

**CITY OF HOMESTEAD, FLORIDA**

**ORDINANCE NO. 2022-11-19**

**AN ORDINANCE OF THE CITY OF HOMESTEAD, FLORIDA, AMENDING THE CITY CODE OF ORDINANCES BY AMENDING CHAPTER 16 “LOCAL BUSINESS TAXES AND BUSINESS REGULATIONS,” ARTICLE XVI, “MOBILE VENDORS,” TO PROVIDE EXCEPTIONS RELATED TO MOBILE FOOD DISPENSING VEHICLES; AND FURTHER ESTABLISHING ARTICLE XVIII “MOBILE FOOD VENDING,” TO PERMIT THE OPERATION OF MOBILE FOOD DISPENSING VEHICLES IN PARTICULAR AREAS OF THE CITY; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Homestead, Florida (the “City Council”) finds it periodically necessary to amend its Code of Ordinances (the “City Code”) in order to update regulations and procedures to implement municipal goals and objectives; and

**WHEREAS**, Section 509.102, Florida Statutes, includes a limited state preemption that prevents municipalities from prohibiting mobile food dispensing vehicles (“food trucks”) from operating within the entirety of municipal jurisdictions; and

**WHEREAS**, Section 509.102, Florida Statutes, further permits the operation of food trucks throughout the State of Florida (“State”) without the need to acquire any additional licensing, registration, or permit beyond a State license, or require the payment of any license, registration, or permit fee other than the

fee required by the State as a condition of operation of a food truck within a municipality; and

**WHEREAS**, despite the partial preemption of municipal home rule authority delegated by Section 501.102, Florida Statutes, the City continues to enjoy significant home rule authority to regulate land use and zoning and operational standards related to food trucks; and

**WHEREAS**, at its June 21, 2022, Council Workshop, the City Council thoroughly discussed the creation of the Food Truck Pilot Program (the “Pilot Program”); and

**WHEREAS**, the Pilot Program would afford a valuable and convenient service to the community by allowing a maximum of four (4) food trucks per half (1/2) acre to operate and serve various food and beverage options at the appropriate locations; and

**WHEREAS**, the City deems it necessary to regulate the Pilot Program Zoning Verification Certificate process to ensure that vendors acquire proper State licensing, operate on sites that do not impede pedestrian traffic, and perform in a manner that generally protects public safety; and

**WHEREAS**, the City Council desires to amend Chapter 16 “Local Business Taxes And Business Regulations” of the City Code to provide for the Pilot Program; and

**WHEREAS**, the City Council hereby finds and declares that adoption of this Ordinance is necessary, appropriate, and in the public interest of citizens of this community.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF  
THE CITY OF HOMESTEAD, FLORIDA:**

**Section 1. Findings.** The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

**Section 2. City Code Amended.** That Chapter 16 “Local Business Taxes And Business Regulations,” of the City Code of Ordinances is hereby amended to read as follows<sup>1</sup>:

**Chapter 16 - LOCAL BUSINESS TAXES AND BUSINESS REGULATIONS**

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**ARTICLE XVI. – MOBILE VENDORS**

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**Sec. 16-378. - Exception.**

The only exceptions to the prohibition against mobile vendors operating within the city limits of the City of Homestead are as follows:

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j. Notwithstanding the foregoing exceptions and licensing regulations, mobile food vending and/or mobile food dispensing vehicles on private property shall comply with the regulations set forth in Article XVIII of the city code.

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**Secs. 16-388—16-390. - Reserved.**

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**ARTICLE XVIII. – MOBILE FOOD VENDING**

**Sec. 16-391. Purpose and intent.**

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<sup>1</sup> ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with highlighted double strikethrough and double underline.

The purpose of this section is to establish regulations for real property upon which a mobile food dispensing vehicle (“MFDV”) e.g., “food truck” is authorized to operate within the jurisdictional limits of the city. The city council intends neither to prohibit MFDVs from operating within the entirety of the city, nor regulate the licensing, registration, permitting, and fees of MFDVs preempted by the State of Florida (“State”) under Section 509.102, Florida Statutes, as may be amended. Unless authorized by this article, MFDVs on other real property are prohibited and unlawful.

