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MEMORANDUM

TO: **George D. Forbes, City Manager**

FROM: **Steven G. Lindorff, Director of Planning & Development**

SUBJECT: **Mobile Food Vending Regulations**

DATE: **November 12, 2013**

Beginning in the Summer of 2011, the Planning & Development began studying how other cities were dealing with the burgeoning food truck business. Through the excellent work of a planning intern, the regulations from over 25 jurisdictions were collected and evaluated. From this information, a draft ordinance was developed and the e-mail-based public comment process was initiated. The Department received a total of 121 responses to our request for input on the proposed ordinance. The outcome was overwhelmingly in favor of allowing mobile food vendors to operate within the City (115 for vs. 6 against).

On June 11, 2013, a City Council workshop was held to hear the results of the e-mail survey, discuss the proposed ordinance, and determine a direction to proceed. The proposed ordinance defined "mobile food vendor", established where and how many would be allowed, set location and separation requirements; and provided standards for signage, noise, hours of operation, waste management; and licensing and permit requirements.

A second workshop was held on November 4, 2013. As a result of the comments received at that workshop, the following revisions were made to the draft ordinance:

- The proposed definition for a "Mobile Food Cart" has been deleted and staff believes that a food cart would not be able to qualify under the new Mobile Food Vending Vehicle definition.
- The definition of a "Mobile Food Vehicle" was replaced with a definition of a "Mobile Food Vending Vehicle" was substituted. The new definition closely mirrors the definition contained in the State of Florida administrative rules governing mobile food dispensing vehicle and theme park food carts [Chapter 61C-4.0161, FAC]. A paragraph that would allow conforming vehicles to

eliminate the requirement for a commissary was removed. Since the proposed amendments require the mobile food vending vehicle to be removed daily, there is no need to eliminate the need to have an approved commissary.

- The requirement that vendors demonstrate that any seating provided cannot reduce the number of parking spaces required for the principal use on the site has been eliminated.
- The provision of a sunset date has not been changed. The April 2015 timeframe would allow sufficient time to start-up the application process in time to give the food truck about one year as a trial period.

A copy of the newly revised ordinance is attached.

Mobile Food Vendors

Add the following as Article III Mobile Food Vending of Chapter 12 Food and Food Products:

[NOTE: This code section would be moved to Division 2. Supplemental Standards of Article VIII. Site Development Standards of the Land Development Code as a new Section 34-408 if mobile food vending is approved as a conditional use.]

Chapter 12 Food and Food Products
Article III Mobile Food Vending

Sec. 12-33. Mobile food vending. Where allowed under the permitted [conditional] use provisions in certain zoning districts as set forth in Division 2 of Article VII of Chapter 34 of the Jacksonville Beach Code of Ordinances, mobile food vendors shall conform to the following conditions:

(1) Definitions.

a. ***Commissary*** means an approved facility that provides support services for specific required functions of a mobile food vendor. Any food establishment permitted or licensed by a regulatory agency, such as a catering operation, restaurant, grocery store, or similar establishment, or any other approved facility where food, containers, or supplies are kept, handled, prepared, packaged, or stored can be considered for approval as a commissary. A private residence may not be used as a commissary.

b. ***Mobile food vending vehicle*** means a vehicle-mounted public food service establishment that is either self-propelled or otherwise movable from place to place. A mobile food vending vehicle is further defined as those having, as part of the vehicle, a three-compartment sink for washing, rinsing and sanitizing equipment and utensils; a separate hand wash sink; adequate refrigeration and storage capacity; full provision of power utilities including electrical, LP-gas, or a portable power generation unit; a potable water holding tank; and a liquid waste disposal.

c. ***Mobile food vendor*** means any person or business selling food from a mobile food vending vehicle from which food items are sold to the general public.

