

ORDINANCE NO. 03-2021

AN ORDINANCE OF THE CITY COMMISSION OF SAN ANTONIO, FLORIDA, PROVIDING FOR REGULATION OF MOBILE FOOD DISPENSING VEHICLES, LUNCH TRUCKS AND ICE CREAM TRUCKS; PROVIDING FOR CHANGING CHAPTER 54 TITLE FROM "TAXATION" TO "BUSINESSES"; MOVING CHAPTER 54, ARTICLE II "OCCUPATIONAL LICENSES" TO ARTICLE III AND ADDING NEW ARTICLE II TITLED "FOOD TRUCKS" AND PROVIDING FOR REGULATIONS OF FOOD TRUCKS WITHIN THAT ARTICLE II OF CHAPTER 54, INCLUDING DEFINITIONS, APPROVED LOCATIONS, LOCATION REGULATIONS AND HOURS OF OPERATION; PROVIDING FOR GENERAL PROHIBITIONS AND REGULATIONS OF FOOD TRUCKS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR PENALTIES; PROVIDING FOR AMENDING SECTION 82-7 ADDING "MOBILE FOOD DISPENSING VEHICLES" AS AN "PERMITTED USE" IN C-2 ZONING; PROVIDING FOR AMENDING SECTION 82-8 ADDING "MOBILE FOOD DISPENSING VEHICLES" AS A SPECIFICALLY PERMITTED USE IN COMMERCIAL PUDS; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR LIBERALLY CONSTRUCTION; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida legislature has passed section 509.102, F.S., preempting some local government regulations of "mobile food dispensing vehicle" and the City Commission has otherwise determined that it is appropriate to regulate sales of food and beverages from vehicles or outside of structures; and,

WHEREAS, it is the intent of the City Commission to conform its regulations to avoid preempted regulations in section 509.102 F.S., and provide balanced regulations that protect the health, safety, welfare and aesthetics of the citizens of San Antonio while allowing a reasonable opportunity for food trucks to provide their services within the City; and,

WHEREAS, as a part of regulation, portions of the City Code are required to be modified to restrict food trucks to certain zoning districts; and,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAN ANTONIO, FLORIDA AS FOLLOWS:

Section One. Renaming Chapter 54 to "Businesses", moving "Occupational Licenses" to Article III, and adding a new Article II titled "Food Trucks".

Chapter 54 - BUSINESSES

ARTICLE I. - IN GENERAL

Sec. 54-1 --- 54-13 reserved.

ARTICLE II. – FOOD TRUCKS

Sec. 54-14. Definitions.

- (a) "Ice cream truck" shall mean every motor vehicle from which ready to eat ice cream, ice milk, frozen dairy products, ice flavored with syrup, or other confections are sold at retail and shall include all vehicles subject to regulation pursuant to F.S. § 316.253, as may be amended. Ice cream truck shall not include refrigerated, retail trucks which deliver pre-ordered ice cream or other frozen dairy products to a customer's residence.
- (b) "Location" means the area where the mobile food dispensing vehicle or lunch truck is parked to vend product.
- (c) "Lunch trucks" means any vehicles that vend ready to eat pre-cooked foods, pre-packaged foods, pre-packaged drinks and incidental sales of pre-packaged frozen dairy or frozen water-based food products, fruits and vegetables, traditionally concentrating on sales at active construction sites and industrial parks. No preparation or assembly of food or beverage may take place on or in the vehicle except for hot dogs and sausages; however, the reheating of pre-cooked food is permitted.
- (d) "Mobile food dispensing vehicle or MFDV" means any vehicle licensed as a MFDV by the State of Florida Department of Business and Professional Regulation (DBPR) and complying with DBPR rules and license, 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.
- (e) "Mobile food dispensing vehicle vendor or MFDV vendor" means a person who owns the MFDV or leases the MFDV, and is licensed by the state for such operation, or an employee who prepares, dispenses, or otherwise sells food from a mobile food truck.
- (f) "Public rights-of-way" means land in which the state, the department, a county, or a municipality owns the fee interest or has an easement devoted to or required for use as a transportation facility.
- (g) "Restaurant" means a food service establishment conducting business wholly within a permanent building, except for approved seating immediately adjacent thereto, and all food is prepared within the building.
- (h) "Special Events" mean such temporary events approved by the City, and may include carnivals, circuses, community celebrations, community events, fairs, marathons and other athletic events, parades, marches, street fairs and festivals, water activities such as boat races, air shows and fly-ins, dances, block parties, and other celebrations.

