

ORDINANCE NO. 2022-30

AN ORDINANCE OF WAKULLA COUNTY, FLORIDA, REPEALING SECTION 5-7(3)(E) OF THE WAKULLA COUNTY LAND DEVELOPMENT CODE RELATED TO TEMPORARY USE PERMITS FOR MOBILE FOOD VENDORS; CREATING A NEW SECTION 6-59 OF THE LAND DEVELOPMENT CODE RELATED TO MOBILE FOOD VENDORS; AMENDING SECTION 2-4 OF THE LAND DEVELOPMENT CODE RELATED TO DEFINITION OF TERMS TO DEFINE THE TERM MOBILE FOOD VENDOR; AUTHORIZING MOBILE FOOD VENDING TO BE PERMITTED ON DESIGNATED COUNTY PROPERTY SUBJECT TO CERTAIN CONDITIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Section 5-7(3)(e) of the Wakulla County Land Development Code (“LDC”) currently authorizes mobile food vendors to operate in any commercial or industrial zoning district subject to certain terms and conditions; and

WHEREAS, Section 5-7 of the LDC pertains to temporary use permits and pursuant to recent changes to state law, the County may not require a separate license, registration, or permit for the operation of a mobile food vendor other than those required by state law; and

WHEREAS, to ensure consistency with state law, the Board of County Commissioners (“Board”) wishes to repeal Section 5-7(e), LDC and create a new Section 6-59 of the LDC containing regulations applicable to the operation of mobile food vendors within the County; and

WHEREAS, the Board further wishes to permit mobile food vendors to operate on designated County property subject to certain terms and conditions described herein.

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Wakulla County, Florida, as follows:

SECTION 1. LEGISLATIVE FINDINGS. The above findings are true and correct and hereby incorporated herein by reference.

SECTION 2. AMENDMENT OF SECTION 2-4 OF THE WAKULLA COUNTY LAND DEVELOPMENT CODE. Section 2-4 of the Wakulla County Land Development Code entitled “Definition of Terms,” is hereby amended as follows:

[underline indicates additions; ~~strikethrough~~ indicates deletions]

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Minor lot split: An approval granted by the planning official for the division of land not

contained within a recorded subdivision plat, into less than three parcels or for the purpose of boundary line adjustments outside of a recorded subdivision plat, consistent with zoning and land use designations.

Mobile Food Vendor: 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.

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SECTION 3. AMENDMENT OF SECTION 5-7(3) OF THE WAKULLA COUNTY LAND DEVELOPMENT CODE. Section 5-7(3), of the Wakulla County Land Development Code is hereby amended as follows:

[underline indicates additions; ~~strikethrough~~ indicates deletions]

- (3) Temporary use permits issued by the planning and community development director. Certain uses are of short duration and do not create excessive incompatibility during the course of the use. The planning and community development director is authorized to issue temporary use permits for the following activities, after a showing that any nuisance or hazardous features involved are suitably separated from adjacent uses; excessive vehicular traffic will not be generated on residential streets; a vehicular parking problem will not be created; there will be not be any adverse impacts to public facilities; and public health will be protected. The planning and community development director has the authority to attach conditions of approval, as provided for in this section, and any other conditions that the planning and community development director deems necessary:
 - (a) *In any zoning district.*
 1. Special events operated by nonprofit, charitable organizations.
 2. Christmas tree sales lots operated by nonprofit, charitable organizations.
 3. Other uses which are similar to subsections (2)(a)1 and 2 of this section and which are of a temporary nature and the period of use will not extend beyond 30 days.
 4. Mobile homes or travel trailers used for temporary purposes by any agency of municipal, county, state, or federal government; provided such uses shall not be or include a residential use.
 5. Mobile homes or travel trailers used as a residence, temporary office, security shelter, or shelter for materials of goods incident to construction on or development of the premises upon which the mobile home or trailer is located. Such use shall be strictly limited to the time construction or development is actively underway. In no event shall the use continue more than 12 months without the further approval of the planning and community development director. The planning and community development director

shall give such approval only upon finding that actual construction is continuing.

