

#23

ORDINANCE NO. 2013-12

AN ORDINANCE OF THE CITY OF FLAGLER BEACH, FLORIDA, AMENDING CHAPTER 16, "SALES," CREATING ARTICLE VIII "MOBILE VENDING" IN THE CITY OF FLAGLER BEACH CODE OF ORDINANCES; PROHIBITTING MOBILE FOOD SERVICE OPERATIONS AND MOBILE SALES OPERATIONS EXCEPT WHEN SUCH ACTIVITIES ARE CONDUCTED AT A PERMITTED SPECIAL EVENT; PROVIDING DEFINITIONS; PROVIDING FOR REGULATIONS OF MOBILE FOOD SERVICE OPERATIONS AND MOBILE SALES OPERATIONS CONDUCTED AT PERMITTED SPECIAL EVENTS; PROVIDING FOR DEFINITIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND REPEAL OF CONFLICTING ORDINANCES, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City Commission of Flagler Beach hereby finds that mobile food service operations and mobile sales operations present unique challenges; and

WHEREAS, the City Commission finds that mobile food service operations and mobile sales operations that park or stop on or adjacent to rights-of-way, can create threats to vehicular and pedestrian safety; and

WHEREAS, the City Commission finds that mobile food service operations and mobile sales operations that utilize private property can create disruptions to traffic and parking; and

WHEREAS, the City Commission finds that by limiting mobile food service operations and mobile sales operations to special events that have been approved as provided in the Code of Ordinances, the City can most effectively address the unique challenges presented by such operations and best protect the public health, safety and welfare.

(NOTE: underline text denotes additions, ~~strikethrough~~ text denotes deletions and asterisks "* * *" denote sections of the existing Ordinance which remain unaltered and not reprinted herein).

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

SECTION 1. Legislative findings and intent. The findings set forth in the recitals above are hereby adopted as legislative findings pertaining to this Ordinance.

SECTION 2. Chapter 16, "Sales", Article VIII, "Mobile Vendors" is hereby created as follows:

Sec. 19-21. Definitions.

47 For the purposes of this article, the following terms, phrases, words, and their derivations
48 shall have the meanings given in this section. When not inconsistent with the context, words
49 used in the present tense include the future, words in the plural number include the singular
50 number, and words in the singular number include the plural number. The word "shall" is always
51 mandatory and not merely directory.

52
53 Mobile Food Service Operation shall mean the preparation/cooking, serving and/or sale
54 of food conducted from a portable stand, vehicle or trailer; provided, however, that vehicles
55 solely making deliveries shall not be included in this definition. Each such stand, vehicle or
56 trailer shall be considered a mobile food service operation.

57
58 Mobile Sales Operation shall mean the sales of products, that are conducted from a
59 portable stand, vehicle or trailer; provided, however, that vehicles solely making deliveries shall
60 not be included in this definition. Each such portable stand, vehicle or trailer shall be considered
61 a mobile sales operation.

62
63 Mobile Operations shall mean mobile food service operations and mobile sales
64 operations, collectively.

65
66 Sec. 19-22. Mobile Operations.

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68 (a) Mobile sales operations and mobile food service operations, collectively
69 described as mobile operations under this chapter shall be prohibited unless such
70 mobile operations are conducted at a special event for which a special event
71 permit has been issued by the City of Flagler Beach pursuant to Chapter 4, Article
72 III of the Code of Ordinances. All mobile sales operations conducted at special
73 events shall be subject to following regulations:

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75 (1) Mobile operations may only be conducted from 7:00 a.m. to 9:00
76 p.m.

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78 (2) Mobile operations shall not be located in any driveway aisles, no-
79 parking zones, landscaped area, loading areas, or parking lanes, nor may
80 mobile operations impede the on-site circulation of motor vehicles.

81
82 (3) The utilization of any off-street parking spaces for the operation of
83 a mobile operation must not cause the site to become deficient in the
84 number of required off-street parking spaces.

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86 (4) Alcoholic beverage sales and use of sound amplification devices
87 are prohibited.

88
89 (b) The City of Flagler Beach may enforce the provisions of this article through
90 any legal means including prosecuting violations of this article pursuant to F.S.
91 Ch. 162, issuance of civil citations, or instituting legal action.
92

SECTION 3. Codification. It is the intent of the City Commission of the City of Flagler Beach that the provisions of this Ordinance shall be codified. The codifier is granted broad and liberal authority in codifying the provisions of this Ordinance and renumbering subsections consistent with this Ordinance.

SECTION 4. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by a Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION 5. Repeal of conflicting ordinances. In any case where a provision of this Ordinance is found to be in conflict with provisions of any other ordinance of this City, the conflicting provisions of the previous ordinance shall be repealed by this Ordinance.

SECTION 6. Effective date. This Ordinance shall take effect immediately upon adoption as provided by the Charter of the City of Flagler Beach.

PASSED ON FIRST READING THIS _____ DAY OF _____, 2013.
PASSED AND ADOPTED THIS _____ DAY OF _____, 2013.

CITY OF FLAGLER BEACH, FLORIDA
CITY COMMISSION

Linda Provencher, Mayor

ATTEST:

Penny Overstreet, City Clerk