Sec. 54-15. Locations.

- (a) Mobile food dispensing vehicles shall be located in only C-2 and commercial PUDs as permitted through Chapter 82 "Zoning" of the City's Code.
- (b) Use of rights of way for vending is prohibited.
- (c) Use of city parks, cemeteries, or any city property is prohibited.
- (d) Additional general requirements. No MFDV shall be parked:
 - a. Within 25 feet of any fire hydrant, fire escape or fire control device;
 - b. Adjacent to any county or state road right of way without that government's approval.

- (e) Mobile food dispensing vehicles shall be located on property with an existing, operating business, and shall not be located on undeveloped properties except active construction sites,
- (f) Mobile food dispensing vehicles shall have available for review at the location, a signed approval to use a private property location.
- (g) Mobile food dispensing vehicles shall conspicuously display at a location visible to patrons, all licensing, permits and sanitary certificates required by law.
- (h) A mobile food dispensing vehicle shall not be placed upon or operate from:
 - (1) any setback required by the City Code;
 - (2) any open space required by the City Code; or,
 - (3) any area required to be landscaped by the City Code.
- (i) A mobile food dispensing vehicle shall not be placed upon or operate from any required parking spaces. This provision shall be construed to mean that if a plot includes a greater number of parking spaces than required pursuant to zoning requirements, a mobile food dispensing vehicle may be placed upon or operate from parking spaces equal to or lesser than the number of parking spaces that exceed those required. Provided, however, in no event shall a mobile food dispensing vehicle be placed upon, obstruct, or operate from any handicapped parking spaces.

Sec. 54-16. Location property management.

- (a) The mobile food dispensing vehicle and the location private property owner shall be concurrently responsible for ensuring that:
 - (1) no litter or debris escapes the property;
 - (2) no solids or fluids remain on the ground after removal of the mobile food dispensing vehicle other than clean water.
 - (3) Wheels shall not be removed, and the mobile food dispensing vehicle shall always be capable of being driven from the location at the conclusion of its allowable hours of operation. No vehicle skirting or other elaborations indicating permanent location shall be allowed.
 - (4) All sound and smoke shall conform to City, (county, if applicable), and State law, and shall otherwise not create a nuisance to neighboring properties.

Sec. 54-17. Parking time allowed.

- (a) The same mobile food dispensing vehicle shall not be allowed to locate at the same location, property or parcel more than 2 consecutive days within the same week.
- (b) The same mobile food dispensing vehicle shall not be allowed to locate within the City more than 5 days per calendar week.
- (c) Mobile food dispensing vehicle shall only set up and operate between the hours of 7:00 am and 9:00 pm and shall be removed outside those hours.
- (d) No Mobile food dispensing vehicle shall stay overnight at any location in the City except commercial storage facilities authorized by City Code for such commercial vehicle storage. Mobile food dispensing vehicle shall not be stored overnight in any residential zoning district.

Sec. 54-18. General prohibitions and regulations.

