

## ORDINANCE NO. 21-021

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 22, ARTICLE VIII, "VENDORS, SOLICITORS AND CANVASSERS", SECTIONS 22-358 THROUGH 22-440 DELETING ALL REFERENCES AND REQUIREMENTS FOR AN APPLICATION, PERMIT OR A FEE; CLARIFYING GENERAL REGULATIONS; 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 currently regulates the sale of goods and merchandise by persons operating as vendors or solicitors; and

**WHEREAS**, Florida Statute 509.102 preempts the city's ability to require a permit or fee for operation of mobile food dispensing vehicles within the City.

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

**SECTION 1.** Chapter 22, Article VIII VENDORS, SOLICITORS AND CANVASSERS of the Code of Ordinances of the City of Fort Pierce, Florida, is hereby amended so that the same shall read hereinafter as follows:

### ~~DIVISION 1. GENERALLY~~

#### **Sec. 22-358. 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:

~~Canvasser, vendor or solicitor means 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.~~ any person who sells or offers for sale within the City any goods or chattels of any kind or description by going from house to house or from place to place through the streets of the City, taking such goods or chattels with him or her, or any person who sells such goods or chattels by subscription or by taking orders for future

delivery of the same. This definition shall not apply to any minor under the age of eighteen years.

~~*Commissary* means 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 or threat of physical force or violence against an individual. See F.S. § 776.08.~~

~~*Itinerant retail produce vendor* means 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)* means 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, including, but not limited to, gas, water, electricity, or liquid waste disposal. 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.~~

~~*Hot dog carts* mean MFDVs that limit food preparation to hotdogs and sausages only and the sale of limited pre-packaged food.~~

~~*Ice cream vendors* mean 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.~~

~~*Lunch trucks* mean 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 60 minutes.~~

~~*Mobile food carts* mean any non-motorized MFDV used to store, prepare, cook and/or serve food and beverages for immediate consumption.~~

~~*Mobile food vehicles* mean any motorized MFDV used to store, prepare, cook and/or serve food and beverages for immediate consumption.~~

~~*Mobile merchant sales* mean and include any vendor selling non-food products.~~

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

~~*Mobile vendor* means a person who peddles, vends, sells, displays or offers for sale goods, wares or merchandise, seafood, produce, prepared food, packaged food or~~

beverages out of a motor vehicle, cart, trailer, tent, table, or other temporary structure that is capable of being set up and taken down in one day and is readily moveable.

Mobile vending unit means any motor vehicle, MFDV, cart, trailer, tent, table, or other temporary structure utilized by a mobile vendor for the purpose of mobile vending.

~~Place of business means and includes 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 means outside vendors of products traditionally associated with seasonal sales or holidays.~~

~~(Code 1983, § 9-76; Ord. No. 14-019, § 1, 9-15-2014 ; Ord. No. 17-004 , § 1, 2-21-2017)~~

### **Sec. 22-359. Penalties.**

- (a) Unless otherwise stated, violations of this article are class II violations as defined in section 1-106 and shall be addressed as provided for in Chapter 1, Article II, Division 3.
- ~~(b) Permits issued under the provisions of this article may be revoked by the city clerk after notice for any of the following causes:
  - ~~(1) Fraud, misrepresentation or false statement contained in the application for permit;~~
  - ~~(2) Fraud, misrepresentation or false statement made in the course or conduct of a business or activities for which the city has issued a permit under this article;~~
  - ~~(3) Two or more violations of this article;~~
  - ~~(4) Operating outside vending locations approved under the permit issued;~~
  - ~~(5) Conducting the business of soliciting, canvassing or vending 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; or~~
  - ~~(6) Failure to comply with any conditions included in the permit.~~~~

~~(Code 1983, § 9-95; Ord. No. 14-019, § 1, 9-15-2014 )~~

### **Sec. 22-360. Duty to enforce.**

It shall be the duty of any police officer or code enforcement officer of the city to enforce the provisions of this article against any person found to be violating the same.

(Code 1983, § 9-77; Ord. No. 14-019, § 1, 9-15-2014 )

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**Sec. 22-361. Records.**

All violations of this article shall be reported to the code compliance division, which shall maintain a record for each permit issued and record the reports of violations therein. (Code 1983, § 9-78; Ord. No. 14-019, § 1, 9-15-2014.)

