

Requested by: City Manager's Office
Prepared by: City Manager's Office and City Clerk

ORDINANCE NO. 2021-30

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING THE CODE OF ORDINANCES CHAPTER 86, LAND DEVELOPMENT CODE, ARTICLE V, USE REGULATIONS, DIVISION 9, SPECIFIC USE REGULATIONS, BY ADDING SECTION 86-158, MOBILE FOOD VENDOR; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE

WHEREAS, provisions of standards for safe placement, movement and presence of mobile food vending vehicles on the City's public roadways, public corridors, other public spaces and on private property, is an essential responsibility of the City; and

WHEREAS, the establishment of rules for the movement, placement and operation of mobile food vendors on public and private spaces is within the regulatory authority of the City; and

WHEREAS, the operation of mobile food vending business in public right-of-way and on private property may create public safety risks to vehicle operators, mobile vendor patrons and pedestrians; and

WHEREAS, the City seeks to amend the Code of Ordinances to establish specific criteria for mobile food vending operations.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA as follows:

SECTION 1. The above whereas clauses are ratified and confirmed as true and correct.

SECTION 2. Chapter 86, Land Development Code, Article V, Use Regulations, Division 9, Specific Use Regulations, is hereby amended as follows:

DIVISION 9. SPECIFIC USE REGULATIONS

Sec. 86-158. Mobile food vendor.

(a) Definitions. When used in this section, the following terms and phrases shall have meanings ascribed to them in this section, except when the context clearly indicates a different meaning:

a. Ice cream truck. A motorized vehicle or vehicle-mounted trailer from which only prepackaged, individually portioned frozen novelties or desserts, such as ice

cream sandwiches, frozen yogurt bars, popsicles, or other frozen dessert products defined in F.S. § 502.012, are sold.

b. Mobile food vendor. Any vehicle that is a public food service establishment 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, and is licensed by the State of Florida. A mobile food vendor includes an ice cream truck.

(b) Applicability. It is a violation of this Code for a mobile food vendor to sell any product at any location or in any manner that is not in compliance with the requirements of this section and the requirements of state law. The provisions of this section shall not apply to a mobile food vendor operating pursuant to a special event permit or temporary use permit.

(c) Permit. No permit is required for an ice cream truck or mobile food vendor that operates within the city in compliance with the requirements of this section and the requirements of state law.

(d) Location. A mobile food vendor is authorized to operate in the following locations:

a. City-owned property.

i. Location. A mobile food vendor may operate within designated portions of certain city-owned property on a first come, first served basis. A description of city-owned property authorized for use by mobile food vendors shall be maintained by the city manager's office. The operation of a mobile food vendor on or within all other city-owned property is prohibited absent a special event permit or temporary use permit.

ii. Conflict. A mobile food vendor may not operate at any location designated for the use of mobile food vendors where:

1. The city manager or designee determines that a conflict exists between a mobile food vendor's operation and an existing license, contractual obligation, or any other public health or safety concern, including, but not limited to, a special event or facility rental.

2. The county operates or maintains a park for the city, without the mobile food vendor first obtaining approval of the county.

b. Private property.

i. Permission. Other than as permitted by subsection v., below, a mobile food vendor may operate on private property located within only the following zoning districts and with the written permission of the property owner(s).

Evidence of a property owner's written permission must be available for inspection by the city upon request while the mobile food vendor is operating.

1. Commercial, General (CG)
2. Commercial, Intensive (CI)
3. Commercial, Highway Interchange (CHI)
4. Commercial, Neighborhood (CN)
5. Office, Professional & Institutional (OPI)
6. Commercial, Mixed Use (CMU)
7. Commercial, Shopping Center (CSC)
8. Office, Medical & Institutional (OMI)
9. Planned Industrial Development (PID)
10. Planned Commercial Development (PCD)
11. Industrial, Light & Warehousing (ILW)
12. Planned Unit Development (PUD)

- ii. Setback requirement. When operating on private property, a mobile food vendor may operate only if set back at least 150 feet from any exclusively residential structure, unless the owner(s) of the residential structure provides the mobile food vendor with express written permission to operate. The 150 feet setback requirement is reduced to 50 feet where an intervening nonresidential building, such as a commercial building, screens the operation from the direct view of the single-family residential structure.
- iii. Maximum number of mobile food vendors. No more than two mobile food vendors shall operate on any private property at any one time, except as may be allowed by a city-issued special event permit or temporary use permit. Mobile food vendors cannot utilize parking spaces that are required parking spaces for a business. Mobile food vendors shall maintain a minimum of ten feet separation from other mobile food vendors, buildings, and vehicles.
- iv. Principal structure requirement. Except as otherwise provided by this section, a mobile food vendor may only operate on a lot that has a principal structure. However, operating on a vacant lot is permitted where the vacant lot is under

the same ownership as, and is abutting, a lot that has a principal structure. Lots located across a public right-of-way shall not be considered abutting.