**Sec. 16-392. - Definitions.**

For purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Mobile food dispensing vehicle (MFDV)* shall mean 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.

*MFDV Lot* shall mean an undeveloped, privately-owned property used for the operation of MFDVs, in accordance with the regulations of this article.

*MFDV Zoning Verification Certificate* means the authorization provided by the city to operate a MFDV on private property within the city.

*Public food service establishment* means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.

The following are excluded from the definition of Public food service establishment:

- (1) Any place maintained and operated by a public or private school, college, or university:
  - a. For the use of students and faculty; or
  - b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, and athletic contests.
- (2) Any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization:
  - a. For the use of members and associates; or

- b. Temporarily to serve such events as fairs, carnivals, food contests, cook-offs, or athletic contests.

**16-393. - Mobile food dispensing vehicles.**

(1) General Application. MFDVs shall be permitted subject to the following:

- a. All MFDVs shall be required to provide proof of all applicable approvals and licenses from the State of Florida Department of Business and Professional Regulations (DBPR), Florida Department of Health, and Florida Department of Agriculture and Consumer Services.

- b. MFDV Zoning Verification Certificate Required. All MFDVs shall obtain a MFDV Zoning Verification Certificate to operate in the city. A MFDV Zoning Verification Form shall be obtained, completed and submitted to the Department of Development Services on an annual basis. The completed application package shall include, but not be limited to, the following:

- a. Notarized letter from property owner of record authorizing the MFDV described in the application package and designating a MFDV coordinator and an alternate.

- b. Schedule of events, if applicable.

- c. Notification and sign-off from City Police Department.

- d. A traffic safety and security plan, if applicable, as determined by the Development Services Director (the "Director") or designee.

- e. Narrative from operator describing the hours of operations, estimated public attendance, and description of any other amenities provided, if applicable.

- f. Copies of State licenses.

- g. Sketch or survey indicating the following:

- (a) General placement of the MFDV and operations on the site.

- (b) Location of refuse facilities.

- (c) Location of sanitation facilities.

- (d) Location of on-site and off-site parking areas, if applicable, as determined by the Director or designee.

- (e) Lighting fixtures, if applicable.

- (f) Rights-of-way, internal circulation and ingress and egress, if applicable, as determined by the Director or designee.
    - (g) Temporary signs shall meet the requirements for special event signage. Location, number and size shall be indicated on the site plan.
  - c. Such uses shall only be permitted to operate in the Commercial zoning districts that are not adjacent to residentially zoned properties or located outside of the Crash, APZ I and II (Height/Use Overlay).
  - d. No operator of a MFDV shall park or stand such vehicle:
    - 1. On any private property without the written consent of the owner or lessee of such property; and
    - 2. On City-owned property, or on any public right-of-way without the express written consent of the City.
  - e. The sale or distribution of alcoholic beverages shall be prohibited.
  - f. No food shall be stored, displayed, or served from any place other than the MFDV. The use of tables, benches, and other such devices to display or serve items for use or consumption is prohibited. Food condiments shall be protected from contamination. Food condiments provided for customer self-service shall be prepackaged or shall be from approved dispensing devices.
  - g. Utensils and equipment shall be handled and stored to be protected from contamination. Single-service utensils shall be obtained from sanitary containers or approved sanitary dispensers, stored in a clean, dry place until used, handled in a sanitary manner, and used only once.
  - h. MFDV may, by a written agreement with other business establishments, arrange for the availability of a restroom and hand-washing sink that may be used by employees working in the MFDV when the MFDV is parked on private property.
- (2) MFDV Lots. No more than four (4) MFDV per half (1/2) acre shall be permitted on a MFDV Lot. If the MFDV lot is less than half (1/2) an acre, then the Director or designee shall provide the required prorated amount.
- (3) MFDV Site Organizer Duties. MFDVE site organizers or alternate shall adhere to the following:
  - a. Assist in the placement/positioning of individual MFDVs.

