

ORDINANCE NO. 17-004

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING CHAPTER 9, ARTICLE IV, "PEDDLERS, SOLICITORS AND CANVASSERS"; AMENDING DIVISION 1, **SEC. 9-76** MODIFYING DEFINITIONS AND **SEC. 9-79** MODIFYING PROHIBITED ACTS, AND; AMENDING DIVISION 2, **SEC. 9-91** MODIFYING PERMIT APPLICATION REQUIREMENTS AND REGULATIONS AND **SEC. 9-97** MODIFYING REQUESTS FOR VARIANCES AND; AMENDING DIVISION 3, **SEC. 9-111** MODIFYING GENERAL REGULATIONS, AND **SEC. 9-114** MODIFYING TENTS FOR SEASONAL SALE VENDORS; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ORDINANCES OR PARTS THEREOF IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinances of the City of Fort Pierce, Florida regulates the sale of goods and merchandise by persons operating as vendors or solicitors; and

WHEREAS, it has been determined that minor modifications are required to ensure that these services remain a benefit and do not become a burden on neighboring businesses and residents, the City of Fort Pierce, Florida shall provide such regulations as necessary; and

NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Fort Pierce, Florida:

SECTION 1. Chapter 9, Article IV, Division 1, Section 9-76 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended so that the same shall read thereafter as follows:

Sec. 9-76. - Definitions.

As used in this article:

Canvasser, vendor or *solicitor* is defined as any individual soliciting or traveling either by foot, or conveyance, from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed at said time or in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payments on such sales or not.

Commissary is a state approved facility that provides support services for specific required functions to any mobile food vendor, including but not limited to a mobile food vehicle or a mobile food cart. Services required of the commissary are based upon the food sold and the mobile food vendor type. A private residence may not be used as a commissary.

Forcible felony means treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, burglary, arson, kidnapping, aggravated assault, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing or discharging of a destructive device or bomb, and any other felony which involves the use of threat of physical force or violence against an individual. See F.S. § 776.08.

Itinerant retail produce vendor shall mean any person going from place to place who engages in a business, by selling or offering for sale to consumers, any seafood, peanuts, fruit, vegetables, or other garden produce, which are sold in their whole, natural and unaltered state.

Mobile food dispensing vehicle (MFDV) is classified as a vehicle-mounted public food service establishment, self-propelled or otherwise movable from place to place. Such vehicles must be self-sufficient for utilities (e.g., gas, water, electricity, and liquid waste disposal). Each MFDV is required to have a state approved commissary that they report to at least once a day. MFDVs may also be referred to as mobile food establishments.

- (a) *Hot dog carts* are MFDVs that limit food preparation to hotdogs and sausages only and the sale of limited pre-packaged food.
- (b) *Mobile food carts* are any non-motorized MFDV used to store, prepare, cook and/or serve food and beverages for immediate consumption.
- (c) *Ice cream vendors* are MFDVs that limit food sales to pre-packaged individually portioned frozen novelties, soft served or hand dipped frozen dairy products or frozen water based products.
- (d) *Lunch trucks* are MFDVs that are transient in nature and specifically authorized to cater to customers on private commercial or industrial property for a short period of time not to exceed sixty (60) minutes.
- (e) *Mobile food vehicles* are any motorized MFDV used to store, prepare, cook and/or serve food and beverages for immediate consumption.

Mobile merchant sales shall include any vendor selling non-food products.

Mobile merchant vehicle shall be any vehicle mounted establishment, which is self-propelled or otherwise movable from place to place, utilized for mobile merchant sales.

Place of business shall include any mixed use districts, industrial or commercial zoned off-street location, lot, or premises where any truck, wagon, automobile, trailer, cart, or vehicle is parked, with written permission from the property owner, wherein there shall be kept for sale, or to be offered for sale, any prepared food, beverages, fruit, vegetable, or garden produce.

Seasonal sales vendor shall mean outside vendors of products traditionally associated with seasonal sales or holidays.

SECTION 2. Chapter 9, Article IV, Division 1, Section 9-79 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended so that the same shall read thereafter as follows:

Sec. 9-79. - Prohibited acts.

