

## CHAPTER 16 – FOOD AND FOOD ESTABLISHMENTS

### ARTICLE II. – MINIMUM STANDARDS FOR FOOD ESTABLISHMENTS

#### **Sec. 16-21. Mobile, vessel, roadside, and temporary food vendors.**

Staff note: This section is being amended to remove the requirement to obtain a certificate of zoning compliance and to require such food vendors to receive a local business tax receipt. Time periods are also amended to coincide with the periods identified under Subordinate and Temporary Uses.

Mobile and roadside food vendors within Lee County are required to obtain a ~~certificate of zoning compliance, if required from the local governmental agency having jurisdiction, prior to the issuance of a health department permit~~ local business tax receipt, if required, from the entity authorized to collect the tax. Mobile, vessel and roadside food vendors must affiliate with a health department approved commissary as ~~their base of operations required by Chapter 61C-4, F.A.C., as amended.~~ Operating a mobile or food commissary business within Lee County from a private residence is prohibited.

Temporary permits may be issued to allow a vendor to sell foods at a public gathering which is sponsored by an organization or the community. Temporary permits shall be ~~valid only for the specific gathering for which it is issued and shall not exceed eighteen (18) days~~ allowed for the periods prescribed in Land Development Code Sections 34-3041 through 34-3052.

(Ord. No. 88-24, § 12, 6-7-88)

## CHAPTER 33 – PLANNING COMMUNITY REGULATIONS

### ARTICLE V. – LEHIGH ACRES PLANNING COMMUNITY

#### DIVISION 3. – SPECIFIC USE STANDARDS

#### **Sec. 33-1422. – Reserved. Food vending cart signs.**

Staff note: Delete section. Mobile Food Vendors are now regulated under LDC Section 34-3052.

~~Individual identification signs including sandwich signs are prohibited as well as signs listed as prohibited in this section; however, advertising signs may be permitted on the temporary food vending cart but may not extend beyond the cart.~~

**Sec. 33-1432. – Reserved. Food vending carts.**

**Staff note: Delete section. Mobile Food Vendors are now regulated under LDC Section 34-3052.**

~~(1) *Applicability.* The following regulations apply to food vending carts:~~

- ~~(a) Food vending carts may be permitted in conventional zoned commercial and industrial properties; commercial and industrial planned developments; mixed use planned developments on the commercial or industrial portions; and on properties developed with a religious facility with a place of worship, as defined in section 34-2.~~
- ~~(b) Temporary permits for food vending carts will be issued in accordance with section 34-3041.~~
- ~~(c) A food vending cart must be located on private property and not be placed within the public right-of-way.~~
- ~~(d) The temporary use permit for food vending carts will be valid for a period of one year from the date of issuance. At the end of one year, the applicant must apply for a new permit.~~
- ~~(e) Responsibility for restroom facilities for employees lies with the occupational license holder and must be detailed in the application for a temporary use permit.~~
- ~~(f) Food vending carts must be approved by the County Health Department with proof of approval provided at the time of request for a temporary use permit as well as compliance with the following conditions:
  - ~~(1) The applicant must provide a notarized letter from the property owner giving permission for the use of the property.~~
  - ~~(2) Food vending carts must be in compliance with applicable building codes and must be located in an area which does not detract from visibility at intersections, block any driveway, fire lane or fire hydrant, or cause parking~~~~

~~problem associated with the use or patronage of the food vending cart.~~

- ~~(3) A site plan must be submitted showing the layout of the property, including the location of existing building(s), the food vending cart, parking spaces, aisle ways for pedestrians and any seating area. Food vending carts must be located on an asphalt or concrete surface. Minimum setbacks from all applicable property lines must be shown as follows:
  - ~~(a) Street setback: 50 feet for arterials and collectors; 25 feet for local.~~
  - ~~(b) Side setback: 15 feet.~~
  - ~~(c) Rear setback: 25 feet.~~~~
- ~~(4) Temporary permits will be issued for individual carts at specified locations and will be nontransferable. Change in ownership of a cart or location requires application and applicable fees for a new permit.~~
- ~~(5) There must be no more than one temporary food vending cart located within one mile of another temporary food vending cart.~~
- ~~(6) Food vending carts must not exceed 200 square feet in floor area.~~
- ~~(7) No alcoholic beverages are to be sold or consumed from temporary vending carts.~~
- ~~(8) Food vending carts must not be left unattended and must be removed each evening in accordance with approved hours of operation.~~
- ~~(g) For the purposes of this section, a food vending cart is synonymous with a van, or trailer serving food.~~
- ~~(h) Vending carts used for, but not limited to, the sale of flowers, souvenirs, goods, or paintings, that are not part of a permitted temporary special event, are prohibited.~~

## CHAPTER 34 – ZONING

### ARTICLE I. – IN GENERAL

#### **Sec. 34-2. – Definitions.**

Staff note: Add overarching definition of mobile food vendors and attendant definitions for vehicles or temporary structures referenced in definition of mobile food vendor. Establish definition for *conveyance* to provide a “catch all” term for the variety of vehicles or temporary structures used by mobile food vendors.