- v. Construction areas. A mobile food vendor may operate on private property that has an active building permit(s) for the development of a commercial or multi-family project only with approval of the property owner or developer. A mobile food vendor may also operate on private property that has an active building permit(s) for a single-family subdivision until the first certificate of occupancy is issued. Each phase of single-family subdivision shall be treated as a separate project.
- (e) Stationary location requirement. A mobile food vendor must operate from a stationary location but may operate from multiple locations throughout the day, except as otherwise permitted in this article. An ice cream truck may operate as a moving vendor but only along a roadway defined as a local road in the transportation element of the Venice Comprehensive Plan.
- (f) Access. A mobile food vendor shall not operate or park in any location that impedes, endangers, or interferes with pedestrian or vehicular traffic or endangers customers, including failure to meet sight distance and visibility requirements and mobile food vendor customers standing in roadways.
- (g) Operation.

 - a. Hours. A mobile food vendor may only operate during the posted operating/business hours of the park or on-site office, business, or construction, or between the hours of 9:00 a.m. and 10:00 p.m. if no such activity is on-site. Operating hours includes time required for setup and breakdown of the mobile food vending operations. A mobile food vendor shall not be permitted to remain at the operating location overnight or otherwise outside of operating hours.
 - b. Items authorized for sale. A mobile food vendor is only permitted to sell food and beverages.
 - c. Noise requirements. Amplified music or other sounds from a mobile food vendor shall comply with the noise control standards in chapter 34 of this Code.
 - d. State license. At any time during operation, upon request, a mobile food vendor must provide the city a valid state license issued pursuant to F.S. § 509.241.
 - e. Florida Fire Prevention Code. Compliance with NFPA 1 Mobile and Temporary Cooking Operations is required.
- (h) Placement of items.

- a. Except as provided herein, the placement or storage of any item related to a mobile food vendor's business is prohibited from being on the street, sidewalk, or ground immediately surrounding an operating mobile food vendor. The following items may be placed in the immediate area of operation as long as they do not impede, endanger, or interfere with pedestrian or vehicular traffic:
 - i. Two trash receptacles;
 - ii. One recycling receptacle; and
 - iii. One menu board no larger than 30 inches by 50 inches in height. "A frame" type signs are allowed, and must be situated in close proximity to the truck no more than ten feet away.
- b. A mobile food vendor must provide receptacles for trash and recycling. The area immediately surrounding an operating mobile food vendor shall be kept neat and orderly at all times and all garbage, trash, and recyclables shall be removed prior to departure of the mobile food vendor.
- c. Mobile food vendors are responsible for the proper disposal of all waste generated on-site. No grease, waste, trash, or other by-product from a mobile food vendor's business may be deposited or released onto city-owned property, including, but not limited to, the streets, sidewalk, into the gutter or storm drainage system, or other public place.
- d. Limitations on sales. The sale of alcoholic beverages is prohibited unless authorized by a special event permit.

(i) Insurance.

At all times, a mobile food vendor must maintain all insurance policies required by local, state, and federal laws and regulations.

SECTION 3. This Ordinance shall become effective immediately upon its approval and adoption, as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA THIS 28TH DAY OF SEPTEMBER 2021.

First Reading: September 14, 2021

Final Reading: September 28, 2021

Adoption: September 28, 2021

Ron Feinsod, Mayor

ATTEST:

Lori Stelzer, MMC, City Clerk

I, Lori Stelzer, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the Venice City Council, at a meeting thereof duly convened and held on the 28th day of September, 2021, a quorum being present.

WITNESS my hand and the official seal of said City this 28th day of September, 2021

Lori Stelzer, MMC, City Clerk

Approved as to form:

Kelly Fernandez, City Attorney