

ORDINANCE NO. 21-01

AN ORDINANCE OF THE CITY OF SAINT AUGUSTINE BEACH, FLORIDA, MAKING FINDINGS OF FACT; CREATING THE CITY'S POLICY ON MOBILE FOOD DISPENSING VEHICLES IN LAND DEVELOPMENT REGULATIONS, ARTICLE II OF SAINT AUGUSTINE BEACH; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WITNESSETH:

WHEREAS, the City of Saint Augustine Beach is required to comply with all requirements that are contained in Chapter 500, Florida Statutes (F.S.) and Chapter 5K-4, Florida Administrative Code (F.A.C.).

WHEREAS, the Florida legislature created Florida Statute §509.102, Mobile Food Dispensing; Preemption.

WHEREAS, the City of Saint Augustine Beach is desirous of the orderly regulation of mobile food establishments in the City of Saint Augustine Beach.

NOW THEREFORE BE IT ORDAINED BY THE PEOPLE OF THE CITY OF SAINT AUGUSTINE BEACH:

SECTION 1. The foregoing recitals are incorporated as legislative findings of fact.

SECTION 2. From and after the effective date of this ordinance, Land Development Regulations of Saint Augustine Beach Article II -- Definitions is amended as follows:

Minor Replat—The subdivision of a single lot or parcel of land into two (2) lots or parcels, or the subdivision of a parcel into two (2) or more lots solely for the purpose of increasing the area of two (2) or more adjacent lots or parcels of land, where there are no roadway, drainage or other required improvements, and where the resultant lots comply with the standards of this Code.

Mobile Food Dispensing Vehicle means 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. (See Florida Statute 509.102)

Mobile Home—A structure, transportable in one (1) or more sections, that is eight (8) body feet, or more in width and is built on an integral chassis. It is designed to be used as a dwelling

when connected to the required utilities. All the plumbing, heating, air conditioning and electrical systems are contained within the unit.

SECTION 3. From and after the effective date of this ordinance, Land Development Regulations of Saint Augustine Beach Article III – Section 3.02.02 is amended to read:

<i>Services, Hotels, and Restaurants</i>								
Service establishments: barber and beauty shops, bakery (but not wholesale), bicycle rentals, costuming shops, dry cleaner (using nonflammable solvents only), electronic and light mechanical repair stores, florists, interior decorator, laundromat, photography studio, printing, shoe repair, tailor, travel agency, upholstery shop, and video rentals	X	X	X	X	P	X	X	X
Catering	X	X	X	X	C	X	X	X
Condominium hotels	X	X	X	X	C	X	X	X
Day care center	X	X	X	X	C	X	X	X
Equipment rental	X	X	X	X	C	X	X	X
Food and/or beverage service or consumption outside of an enclosed building on the premises of a restaurant or hotel/motel	X	X	X	X	C	X	X	X
Funeral home	X	X	X	X	C	X	X	X
Hotel/motel (including ancillary uses such as restaurants, lounges and night clubs)	X	X	X	X	P	X	X	X
Live theaters, satellite presentations, and motion pictures (not drive-in)	X	X	X	X	P	X	X	X
Mobile Food Dispensing Vehicles	X	X	X	X	P	X	X	X
Mini-storage warehouses	X	X	X	X	C	X	X	X

Pest control	X	X	X	X	C	X	X	X
Pharmacy	X	X	X	X	P	C	X	X
Restaurant operated wholly within an enclosed building including servicing of alcoholic beverages incidental to the restaurant business only (no drive-up facility)	X	X	X	X	P	X	X	X
Restaurant operated wholly within an enclosed building with drive-up facilities (including serving of alcoholic beverage incidental to the restaurant business only within the restaurant, but not at the drive-up facility)	X	X	X	X	C	X	X	X
Services, hotels (but not hotels in a condominium form of ownership), and restaurants	X	X	X	X	P	X	X	X
Veterinarian and animal hospital (without an outside kennel)	X	X	X	X	C	X	X	X

SECTION 4. From and after the effective date of this ordinance, Land Development Regulations of Saint Augustine Beach Article III – Section 3.02.03 is amended to read:

Sec. 3.02.03. - Prohibited uses.

A. In addition to the uses prohibited under section 3.02.02 and Table 3.02.02, and other provisions of this Code, the following uses are prohibited:

1. Keeping, breeding, or raising of bees, insects, reptiles, pigs, horses, cattle, goats, hogs, or poultry.
2. The sale, offer for sale, rental, storage or display of any merchandise, outside of an enclosed building on the premises of any business except as provided herein.
 - a. As used herein the term "outdoor" shall mean any area which is outside of the heated or cooled area of a building and visible from a public street. Provided, however, that the outdoor display or sale of merchandise shall be permitted:
 - (1) In conjunction with and pursuant to any outdoor sale or display of merchandise authorized in conjunction with a special event pursuant to section 3.02.05 hereof:
 - (2) When the display is limited to merchandise identical to that actually in stock and available for purchase on the premises where the display is maintained, the display is limited in size to an area no greater than five (5) feet high, three (3)

feet wide, and three (3) feet in length and is not located within six (6) feet of any other such display. No such display may be located within any public right-of-way, mandatory building setback under this chapter or so as to interfere with any fire exit required under any building code of the city. Any display rack, shelves or other device used in conjunction with the display of merchandise shall be made of wood which shall have either a natural finish or shall be painted only in colors which have been approved by the comprehensive planning and zoning board as a part of the supplemental criteria for community appearance standards or shall be made of brass, copper, bronze, nickel, tin or iron; provided, however, that painted, polished, anodized or chromed metals shall be prohibited.