**Secs. 22-362—22-417. Reserved.**

*DIVISION 2. PERMIT*

**Sec. 22-381. Permit.**

- (a) It shall be unlawful for any person to sell or attempt to sell any commodity by means of vending such commodity upon any street, sidewalk, public right-of-way or private property in the city, without first securing a permit and paying the annual permit fee, such fee to be set by resolution of the city commission. Such fees and the maximum number of permits for commercial zoned districts to be set by resolution of the city commission.
  - (b) Permits shall be for a term of 12 months, beginning on October 1 and expiring on September 30 of the following year.
  - (c) Existing businesses, otherwise in compliance with all state and local code, are eligible for a single reduced fee vendor permit, to be utilized in the same name as it currently operates under.
  - (d) Violations of this section shall be a Class III violation.
- (Code 1983, § 9-80; Ord. No. 14-019, § 1, 9-15-2014.)

**Sec. 22-382. Application.**

Applicants for permit required 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:
  - a. Copy of current license from the state department of business and professional regulation or department of agriculture.

- ~~b. Copy of the vehicle or unit plans as submitted to the state department of business and professional regulation or department of agriculture.~~
  - ~~c. Copy of the notarized commissary agreement as submitted to the state department of business and professional regulation or department of agriculture.~~
- ~~(7) For mobile merchant sales, 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.~~
  - ~~a. 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.~~
  - ~~b. The plan must show all existing structures or significant features.~~
  - ~~c. Diagram of all available parking, identifying both required parking and additional parking spaces and proposed location of unit.~~
  - ~~d. Identify appropriate setbacks for accessory structures.~~
  - ~~e. A notarized affidavit of permission to vend from the property owner, if different from the applicant.~~
- ~~(10) For door-to-door solicitors or vendors:~~
  - ~~a. If employed, the name and address of the employer, together with credentials establishing the exact relationship.~~
  - ~~b. The length of time for which the right to do business is desired.~~
  - ~~c. 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 nonprofit organization are exempt from this section.~~
- ~~(11) A photograph of the applicant, taken within 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, 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, 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.~~

~~(Code 1983, § 9-91; Ord. No. 14-019, § 1, 9-15-2014 ; Ord. No. 17-004 , § 2, 2-21-2017)~~

### **Sec. 22-383. Issuance.**

~~(a) The city clerk may revoke, suspend, or deny the issuance of any vendor's permit if it is determined that an applicant has:~~

~~(1) Been convicted of a felony within two years prior to the date of application.~~

~~(2) Has ever been convicted of a "forcible felony," child abuse or any sexual offense.~~

~~(3) Has been placed on the state's sexual offenders or sexual predators lists.~~

~~(4) Has obtained a permit by fraud, false statement, misrepresentation, or failure to truthfully answer any question in the required permit application.~~

~~(5) Has failed to obtain required approvals from the state or obtain a city business tax receipt.~~

~~(6) Has failed in any material respect to comply with the provision of section 22-382.~~

~~(b) Not later than 30 days after the filing of a completed application for a vendor's license, the applicant shall be notified by the city clerk's office of the decision on the issuance or denial of the license. If the issuance of the license is approved, the city clerk shall issue the license. If the license is denied, the applicant shall be provided with a statement of the reasons therefor, which reasons shall be entered in writing on the application. Failure of the city clerk to place notification of said decision in the mail or personally notify the applicant with acknowledgment shall require immediate issuance of the requested license to the applicant.~~

~~(Code 1983, § 9-92; Ord. No. 14-019, § 1, 9-15-2014)~~

### **Sec. 22-384. Fees.**

~~(a) All fees required for permit application review and the annual permit fee shall be established by resolution by the city commission.~~

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~~(b) Permit fees collected under this article are fees paid for the purpose of defraying the cost of administration of this article and are declared to be regulatory fees in addition to and not in lieu of the business tax receipt imposed by section 22-19. The payment of a permit fee under this article shall not relieve any person of liability for and the responsibility of paying a business tax where it is required by section 22-19 and for doing such acts and providing such information as may be required by this article.~~

