any sight hazard.

(f) Mobile Food Dispensing Vehicles shall not be permitted in any residential area unless said Mobile Food Dispensing Vehicle is part of a Special Event falling within Chapter 102 of the Hollywood Code of Ordinances, or has obtained a Special Park Mobile Food Dispensing Permit. Further, Mobile Food Dispensing Vehicles shall not be permitted on vacant land or abandoned properties.

(g) Mobile Food Dispensing Vehicles shall not sell or dispense any food to customers in a moving vehicle and drive up sales are strictly prohibited.

(G) Maintenance by all Mobile Food Vendors. In addition to the requirements set forth for a Special Park Mobile Food Dispensing Permit or Mobile Food Dispensing Permit, all Mobile Food Vendors shall comply with the following:

(1) All operations must be contained within the approved Mobile Food Dispensing Vehicle, as licensed and permitted by the Florida Dept. of Business and Professional Regulation's Division of Hotels and Restaurants, with the exception of a maximum of two coolers, which are allowed for beverages.

(2) Styrofoam containers are not allowed for mobile food vending within the City of Hollywood.

(3) Liquid waste or grease may not be disposed of in tree wells, storm drains, or onto the sidewalks, streets, or any other public space. The Mobile Food Vendor is responsible for removing and properly disposing of grease and liquid waste from the sidewalk and street surfaces resulting from its operation, or the unloading and loading of Mobile Food Dispensing Vehicles. The Mobile Food Vendor shall comply with all state laws for servicing of the Mobile Food Dispensing Vehicle for waste water and grease disposal, including commissary requirements.

(4) The Mobile Food Vendor shall be liable for all damages and/or repairs to the streetscape, trees and vegetation, sidewalks, streets, or other public amenities that relate to its operation.

(5) Mobile Food Dispensing Vehicles shall not "hop" curbs or perform any other illegal traffic maneuvers.

(6) Mobile Food Dispensing Vehicles shall maintain the area/site clear of any garbage, debris, and litter and shall restore the area/site to its original condition within 30 minutes of its last sale.

(7) Garbage receptacles (and recyclable receptacles for any packaging that is recyclable) must be provided. Vendor is responsible for removal and proper disposal of garbage and recyclable materials.

(H) Revocation of Permits.

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

(2) The Director may revoke any permit set forth in this section if the permittee's operation is determined not to be in the public interest; if the permittee provided false or

incorrect information in the permit application, if the permittee fails to pay any fees, or if the permittee fails to comply with the applicable requirements of this ordinance, and any other applicable state, county and local laws. The Director shall provide reasonable notice of the revocation of the permit, unless he/she determines there is an imminent danger to the public health, safety, welfare, or property, in which case the revocation may be without notice. An imminent danger includes, but is not limited to, any situation in which the Mobile Food Vendor has failed to meet the State of Florida Department of Health's minimum standards for sanitation and food service or any situation in which a Mobile Food Dispensing Vehicle is creating a traffic hazard. Any permittee whose permit is revoked shall have the right to file a written appeal with the City Manager within 10 calendar days after the notice of revocation is issued. If the City Manager upholds the revocation, the permittee has the right to file a written appeal to the City Commission within ten (10) calendar days after the City Manager's decision.

(l) Mobile Food Dispensing Permit Fees. The Mobile Food Dispensing Permit Fees shall be established by resolution of the City Commission.

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Section 2: That it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 3: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 4: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5: That this ordinance shall be in full force and effect immediately upon its passage and adoption.

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING CHAPTER 122 ENTITLED "PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS" TO REVISE THE REGULATIONS FOR THE SALE OF FOOD FROM MOBILE FOOD DISPENSING VEHICLES SUCH AS FOOD TRUCKS AND FOOD CARTS.

Advertised on _____, 2014.

PASSED on first reading this _____ day of _____, 2014.

PASSED AND ADOPTED on second reading this _____ day of _____, 2014.

PETER BOBER, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the City of Hollywood,
Florida, only.

JEFFREY P. SHEFFEL, CITY ATTORNEY