*Canteen vehicle* means a self-propelled vehicle which is used for the temporary retail sale, display and accessory advertising of pre-cooked foods, pre-packaged foods and drinks, and prepared foods.

*Conveyance* means a food stand, a food vending cart, an ice cream truck, a canteen truck, or a mobile food dispensing vehicle as defined in Sec. 509.102, Florida Statutes.

*Food stand* means a temporary open air stand, kiosk or place for the retail sale, display and accessory advertising of pre-cooked food, pre-packaged food and drinks, and prepared foods. A food stand is portable and capable of being dismantled or removed from the sales site.

*Food vending cart* means any non-motorized cart, table, equipment, or apparatus which is not a structure, which is designed and intended so as to not be a permanent fixture on a lot, and which is used for the temporary retail sale, display, and accessory advertising of food. A food vending cart does not include a mobile food dispensing vehicle.

*Ice cream vehicle* means a self-propelled vehicle which is used for the temporary retail sale, display and accessory advertising primarily of pre-packaged frozen dairy or frozen water-based food products, soft serve or hand-dipped frozen dairy products or frozen water-based food products and pre-packaged beverages. At least seventy-five (75) percent of its inventory shall consist of ice cream products or related frozen dessert products, as

more particularly defined in Florida Statutes Chapter 503, as may be amended from time to time, and offer for sale no more than twenty-five (25) percent of other prepackaged products which are non-ice cream or non-related frozen dessert products.

Mobile food vendor means an operator offering the temporary retail sale, display and accessory advertising of fresh prepared food, pre-cooked food, pre-packaged food, and prepared food from mobile food dispensing vehicles as defined in Sec. 509.102, Florida Statutes, or from a similar self-propelled conveyances such as ice cream trucks or canteen vehicles, or non-fixed structure such as a food stand or food vending cart.

## ARTICLE VII. – SUPPLEMENTAL DISTRICT REGULATIONS

### Division 37. – SUBORDINATE AND TEMPORARY USES.

#### **Sec. 34-3052. – Mobile Food Vending.**

Staff note: Establish new section to regulate mobile food vending businesses. Provide for standards to regulate location on a specific property and prohibit operation within a right-of-way or street easement. Establish requirements related to signage, waste and grease collection and disposal. Prohibit outdoor seating within a public right-of-way and the sale or dispensing of alcoholic beverages as part of mobile food vending operations. Establish permitted and prohibited locations based on zoning districts or use of property subject to certain setbacks. Establish standards for ice cream vehicles, which are separate and distinct from mobile food vendors.

- (a) Applicability. The Lee County Board of County Commissioners recognizes that mobile food vending is temporary and mobile in nature. These regulations are intended to define locations and provide standards to allow mobile food vendors to operate while mitigating impacts to the location in which they operate, as well as adjacent properties and rights-of-way. These regulations also address other food dispensing vehicles (i.e., vehicles serving a construction site and ice cream truck) which tend to temporarily vend for a period of minutes and not days or hours. Temporary mobile food vendors are not considered a “hawker” or “peddler” as provided for in Code of Ordinances Chapter 22, Article IV.

(b) General Standards. The following general standards apply to mobile food vendors:

- (1) It shall be a violation for any mobile food vendor to offer for retail sales, display or accessory advertising of any food or beverage product at any location except in compliance with the requirements of this section.
- (2) This section excludes a contractual or other private arrangement between a mobile food vendor and an individual or group that desires to have food or beverage catered at a specific time and location and which is not open to the public.
- (3) The mobile food vendor must maintain the valid license required under Section 509.241, Florida Statutes, and any other valid licenses and insurance required to operate a motor vehicle within the state. [Staff note: This section requires a mobile food vendor to obtain a state public food service establishment license and all other licenses required to operate a motor vehicle]
- (4) All mobile food vendors must have the name of the business clearly displayed on the conveyance.
- (5) A conveyance is limited to signs attached to its exterior. The signs:
  - a. Must be secured and mounted flat against the conveyance; and
  - b. Must not project more than six inches from the exterior of the conveyance.
- (6) Alcoholic beverages must not be sold or dispensed by a mobile food vendor. Consumption of alcoholic beverages by patrons of a mobile food vendor is prohibited except when a mobile food vendor is operating as an ancillary use to and on the same premises as an establishment with a valid approval for outdoor consumption on premises. [Staff note: This section is intended to allow mobile vendors to operate as an ancillary use to establishments with valid COP approvals such as

microbreweries or distilleries with ancillary tap/tasting rooms, or other similar uses.]