- (a) Mobile food dispensing vehicles are prohibited from selling or distributing alcoholic beverages or allowing open containers of alcoholic beverages to be consumed at their location.
- (b) Mobile food dispensing vehicle general regulations:
 - (1) Shall not exceed ten feet in width and 24 feet in length, including the length of any trailer hitch and trailer. Awnings may extend up to five feet outward from a mobile food truck, but in no case shall a mobile food dispensing vehicle and any extensions exceed a total of 15 feet in width.
 - (2) Except for portable seating removed after closing, shall be self-contained when operating (including all utilities: power, water, cooking fuel sources), except for the required trash and/or recycling receptacles, which must be attached to the mobile food dispensing vehicle.
 - (3) Shall not impede free movement of automobiles or pedestrians.
 - (4) No more than one mobile food dispensing vehicle shall operate on any property at any one time.
 - (5) MFDVs shall be operated only by the MFDV vendor.
 - (6) Mobile food trucks may display one folding movable menu or display board, not exceeding four square feet of display space on either side. The menu or display board must not be located more than five feet from the mobile food truck or in any designated pedestrian path, must be placed inside when the food truck is not in operation, and must comply with all applicable signage regulations in the City Code.

Sec. 54-19. Exceptions.

- (a) Lunch trucks are excepted from this Article so long as they do not park anywhere other than any active construction site, and do not park in same location for more than one-half hour per day, and the lunch truck has any necessary permits required by the state and county, and shall otherwise conform to all city, county and state laws, rules and ordinances.
- (b) Ice cream trucks are excepted from this Article, provided that its activities are transient, and the vehicle does not park for more than five (5) minutes at any location.
- (c) Temporary exceptions from this Article may be made for Special Events if approved by the City Commission considering the circumstances of that event.

Sec. 54-20. Penalties.

- (a) A violation of this article is a civil infraction enforceable against the MFDV vendor or the location property owner or lessee in any manner allowed by law.
- (b) The provisions of this section are an additional and supplemental means of enforcing the city's codes and ordinances. Nothing contained in this section shall prohibit the city from enforcing its code and ordinances by any other means.

Secs. 54-21—54-30. - Reserved.

ARTICLE III. - OCCUPATIONAL LICENSES

Section Two. Amending Section 82-7 Adding "Mobile Food Dispensing Vehicles" as an "Permitted Use".

Sec. 82-7. - (C-2) General commercial zoning district.

(a) *Permitted uses and structures.* In the C-2 general commercial zoning district, except as previously provided in section 82-6 herein and as provided in subsections (a)(9) and (16) herein all uses shall be done within a completely enclosed building and no building or premises shall be used, and no building shall be erected or structurally altered which is arranged, intended or designated to be used for other than one or more of the following uses:

- (1) Any use permitted in the C-1 office professional zoning district.
- (2) Retail outlets for sale of home furnishings and appliances (including repair incidental to sales office equipment or furniture) and similar uses.
- (3) Service establishments such as radio or television station, radio and television repair shop, and similar uses.
- (4) Miscellaneous uses such as express or parcel delivery office, telephone exchange, commercial parking lots and parking garages, motor bus or other transportation terminals, motor vehicle sales and service.
- (5) Job printing or newspaper establishments, lithographing, blueprinting and the like.
- (6) Wholesaling from sample stocks only, providing no manufacturing for distribution is permitted on the premises.
- (7) Utility offices and operation centers.
- (8) Sale of alcoholic beverages, package and retail for consumption on premises, as permitted by alcoholic beverage ordinance.
- (9) Restaurants.
- (10) Motion picture theaters and other indoor commercial recreation enterprises.
- (11) Hotels and motels.
- (12) Retail outlets such as grocer, variety, drug, sundries and notions, and other similar uses.
- (13) Combination retail outlets such as grocery with gas pumping facilities.
- (14) Services such as laundry and dry cleaning establishments, repair of home appliances.
- (15) Service establishments such as veterinarian or animal boarding kennels in soundproof buildings, pest control, plant nursery or landscape contractor, carpenter, cabinet shop, upholstery shop or professional offices.
- (16) Machinery repair and automotive repair, including body or fender repair or painting; provided that all work is performed within a building and that all storage of automobiles and materials is enclosed by a solid wall or solid fence at least six feet in height.
- (17) Building supply and equipment sales, and retail lumber yards.
- (18) Funeral homes.
- (19) Vocational, trade and business schools.
- (20) One single family residential use shall be permitted as a principle use or as an accessory use to an approved non-residential use. As an accessory use, the residential use shall be located and maintained within the structure shared with the non-residential use. Access to the residential use may be accomplished through a separate door, stairway, or similar architectural feature. No minimum area requirements are applicable for the single family residential use. When the single

family residential use is the principle use, the dwelling shall comply with the minimum yard requirements and maximum height and stories standards contained in the (R-1) Rural Residential Zoning District.