~~(Code 1983, § 9-93; Ord. No. 14-019, § 1, 9-15-2014.)~~

#### **Sec. 22-385. Exhibition of permit.**

~~Approved vendors of food or merchandise are required to exhibit their permits at all times in a prominent location, no lower than 40 inches and no higher than 65 inches above the ground. Approved canvassers or solicitors must show their permit upon the request of any person being solicited or by any representative of the city.~~

~~(Code 1983, § 9-94; Ord. No. 14-019, § 1, 9-15-2014.)~~

#### **Sec. 22-386. Appeal.**

~~Any person aggrieved by the denial or revocation of a permit as provided in this article shall have the right to appeal to the city manager. Such appeal shall be taken by filing with the city manager's office, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth specifically the ground of the appeal. The city manager shall set a date and the time and place of hearing of such appeal. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing. The decision and order of the city manager on such appeal shall be final and conclusive.~~

~~(Code 1983, § 9-96; Ord. No. 14-019, § 1, 9-15-2014.)~~

#### **Sec. 22-387. Request for waiver.**

~~Any person who wishes to obtain a mobile vending permit that does not comply with section 22-418 must petition the city commission for a waiver.~~

- ~~(1) 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.~~
- ~~(2) The applicant is responsible for submitting the waiver request fee, which shall be set by resolution as well as all advertising costs.~~
- ~~(3) The city commission shall hold a public hearing prior to acting on the waiver request.~~
- ~~(4) Before consideration of a request for waiver by the city commission, public notice shall be given as follows:
  - ~~a. At least 15 days prior to public hearing, notice thereof shall be given in a newspaper having general circulation in the city.~~~~

- ~~b. Notice by mail. Before a public hearing required by this article takes place for a waiver, notice by mail shall be given to each owner of the property located, or having any part thereof situated within 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.~~
- ~~c. 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.~~
- ~~(5) In permitting a waiver, the city commission may impose, in addition to those standards and requirements expressly specified in this article, any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.~~

~~(Code 1983, § 9-97; Ord. No. 14-019, § 1, 9-15-2014 ; Ord. No. 17-004, § 3, 2-21-2017)~~

**~~Secs. 22-388—22-417. Reserved.~~**

**~~DIVISION 3.—MOBILE VENDING~~**

**~~Sec. 22-361 418. 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 a) Mobile vending units must comply with the following minimum distance requirements, unless participating with permission by the organizer of a special event, which shall be measured from the approved vending location to the nearest point of an established property line:~~
  - ~~(1) 300 feet from a school, church, or any city or county park.~~
  - ~~(2) 1,000 feet from an approved special event.~~
- ~~(c b) Mobile vending units must comply with the following requirements:~~
  - ~~(1) May not block the ingress/egress to any property, sidewalk or street.~~
  - ~~(2) May not block or impede pedestrian or vehicular traffic.~~
  - ~~(3) May not be located in or on city property, city park, city right-of-way or public street.~~
  - ~~(3) May only operate at the approved location, clearly identified on the permit.~~
  - ~~(4) May have one menu sign with a maximum size of nine square feet.~~
  - ~~(5) No amplified sounds, music or other loud noises, except as provided for in section 22-420-323, ice cream vendors.~~
  - ~~(6) 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.~~

- (7) Mobile vendors are responsible for picking up all litter and waste within 25 feet of their unit.
- (8) No wastewater leakage or any other leakage is allowed.
- (9) A single umbrella is permitted provided it is maintained in good condition and does not impede traffic or block clear vision areas.
- (10) No mobile vending unit shall remain ~~at approved location~~ at the same location for more than three consecutive days.
- ~~(11) A temporary use permit, pursuant to section 125-320, shall not be required if a vendor permit under this article is issued.~~
- (11) Display a copy of a current license issued pursuant to section 509.241, Florida Statutes, if applicable.
- (12) Tents or canopies larger than 900 square feet or as required under section 103-2 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.
- (13) All vending must occur on properties with a mixed use, commercial or industrial zoning classification.