- b. Maintain for inspection at MFDV site all pertinent documentation provided by the individual MFDV such as proof of licensing and insurance, including making the MFDV available for inspection by the Miami-Dade County Fire Rescue Department.
  - c. Ensure compliance with hours, clean-up and other MFDVE Zoning Verification Certificate requirements.
- (4) Management of MFDV on private property. MFDVs shall be managed in accordance with the following regulations:
- a. The quiet, safety, and cleanliness of the MFDV site and its adjacent area shall be maintained.
  - b. Proper and adequate storage and disposal of debris and garbage shall be provided.
  - c. Noise and odors shall be contained within immediate area of MFDV site so as not to be a nuisance to neighbors.
  - d. Notices shall be prominently displayed urging patrons to leave the MFDV site in a quiet, peaceful, and orderly fashion and to please not litter or block traffic circulation.
  - e. Employees or contractor of MFDVs shall walk a 100-foot radius from the MFDV site within 30 minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons.
  - f. Under no circumstances shall grease or any waste materials be released into the stormwater system, tree pits, sidewalks, streets, parking lots, or private/public property. MFDVs shall be responsible to properly discard any waste material in accordance with federal, state, county, municipal, or any laws, rules, regulations, orders, or permits.
- (5) Facility requirements. Each MFDV shall meet the following facility requirements related to sinks, refuse receptacles, and restrooms:
- a. Unless the MFDV serves only prepackaged and non-perishable food, all MFDVs shall be equipped with a hand-washing sink, a three-compartment ware-washing sink, and an adequate supply of running hot water.
  - b. MFDV shall be equipped with a suitable, tight, nonabsorbent washable receptacle for refuse. The owner or operator of the MFDV shall be responsible for sanitation of the environs of the place of operation. The refuse receptacle shall be adjacent to, but not an integral part of, the MFDV.

- (6) City Discretion to Issue Further MFDV Zoning Verification Certificate. Notwithstanding any other provision of this section, the City may from time to time prohibit the issuance of additional MFDV Zoning Verification Certificates in specified areas of the city in the interest of preserving public health and safety or avoiding traffic congestions.
- (7) Violation of Terms or Conditions. If the Department director or designee determines that the MFDV has exceeded the scope of the MFDV Zoning Verification Certificate, either in terms of duration or area, or determines any other violation of the certificate terms or conditions has occurred, including revocation of any required state licenses, the Director shall have the authority to revoke the MFDVE Zoning Verification Certificate immediately.
- a. If any person has occupied public right-of-way without a permit, the Director or designee shall immediately order the violator to vacate an occupied area. The Director or designee may require that any MFDV vacate an occupied area if it is deemed to be in the best interest of the city.
- (8) City Property Exemption. MFDVs located at city parks, sports stadiums or racetracks during city sponsored events shall be exempt from the requirements of this section, but must otherwise comply with all other applicable requirements in the city code.

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**Section 3. Conflicts.** All ordinances or parts of ordinances, resolution or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 4. Severability.** 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 they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 5. Inclusion in the City Code.** It is the intention of the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of the City of Homestead; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 6. Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

**PASSED** on first reading this 19<sup>th</sup> day of October, 2022.

**PASSED AND ADOPTED** on second reading this 16<sup>th</sup> day of November, 2022.

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STEVEN D. LOSNER,  
Mayor

ATTEST:

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ELIZABETH SEWELL, MPA, MMC, FCRM  
City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE USE AND BENEFIT OF THE CITY ONLY:

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WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.  
City Attorney

Motion to adopt by Councilwoman Ávila, seconded by Councilwoman Bailey.

**FINAL VOTE AT ADOPTION**

<i>Mayor Steven D. Losner</i>	<u>NO</u>
<i>Vice Mayor Julio Guzman</i>	<u>ABSENT</u>
<i>Councilwoman Erica G. Ávila</i>	<u>YES</u>
<i>Councilwoman Jenifer N. Bailey</i>	<u>YES</u>
<i>Councilwoman Patricia D. Fairclough- Staggers</i>	<u>YES</u>
<i>Councilman Sean L. Fletcher</i>	<u>YES</u>
<i>Councilman Larry Roth</i>	<u>YES</u>