- (a) It shall be unlawful for any person to enter upon any private premises without permission or invitation from the occupant or homeowner.
- (b) It shall be unlawful for any solicitor, canvasser or vendor to refuse or fail to leave any private premises in the city upon being requested by the owner, occupant or person in charge thereof.
- (c) No solicitor, canvasser or vendor shall enter in or upon any house, building or other structure or upon any land or property, without the prior consent of the owner or occupant thereof, where there is placed or posted on the premises in a conspicuous position at or near the usual means of ingress, a sign or other form of notice stating or indicating that the owner or occupant thereof forbids or otherwise does not desire persons engaged in such or similar activity to enter upon the premises.
- (d) No solicitor, canvasser or vendor shall conduct themselves or their business in an unlawful manner or in such manner as to constitute a breach of peace,

offensive to public decency or menace to the health, safety or general welfare of the public in violation of F.S. § 877.03.

- (e) No solicitor, canvasser or vendor shall cause a mobile food dispensing vehicle (MFDV) to remain on premises when no longer operating or when permit or vehicle registration has expired.

SECTION 3. Chapter 9, Article IV, Division 2, Section 9-91 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended so that the same shall read hereinafter as follows:

Sec. 9-91. - Application.

- (a) Applicants for permit under this article must file with the city clerk a sworn application in writing which shall give the following information:
 - (1) Name of the applicant.
 - (2) Permanent home address and valid telephone number of the applicant.
 - (3) A brief description of the nature of the business and the goods, food or beverages to be sold.
 - (4) E-mail address of the applicant.
 - (5) The address of the planned vending site, including the property owner's name and telephone number.
 - (6) For mobile food dispensing vehicles:
 - (i) Copy of current license from the State of Florida/Department of Business and Professional Regulations or Department of Agriculture; and
 - (ii) Copy of the vehicle or unit plans as submitted to the State of Florida/Department of Business and Professional Regulations or Department of Agriculture.
 - (iii) Copy of the notarized commissary agreement as submitted to the State of Florida/Department of Business and Professional Regulations or Department of Agriculture.
 - (7) For mobile merchant sales:
 - (i) Submit a plan of the proposed vehicle or unit.
 - a. The plan does not need to be drawn by a professional, but must be to scale and clear for review.
 - b. The plan should show both a top view and front view of the vehicle or unit.
 - c. The plan should include, but is not limited to, all equipment, shelving, windows, wheels, umbrellas, or awnings.
 - (8) Copy of a valid vehicle registration for any motorized unit.
 - (9) For use of any private mixed use district, industrial or commercial property, a limited site plan must be submitted.
 - (i) The plan does not need to be drawn by a professional, but must be to scale and clear for review. A general survey or sketch will be

acceptable. For large properties, only a drawing of the immediate area is required.

- (ii) The plan must show all existing structures or significant features.
 - (iii) Diagram of all available parking, identifying both required parking and additional parking spaces and proposed location of unit.
 - (iv) Identify appropriate set-backs for accessory structures.
 - (v) A notarized affidavit of permission to vend from the property owner, if different from the applicant.
- (10) For door-to-door solicitors or vendors:
- (i) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
 - (ii) The length of time for which the right to do business is desired.
 - (iii) Minors conducting home solicitation sales under the supervision of an adult, or solicitors, salespersons, or agents making calls or soliciting orders on behalf of a religious, charitable, scientific, educational, or veterans' institution or other non-profit organization are exempt from this section.
- (11) A photograph of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be two-inches by two-inches showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (12) Photographs of the vehicle or unit, showing front, side and back views.
- (13) A sworn affidavit as to whether or not the applicant has been convicted of any felony and the nature of the offense.
- (14) Proof of general liability insurance, such proof in a form acceptable to the city, issued by an insurance company that is licensed to do business in the State of Florida, protecting the applicant from all claims for damages to property or bodily injury, including death, which may arise from operations under or in connection with mobile vending.
- (15) For all motorized mobile vending units, proof of auto liability insurance, such proof in a form acceptable to the city, issued by an insurance company that is licensed to do business in the State of Florida, protecting the applicant from all claims for damages to property or bodily injury, which may arise from the use of a motor vehicle in connection with mobile vending and shall be in an amount no less than \$500,000.00 per occurrence.
- (16) Any permit application and/or review fee that may be assessed by resolution of the city commission.

SECTION 4. Chapter 9, Article IV, Division 2, Section 9-97 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended so that the same shall read thereafter as follows:

Sec. 9-97. - Request forwaiver.

Any person who wishes to obtain a mobile vending permit that does not comply with subsection 9-111(b) of this article must petition the city commission for a waiver.