(2) Location, permit, and separation requirements.

a. Mobile food vendors may be located on a lot having 6,000 square feet or

more of area, and containing a principal building or use. The maximum number of mobile food vendors per lot is limited as follows:

i. Maximum of one (1) mobile food vendor on lots having 6,000 to 43,559 square feet of area;

ii. Maximum of two (2) mobile food vendors on lots having 43,560 or more square feet of area.

b. Mobile food vending permits, unless sooner suspended or revoked, shall be valid for an initial period that coincides with the expiration date established for this Section.

c. Approved permits must be attached to the mobile food vending vehicle where they are readily visible and shall include the name, mailing address, and valid phone number of the mobile food vending vehicle owner and shall list the addresses and parcel identification numbers where the permit is valid.

d. Routine inspections may be conducted by code enforcement Inspectors, building code inspectors, fire inspectors, or police officers on each mobile food vending vehicle at any time and at any frequency deemed appropriate by the City.

e. Mobile food vending vehicles must be located at least one-hundred (100) feet from the main entrance to any eating establishment or similar food service business, one-hundred (100) feet from any outdoor dining area. This separation requirement shall apply only during the normal hours of operation of the eating establishment or similar food service business or outdoor dining area.

f. Mobile food vending vehicles are not allowed to be located within a required sight triangle at the intersection of a driveway, alleyway, or public street with another public street as set forth in Chapter 34 of this Code of Ordinances; or within five (5) feet of public sidewalk, utility box or vault, handicapped ramp, building entrance, or exit or emergency access/exit way; and must not locate within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic. Mobile food vending vehicles must be located a minimum distance of fifteen (15) feet in all directions of a fire hydrant.

g. Mobile food vending vehicles may not occupy any handicap accessible parking space.

(3) **Signage and noise.** One (1) free-standing sandwich board or A-frame type sign is permitted on private property for each mobile food vendor. No audio amplification is permitted as part of a mobile food vending operation.

(4) **Hours of operation**.

a. Hours of operation are limited to the hours between 7:00 a.m. and 3:00

a.m. unless the designated location on the lot accommodating the mobile food vending vehicle is located within one-hundred and fifty (150) feet of the property line of a dwelling unit in a residential zoning district in which case the hours of operation are limited to the hours between 7:00 a.m. and 10:00 p.m.

b. The mobile food vending operator or his or her designee must be present at all times.

c. The mobile food vending vehicle and any associated outdoor seating must be removed from all permitted locations during impermissible hours of operation; and must not be stored, parked, or left overnight on any public street or sidewalk.

(5) **Waste management**.

a. The mobile food vendor is responsible for the proper disposal of waste and trash associated with the permitted operation. City trash receptacles are not to be used for this purpose. At a minimum, vendors must remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. Vendors must keep all areas within five (5) feet of the vehicles and any associated seating areas clean of grease, trash, paper, cups or cans associated with the vending operation.

b. Liquid waste or grease is to be disposed of at an approved location (for example, the approved commissary) and shall not be placed in tree pits, storm drains; or onto the sidewalks, streets, or any other public space. Under no circumstances shall grease be released or disposed of in the City's sanitary or storm sewer systems. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the responsible mobile food vending business will be required to cease operation immediately, and shall not resume operation until an alternate method of disposal has been approved by the Public Works Department.

c. With the exception of allowable outdoor seating areas, all equipment required for the operation must be contained within, attached to or within three (3) feet of the mobile food vending vehicle; and all food preparation, storage, and sales/distribution shall be in compliance with all applicable sanitary regulations.

(6) **Licenses and permits**. For each location, a City of Jacksonville Beach business tax receipt for the mobile food vending business must be obtained; and all required State of Florida, Duval County, and City of Jacksonville Beach permits, licenses, and business tax receipt must be clearly displayed on the mobile food vending unit. Prior to the issuance of a City of Jacksonville Beach mobile food vending business tax receipt, the vendor must provide evidence of having ob-

tained all applicable State of Florida and Duval County licenses and permits, and obtained approval from the City of Jacksonville Beach Public Works Department of the method for the disposal of grease within an approved grease disposal facility. A mobile food vending business tax receipt permit is required to be renewed annually.