- (7) No tables, chairs or other furniture or equipment intended to provide accommodations for the patrons of a mobile food vendor may be placed in the public right-of-way.
- (8) Mobile food vendors must provide or have available a trash receptacle which is clearly marked with a sign requesting its use by patrons. The mobile food vendor must remove all generated waste and trash at the end of each day or more frequently if needed to maintain the public health, safety and welfare.
- (9) Liquid waste or grease must be disposed of at an approved location and may not be placed in tree pits, storm drains, or sanitary sewers, or onto sidewalks, streets or other public or private space. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the responsible mobile food vendor will be required to cease operation immediately and clean up the improperly disposed material to the satisfaction of the County. The responsible mobile food vendor may not resume operation until an alternate method of disposal has been approved.
- (10) Mobile food vendors must remove all vehicles, equipment, and other accessory items from the permitted site when vending is not taking place or during restricted hours of operation.
- (11) A mobile food vendor may not operate in areas designated on an approved local development order as a buffer or preserve area.
- (12) Electrical service, if required, must be provided by a portable generator or by a temporary connection to an existing point of service.
- (13) The stopping, standing, or parking of any mobile food vendor within any street right-of-way or easement in violation of stopping, standing or parking prohibitions or restrictions is prohibited.

- (14) A mobile food vendor may not conduct business within 20 feet of any fire lane, fire hydrant, fire alarm box or fire connection.
- (15) A mobile food vendor may not block access to a public facility such as a telephone booth, mail box, parking meter, traffic control box, driveway or other access point.
- (16) If the conveyance will operate between dusk and dawn, adequate lighting must be provided and the lighting must be directed to eliminate glare on any other use.
- (17) A permanent water or wastewater connection is prohibited.
- (18) Tents and tarps for the purposes of accommodating patrons are prohibited. All mobile food vending must be conducted from the conveyance.
- (19) All items related to the operation of conveyance must be kept either on or in the conveyance.
- (20) No more than two mobile food vendors may locate on an individual lot; [Staff Note: Many local jurisdictions limit the number of vendors permitted on a single property. Staff recommends establishing a maximum number of vendors so as to avoid the establishment of a *de facto* food truck park without the zoning and development order approvals. Staff is currently preparing draft LDC amendments to establish a new food truck park use.]

(c) Permitted locations. Mobile food vendors may be located on any lot or lots within:

- (1) Any conventionally-zoned Community Facilities, Commercial, Marine-Oriented, or Industrial zoning district;
- (2) Any agricultural zoning district provided that the mobile food vendor is associated with an agritourism activity (df);

- (3) Any common element of a conventionally-zoned Residential, Mobile Home, or Recreational Vehicle zoning district developed as a recreation facility or other similar amenity;
  - (4) Any portion of a Community Facilities, Commercial, Industrial, or Mixed Use Planned Development zoning district not designated for residential use on the approved master concept plan; or
  - (5) Any portion of a Residential, Commercial, or Mixed Use Planned Development zoning district designated on the approved master concept plan as a recreation facility or other similar amenity.
- (d) Prohibited locations. Mobile food vendors must not be located:
- (1) Within any street right-of-way or easement;
  - (2) Within any required preserve or landscape buffer;
  - (3) In a manner inconsistent with section 34-3131;
  - (4) Within 50 feet of a single-family residential lot unless separated and screened by a minimum six (6) foot high opaque wall; or
  - (5) On vacant, undeveloped property.
- (e) Minimum setbacks. Mobile food vendors must meet the following minimum setbacks:
- (1) 50 feet from the main entrance into any non-residential enterprise or from the boundary of any outdoor dining area;
  - (2) 20 feet from a street right-of-way or easement; and
  - (3) A minimum setback of ten feet from any internal drive or permitted curb cut, provided that the location is in conformance with section 34-3052(d)(3).
- (f) Ice cream vehicles.

- (1) Locations. An ice cream vehicle may operate within public rights-of-way and must stop as far to the right of the street as far as possible before serving customers, but may not stop or park within any open drainage conveyance.
- (2) Standards. The following standards shall apply:
  - a. Ice cream vehicles are allowed to operate between 9:00 a.m. and 9:00 p.m. in all zoning districts.
  - b. Ice cream vehicles are permitted to play music from the vehicle to draw the attention of customers; however, this music must be turned off anytime the ice cream vehicle is stopped serving customers.