3. The sale, offer for sale, or rebuilding of secondhand merchandise on any business premises, including secondhand household and commercial goods, such as but not limited to: refrigerators, stoves, sinks, plumbing fixtures, carports, tents, air conditioners, windows, vehicle parts, and the like.
4. The manufacture, assembly or preparation of any merchandise, food or beverages outside of an enclosed building on any business premises with the exception of Mobile Food Dispensing Vehicles as defined in Article II definitions.
5. The sale, offer for sale, or rental of any merchandise, food, or beverages from a motorized or nonmotorized vehicle or trailer of any type on any business premises with the exception of Mobile Food Dispensing Vehicles as defined in Article II definitions.
6. The operation of a business from any temporary quarters, such as but not limited to: tents, pushcarts, sheds, carports, motor vehicles, and trailers.

SECTION 5. From and after the effective date of this ordinance, Land Development Regulations of Saint Augustine Beach Article III – Section 3.11.00 is created to read:

Sec. 3.11.00. – Mobile Food Dispensing Vehicles (MFDV)

A. Purpose and intent; definitions.

1. **Purpose and intent.** The purpose and intent of this Ordinance is to implement F.S. § 509.102, by permitting Mobile Food Dispensing Vehicles within the City of St. Augustine Beach, Florida, subject to the terms and contained herein.
2. **Definitions.** See article II

B. General regulations; cooperation; enforcement.

1. All Mobile Food Dispensing Vehicles are subject to the following requirements:
 - a. Mobile Food Dispensing Vehicles are required to obtain and display all proof of insurance and licensing required for the operation of such business in Florida which include but are not limited to licensing by the Florida Department of Agriculture and Consumer Services, the Florida

Department of Business and Professional Regulations (DBPR), the Florida Department of Health, and local Fire Marshalls.

- b. Mobile Food Dispensing Vehicles may only operate on a parcel in Commercially Zoned areas where single family residences do not exist.
 - c. Mobile Food Dispensing Vehicles are limited to operating one Mobile Food Dispensing Vehicle per individual parcel.
 - d. Mobile Food Dispensing Vehicles may not obstruct vehicular or pedestrian traffic, may not obstruct handicapped access/parking or obstruct vehicular parking rules, vehicular loading zones, taxi stands or franchised vehicles for hire stands.
 - e. No Mobile Food Dispensing Vehicle shall be permitted to interfere with sight visibility for traffic or block public rights-of-way or sidewalks.
 - f. The location of the Mobile Food Dispensing Vehicle shall not be permitted to reduce the available parking of the site below the minimum required for standard site operations.
 - g. Mobile Food Dispensing Vehicles must provide access to a restroom at each location.
 - h. Mobile Food Dispensing Vehicles and the property owner where they operate are both responsible for the proper disposal of waste and trash. No grease, waste, trash or other debris shall be deposited on or released on to public property, which includes streets, sidewalks or other public places nor into the gutter or storm drainage system.
 - i. Mobile Food Dispensing vehicles shall only operate between the hours of 6:00 AM and 10:00 PM. Mobile Food Dispensing Vehicles may not continue to operate after sunset without adequate outdoor lighting.
 - j. Mobile Food Dispensing Vehicle shall not operate within 500 feet of an existing restaurant without written approval of said restaurant.
 - k. Setup and operations are subject to inspections by the Chief Building Official and/or the fire marshal.
 - l. Overnight parking of a mobile food truck is allowed on private property subject to the other provisions of this section. Overnight parking on public property is prohibited without explicit written permission from the City.
2. No person shall operate a Mobile Food Dispensing Vehicle unless the business is covered by a comprehensive liability insurance policy in a form and content satisfactory to the City insuring the public against injury or damage occasioned by negligence arising from or incidental to the business activity. At a minimum, the policy shall provide coverage of one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per incident. The policy shall list the City as a coinsured and shall provide that coverage shall not be

cancelled or materially altered except after thirty (30) days' written notice has been received by the City. Proof that the insurance policy remains in full force and effect shall be provided upon the City Manager's request given on reasonable notice at any time.

3. Any Mobile Food Dispensing Vehicle that fails to comply with the requirements of this section shall be guilty of violating this section of the St. Augustine Beach City Code and shall be subject to any and all enforcement proceedings consistent with the applicable provisions of the St. Augustine Beach City Code. Each day a violation exists shall constitute a distinct and separate offense.

- C. Specific Allowances for Mobile Food Dispensing Vehicles. All portions of this section, 3.11.00, may be set aside by the City's issuance of a special event permit.

SECTION 6. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

SECTION 7. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the City of Saint Augustine Beach Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

SECTION 8.-All portions of this Ordinance shall take effect immediately upon passage with the exception that no penalties shall be enforced for a calendar year from passage.

PASSED, APPROVED AND ADOPTED at the regular meeting of the City Commission of the City of Saint Augustine Beach, Florida this 5th day of April 2021.



Margaret England, Mayor

ATTEST:



Max Royle, City Manager

First Reading: February 1, 2021

Second Reading: March 1, 2021

Third Reading: April 5, 2021