(7) **Application submittal requirements.** Applications for mobile food vendor permits must include the following information:

a. The name, address, telephone number, and email address of the applicant;
b. A description of the type of food and/or beverages to be sold;
c. A color photograph of the mobile food vending vehicle depicting the current condition of the unit;
d. Address of proposed vending site(s), including the property address, property owner's name and telephone number, and the name of the principal business located on the property where applicable;
e. A site plan for each proposed vending site, drawn to scale, depicting the following information:
    i. Total square footage of the property;
    ii. Location and square footage of the existing principal and accessory use(s), where applicable:
    iii. Proposed location for the mobile food vending vehicle; and
    iv. Location of ingress/egress to the site.
f. Address of proposed location to store the mobile food vending vehicle when not in use:
g. A copy of all permits and business licenses required by the State of Florida and Duval County.
h. A notarized commissary agreement confirming the mobile food vendor is operating in conjunction with a licensed commissary in accordance with Florida Statutes, where applicable. All commissaries must be pre-approved by the City prior to issuance of a mobile food vendor permit.
i. A notarized affidavit signed by each property owner indicating that the vendor has permission to vend on the site. The affidavit must also indicate that the property owner acknowledges the following requirements:
    i. The property owner shall comply with all ordinances regarding solid waste disposal, and must provide the vendor access to solid waste collection on the subject property.
    ii. The property owner shall require that the vendors meet all applicable federal, state and local statutes, regulations, laws, ordinances, rules and codes; including but not limited to permitting requirements regarding his or her specific business:

iii. The property owner shall acknowledge that she/he understands the regulations governing mobile food vendors and will be held responsible, along with the vendor, for any code violations; and,

iv. The property owner shall ensure that the property will be continuously maintained in a neat, clean, and orderly manner.

j. Proof of business insurance, 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 and bodily injury, including death, which may arise from operations under or in connection with mobile food vendor.

(8) **Enforcement**

a. ***Revocation.*** If at any time, the State of Florida or Duval County revokes or suspends the issued mobile food vending permit, the City of Jacksonville Beach business tax receipt for the mobile food vending business will be simultaneously revoked or suspended. A mobile food vendor who has his or her permit declared null and void or revoked for any of the reasons set forth in this section shall not be allowed to reapply for a mobile food vending permit for a period of ninety (90) days after the effective date of such action.

b. ***Other violations.*** If at any time evidence is provided that a mobile food vending business is being operated in a way that does not comply with these regulations, a notice of violation shall be issued to the lot owner and mobile food vendor and the violation shall be referred to the Special Magistrate for a hearing and disposition in accordance with the provisions of Article VI *Code Enforcement* of Chapter 2 *Administration* of this Code of Ordinances.

(9) ***Expiration ("Sunset") date.*** This Section shall expire on April 30, 2015 unless the City Council of the City of Jacksonville Beach amends this Section by extending the expiration or repealing this paragraph in its entirety.

Add the following to Section 2-173. Jurisdiction of Magistrate of Chapter 2. Administration, Article VI. Code Enforcement:

[NOTE: This amendment is not needed if it is decided to make mobile food vending a conditional use]

Sec. 2-173. Jurisdiction of special magistrate.

(a) Except as otherwise provided in this Code of Ordinances, the special magistrate shall have the jurisdiction and authority to hear and decide alleged violations of the codes of the city, including, but not limited to the following:

(1) Chapter 3. Advertising.

(2) Chapter 5. Animals and Fowl, Article I. In General.

(3) Chapter 6. Beaches and Bulkheads, Article I. In General.

(4) Chapter 7. Buildings and Building Regulations.

(5) Chapter 12. Food and Food Products.

(6) Chapter 14. Junked, Abandoned Property.

(7) Chapter 19. Nuisances.

(8) Chapter 27. Residential and Commercial Solid Waste Collection, Disposal, and Assessment.

(9) Chapter 28. Streets, Sidewalks, and Other Public Places.

(10) Chapter 32. Utilities.

(11) Chapter 34. Land Development Code.