- (a) Application for a waiver shall be made by the owner of the property and applicant where the waiver is requested by filing an application on a form prescribed by the city and submitted to the city clerk's office.
- (b) The applicant is responsible for submitting the waiver request fee, which shall be set by resolution as well as all advertising costs.
- (c) The city commission shall hold a public hearing prior to acting on the waiver request.
- (d) Before consideration of a request for waiver by the city commission, public notice shall be given as follows:
 - 1) At least fifteen (15) days prior to public hearing, notice thereof shall be given in a newspaper having general circulation in the city.
 - 2) Notice by mail. Before a public hearing required by this chapter takes place for a waiver, notice by mail shall be given to each owner of the property located, or having any part thereof, situate within five hundred (500) feet of any point of the property for which the request has been made and to the owner of the property for which the request has been made.
 - 3) All notices by mail shall contain the legal description of the affected property, an indication of the nature of the request, and time and place of any public hearing which has been scheduled concerning the request.
- (e) In permitting a waiver, the city commission may impose, in addition to those standards and requirements expressly specified in this chapter, any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.

SECTION 5. Chapter 9, Article IV, Division 3, Section 9-111 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended so that the same shall read thereafter as follows:

Sec. 9-111. - General regulations.

- (a) The telephone number included on the permit application must remain valid and active at all times. The vendor is responsible for notifying the city of any changes to their contact information.

- (b) Mobile vending units must comply with the following minimum distance requirements, which shall be measured from the approved vending location to the nearest point of an established property line:
 - (1) Five hundred (500) feet from a similar type business.
 - (2) Three hundred (300) feet from a school, church, or any city or county park.
 - (3) One thousand (1,000) feet from an approved special event.
- (c) May not block the ingress/egress to any property, sidewalk or street.
- (d) May not block or impede pedestrian or vehicular traffic.
- (e) May only operate at the approved location, clearly identified on the permit.
- (f) May have one advertisement sign with a maximum size of sixteen (16) square feet. Such sign may not be free standing, illuminating, moving, flashing or utilizing neon color typically reserved for emergency services. Such restriction to be separate from any business name, decal or logo professionally installed on any motorized MFDV.
- (g) May have one menu sign with a maximum size of nine (9) square feet.
- (h) No amplified sounds, music or other loud noises, except as provided for in section 9-113, ice cream vendors.
- (i) A trash receptacle must be provided and must be removed by the operator daily. Trash may not be placed within public street side trash receptacles.
- (j) Mobile vendors are responsible for picking up all litter and waste within twenty-five (25) feet of their unit.
- (k) No wastewater leakage or any other leakage is allowed.
- (l) A single umbrella is permitted provided it is maintained in good condition and does not impede traffic or block clear vision areas.
- (m) It shall be unlawful to place any chair, table, box, crate, stand, counter or shelving independent from the approved mobile vending unit.

SECTION 6. Chapter 9, Article IV, Division 3, Section 9-114 of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended so that the same shall read hereinafter as follows:

Sec. 9-114. - Seasonal sale vendors.

The rules of this section shall apply to each person lawfully permitted as a seasonal sales vendor.

- (a) Every person who engages in the business of seasonal sales within the corporate limits of the city, before engaging in such business, shall apply

for and obtain a mobile vending permit from the city pursuant to division 2 of this article.

- (b) Tents or canopies larger than 900 square feet or as required under Sec. 5-3 of the Code of Ordinances are prohibited unless a supplemental tent permit is obtained. Application for such permit shall be made with the building department. A sketch of the property showing the location of the tent or canopy on the property and a certificate of flame resistance shall be required to be submitted with the application.
- (c) Seasonal sales permits will be issued no sooner than thirty (30) days prior to the associated holiday and shall expire seven (7) days following the holiday.

SECTION 7. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 8. All Ordinances or parts of Ordinances in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.

SECTION 9. This Ordinance is and the same shall become effective immediately upon final passage hereof.

APPROVED AS TO FORM
AND CORRECTNESS:

James M. Messer
City Attorney

STATE OF FLORIDA)
ST. LUCIE COUNTY)^{SS}

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 17-004 was duly advertised by title only in the St. Lucie News Tribune on January 27, 2017; copy of said ordinance was made available at the office of the City Clerk to the public upon request; said ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on February 6, 2017; and was duly introduced, read by title only, and passed on second and final reading on February 21, 2017, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this the 21st day of February, 2017.

Linda Hudson,
Mayor Commissioner

Linda W. Cox,
City Clerk

(CITY SEAL)