(Code 1983, § 9-111; Ord. No. 14-019, § 1, 9-15-2014 ; Ord. No. 17-004 , § 4, 2-21-2017; Ord. No. 19-042 , § 1, 10-21-2019)

**Sec. 22-~~362~~ 419. Itinerant retail produce vendor.**

- ~~(a) Every person who engages in the business of an itinerant retail produce vendor 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 this division.~~
- (b a) A business tax receipt is not required for itinerant retail produce vendors.
- (e b) All products and produce offered for sale under this article must be clean, wholesome and in good sanitary condition and their state and condition shall comply with the pure food laws of the state.
- (d c) Itinerant retail produce vendors are permitted to vend from any truck, wagon, automobile, trailer or other vehicle provided that the vehicle is properly registered with the state. ~~A copy of such registration shall be submitted with the permit application.~~
- (e d) All other regulations as outlined in section 22-418 shall apply.

(Code 1983, § 9-112; Ord. No. 14-019, § 1, 9-15-2014 )

**Sec. 22-363 420. Ice cream vendors.**

- (a) *General.* The rules in this section shall apply to ~~each person lawfully permitted as~~ an ice cream vendors.
- (b) *Prohibited sales.* It shall be unlawful for any ice cream vendor to sell or attempt to sell any commodity:
  - (1) By means of any outcry, sound, speaker or amplifier, or any instrument or device which can be heard for a distance greater than 300 feet, or when passing a hospital, church or other place of worship during the hours when services are being held.
  - (2) Within 500 feet of any school during the school year.
- (c) *Noise—Vehicle stopped.* It shall be unlawful for any such vendor to use, play or employ the use of any sound, outcry, amplifier, loudspeaker, radio, phonograph with a loudspeaker or amplifier or any other instrument or device when the vehicle such vendor is using is stopped for the purpose of making a sale.
- (d) *Noise—Hours.* The use by the vendor of any such noise, instrument or device which emits a loud sound shall be prohibited before the hours of 9:00 a.m. on weekdays and 1:00 p.m. on Sundays, or after 7:00 p.m. on any day.
- (e) *Traffic.* It shall be unlawful for any vendor to:
  - (1) Exceed a speed of 15 miles an hour when cruising neighborhoods seeking sales or when attempting to make a sale.
  - (2) Stop anywhere within 25 feet of an intersection when making a sale or attempting to make a sale.
  - (3) Double-park, or park in any manner contrary to any ordinance relating to parking, when attempting a sale or when making a sale.
  - (4) Make a U-turn on any block in a residential zone.
  - (5) Drive his vehicle backwards to make or attempt to make a sale.
  - (6) Sell to any person who is standing in the street.
  - (7) Permit any person to hang on the vehicle or permit any person to ride in or on the vehicle except a bona fide assistant.
  - (8) Remain standing or stopped at any place for a period of time exceeding five minutes.
  - (9) Sell or attempt to sell along any particular route more than one time during a 24-hour period.

(Code 1983, § 9-113; Ord. No. 14-019, § 1, 9-15-2014 )

**Sec. 22-421. Seasonal sale vendors.**

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

- ~~(1) 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 this division.~~
- ~~(2) Tents or canopies larger than 900 square feet or as required under section 103-2 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.~~
- ~~(3) Seasonal sales permits will be issued no sooner than 30 days prior to the associated holiday and shall expire seven days following the holiday.~~

~~(Code 1983, § 9-114; Ord. No. 14-019, § 1, 9-15-2014 ; Ord. No. 17-004 , § 5, 2-21-2017)~~

**Secs. ~~22-4212~~—22-440. Reserved.**

**SECTION 2.** 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 3.** 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 4.** This Ordinance is and the same shall become effective immediately upon final passage hereof.

APPROVED AS TO FORM  
AND CORRECTNESS:

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Peter J. Sweeney  
City Attorney

STATE OF FLORIDA)  
ST. LUCIE COUNTY)<sup>SS</sup>

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. 21-021 was duly advertised by title only in the St. Lucie News Tribune on June 26, 2021; 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 July 7, 2021; and was duly introduced, read by title only, and passed on second and final reading on July 19, 2021, 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 19<sup>th</sup> day of July, 2021.

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Linda Hudson,  
Mayor Commissioner

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Linda W. Cox,  
City Clerk

(CITY SEAL)