- (b) *In agricultural, commercial, and industrial districts.* Temporary religious or revival activities in tents.
- (c) *In any residential zoning district.* Temporary residency for up to 12 months in a travel trailer, if the primary residence is destroyed by fire, flood or other natural disaster. The property owner must file an application for temporary use with the planning and community development director for review and approval. During the 12-month period, the property owner must apply for permits to replace the primary residence and commence construction. Should the temporary residency require a time extension beyond the initial 12-month period, in a hardship situation the property owner must make an application for temporary use to be reviewed at public hearing, in front of the board of county commissioners for approval.
- (d) *In any commercial or industrial zoning district.* Temporary tents and the sale of merchandise and/or goods for consumption. Examples include: firework sales, arts and crafts sales, mobile food vending, roadside fruit stands and other similar activities. Such services must comply with the respective uses set forth in the designated zoning district of the subject property. For approval, the temporary use must comply with the applicable provisions of subsection (2)(f) of this section and any additional requirements of the Code.
- ~~(e) *Mobile food vendors.* In any commercial or industrial zoning district, mobile food vendors that meet the following requirements:~~
 - ~~1. The operation shall be contained within a motor vehicle or a trailer that requires a motor vehicle to tow it;~~
 - ~~2. The vehicle or trailer shall not be located on the same site for more than 12 consecutive hours at a time;~~
 - ~~3. The hours of operation shall be between sunrise and sunset;~~
 - ~~4. The vehicle or trailer shall not be located in the right of way;~~
 - ~~5. The vehicle or trailer shall not be operated on an undeveloped parcel;~~
 - ~~6. The vehicle or trailer shall not be affixed to the ground with tie-downs, anchors, piers, pilings, or a foundation; and~~
 - ~~7. The vehicle or trailer shall not be affixed to a permanent structure.~~
- (e) (f) Any temporary use approved by the planning and community development director shall comply with all applicable provisions in this subsection and the Code:
 - 1. Temporary uses shall not exceed 25 percent of the gross area of the subject property in which the use will take place.
 - 2. Temporary uses on non-commercially zoned property shall not exceed 30 consecutive days or nonconsecutive days within one calendar year.

3. Except as provided in subsections ~~(e)~~ and (g), temporary uses on commercially zoned parcels shall not exceed 80 days total per calendar year.
- ~~(f)~~ **(g)** The planning and community development director may extend a previously issued temporary use permit that complies with the applicable provisions in this subsection and the Code:
1. For a period not to exceed an additional ten consecutive or non-consecutive days, upon the receipt of a new application and any applicable fees. This extension may only occur if it is determined that the temporary use has not adversely impacted the nearby and surrounding properties or otherwise caused an incompatibility with existing uses.
 2. Temporary uses on commercially zoned parcels for the exclusive sale of food or produce that were in operation in the county on May 1, 2012, may be extended beyond 80 days in any calendar year for an additional period of 365 consecutive calendar days under the following conditions:
 - i. Extensions may only occur upon receipt of a new application and any applicable fees;
 - ii. The planning and community development director must determine that the temporary use has not adversely impacted the nearby and surrounding properties or otherwise caused an incompatibility with existing uses;
 - iii. Application for the temporary use extension must be received by the planning and community development director no later than November 1, 2012; and
 - iv. The temporary use must comply with all other applicable provisions of this section and the Code.
 - v. After the expiration of the 365-day extension, no temporary use for the sale of food or produce will be permitted on the site ~~unless it complies with subsection (e)~~.

SECTION 4. CREATION OF SECTION 6-59 OF THE WAKULLA COUNTY LAND DEVELOPMENT CODE, ENTITLED MOBILE FOOD VENDORS. A new Section 6-59 is hereby created within Chapter 6, Article I of the Wakulla County Land Development Code to read as follows:

Sec. 6-59. – Mobile Food Vendors

Mobile Food Vendors operating within the County shall be subject to the following requirements:

- (a) The operation shall be contained within a motor vehicle or a trailer that requires a motor vehicle to tow it;

- (b) The vehicle or trailer shall not be located on the same site for more than 12 consecutive hours at a time;
- (c) The hours of operation shall be between sunrise and sunset;
- (d) The vehicle or trailer shall not be located in the right-of-way;
- (e) The vehicle or trailer shall not be affixed to the ground with tie-downs, anchors, piers, pilings, or a foundation;
- (f) The vehicle or trailer shall not be affixed to a permanent structure;
- (g) Mobile Food Vendors may only operate on commercially or industrially zoned property, with permission of the property owner, or on property owned by the County where the use of such property by Mobile Food Vendors has been authorized by the County Administrator or their designee. Prior to being permitted to operate on designated County property, Mobile Food Vendors may be required to enter into an agreement with the County governing use of the property and pay an associated user fee.

SECTION 5. CODIFICATION IN THE CODE OF ORDINANCES. It is the intention of the Board, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Wakulla County Code of Ordinances, and that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intent.

SECTION 6. SEVERABILITY. Should any section or provision of this Ordinance or any portion thereof, or any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid.

SECTION 7. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed with the Department of State within ten (10) days after its enactment by the Board and shall be effective as provided by law.

PASSED AND DULY ENACTED by the Board of County Commissioners of Wakulla County, Florida in regular session, this 18th day of July, 2022.

WAKULLA COUNTY
BOARD OF COUNTY COMMISSIONERS


Quincee Messersmith, Chairperson

ATTEST:

Renee Ross, D.C.

Greg James
Clerk of Court



APPROVED AS TO FORM AND CONTENT:

HEATHER J. ENCINOSA

HEATHER J. ENCINOSA, ESQ.
County Attorney