Add the following to Section 34-41. General of Article IV. Definitions in its proper alphabetical order:

Commissary means an approved facility that provides support services for specific required functions of a mobile food vending business. Any food establishment permitted or licensed by a regulatory agency, such as a catering operation, restaurant, grocery store, or similar establishment, or any other approved facility where food, containers, or supplies are kept, handled, prepared, packaged, or stored can be considered for approval as a commissary. A private residence may not be used as a commissary.

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Mobile food vendor means any person or business selling food from a mobile food vending vehicle from which food items are sold to the general public.

Add the following to the list of permitted or conditional uses for certain zoning districts:

"Mobile food vendors in accordance with the provisions of Section 34-408 *Mobile Food Vending* of Chapter 34 of this Code of Ordinances."

OR [if a conditional use]

"Mobile food vendors in accordance with the provisions of Section 12-33 *Mobile Food Vending* of Chapter 12 *Food and Food Products* of this Code of Ordinances."

APPLICABLE DISTRICTS

- Article VII, Section 34-342 *Commercial Limited: C-1*
- Article VII, Section 34-343 *Commercial General: C-2*
- Article VII, Section 34-344 *Commercial Service: CS*
- Article VII, Section 34-345 *Central Business District: CBD*
- Article VII, Section 34-347 *Redevelopment District: RD* [existing commercial RD's only. To be added to new RD's on case-by-case basis]
- Article VII, Section 34-348 *Planned Unit Development*: PUD [existing commercial PUD zones only. To be added to new PUD zones on a case-by-case basis]

[NOTE: If mobile food vending becomes a conditional use, the existing PUD and RD zones would have to be amended to permit them as conditional uses are authorized to be approved in them.]

Jacksonville Beach Land Development Code

CONDITIONAL USE PROVISIONS

Conditional use means a use which is generally not compatible with the other land uses permitted in a zoning district, but with individual review and control of its location, design, configuration and intensity and density of use, buildings and structures, and the imposition of conditions pertinent thereto in order to ensure the appropriateness of the use at a particular location, may be permitted in the zoning district as a conditional use pursuant to the procedures and standards of section 34-221, et seq.

Sec. 34-231. Standards applicable to all conditional uses.

When considering an application for development permit for a conditional use, the planning commission shall consider whether and the extent to which:

(1) The conditional use is consistent with the goals, objectives and policies of the comprehensive plan, including standards for building and structural intensities and densities, and intensities of use;
(2) The conditional use is consistent with the character of the immediate vicinity of the land proposed for development, and designed so that it is consistent with the harmonious development of the zoning district in which it is proposed;
(3) The design of the proposed conditional use minimizes adverse effects, including visual impact, of the proposed use on adjacent properties, and provides adequate screening and buffering;
(4) The proposed conditional use will have an adverse effect on the permitted uses of the zoning district where it is located;
(5) The proposed conditional use will have an adverse effect on the value of adjacent property;
(6) There are adequate public facilities and services pursuant to Article X, Adequate Public Facility Standards;
(7) The proposed conditional use will require signs or exterior lighting which will cause glare or adversely impact area traffic safety;
(8) There is adequate ingress and egress to the proposed conditional use, and it is designed so as to minimize traffic congestion on the city's roads;
(9) The proposed conditional use is consistent with the requirements of the LDC;
(10) The applicant has the financial and technical capacity to complete the conditional use as proposed, and has made adequate legal provision to guarantee the provision of open space and other improvements associated with the proposed conditional use;
(11) The proposed conditional use complies with all additional standards imposed on it by the particular provision of the comprehensive plan authorizing such use and all other applicable requirements of the LDC.

ADDITIONAL NOTES:

1. Restaurants are a permitted use in all commercial districts, except Commercial professional office: CPO and Commercial service: CS, and Industrial: I-1 where they are allowed as conditional use.
2. As a conditional use, a mobile food vending business would be required to file an application for approval for each proposed location.
3. The application fee for a conditional use is $250.
4. There is a minimum of 30 days lead time from receipt of the application until the public hearing before the Planning Commission.