- (21) Mobile food dispensing vehicles, but only as provided by § 509.102, F.S., and Article II of Chapter 54 of City Code.
- (b) *Prohibited uses and structures.* All uses and structures not specifically permitted in this district.
- (c) *Minimum floor space.* The minimum floor space shall be at least 400 square feet.
- (d) *Maximum floor space.* The floor area ratio of nonresidential buildings shall not exceed .50.
- (e) *Minimum yard requirements.*
- (1) Front minimum depth—25 feet.
 - (2) Side minimum width—10 feet.
 - (3) Rear minimum depth—10 feet.
- (f) *Maximum height feet and stories.* Buildings shall not exceed 30 feet in height or more than two stories.

Section Three. Amending Section 82-8 Adding “Mobile Food Dispensing Vehicles” as a specifically permitted use in commercial PUDs.

Sec. 82-8. - PUD Planned unit development district.

(a)Purpose. The purpose of the planned unit development district (PUD) is to provide the maximum of land and design development opportunities in harmony with reasonable area, building coverage, height, setback and service requirements; to provide the means of mixing such appropriate land use as may not otherwise be permitted in any of the established zoning districts; and for other purposes; provided, however, that no uses shall be permitted in said district unless otherwise permitted in this chapter. The PUD zoning district will be applied only upon specific petition by property owners proposing a unique type of planned development in keeping with the purpose of the district as stated above.

(b)Review. The proposed site plan provided herein shall be reviewed by the city staff prior to adoption by the city commission as herein outlined.

(c)Uses permitted. Uses shall be only those uses or types of uses which are shown on the approved site plan for said planned unit development district. Mobile food dispensing vehicles are specifically allowed as a temporary accessory structure in commercial planned unit developments only, and only as provided by § 509.102, F.S., and Article II of Chapter 54 of City Code (“Food Trucks”).

Section Four. Severability.

If any section, subsection, sentence, clause, phrase, word, or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section Five. Conflicts.

Any ordinance in conflict with this ordinance is repealed.

Section Six. Scrivener's Errors.

The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee, without public hearing.

Section Seven. Ordinance to be Liberally Construed.

This ordinance shall be liberally construed to effectively carry out the regulatory purposes hereof which are deemed not to adversely affect public health, safety, or welfare.

Section Eight. Codification.

The provisions of this Ordinance shall become and be made part of the Code of the City. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section Eleven. Effective Date.

This Ordinance shall be effective upon passage.

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IN WITNESS WHEREOF, the City of San Antonio, Florida, has duly adopted this Ordinance and caused it to be executed by the officers below as follows:

This Ordinance was read for the first time at the regular ☒ special ☐ session of the City Commission held on MARCH 16th 2021. The vote was as follows:

	Yes	No	Abstain	Absent
Commissioner/Mayor Anderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Bassinger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Markley	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Commissioner Schrader	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Vogel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The final reading was held on 20 day of April, 2021, at a regular ☐; special ☐ session of the City Commission, and this Ordinance was adopted ☐; rejected ☐.

The vote was as follows:

	Yes	No	Abstain	Absent
Commissioner/Mayor Anderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Bassinger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Markley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Schrader	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Commissioner Vogel	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTEST:

CITY OF SAN ANTONIO, FLORIDA


Rick Alley, City Clerk
Mark Anderson, Mayor

**APPROVED AS TO FORM
AND CONTENT:**


Gerald T. Buhr, City Attorney