

CITY OF BONITA SPRINGS, FLORIDA

ORDINANCE NO. 20-05

AN ORDINANCE OF THE CITY OF BONITA SPRINGS, FLORIDA, AMENDING DIVISION 37. SUBDIVISION II, TEMPORARY USES AND SUBDIVISION III. MOBILE FOOD VENDORS OF THE LAND DEVELOPMENT CODE RELATING TO MOBILE FOOD VENDORS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Bonita Springs, Florida is the governing body of Bonita Springs; and

WHEREAS, the City previously adopted Ordinance 13-02 creating a registry and establishing regulations for mobile food vendors within the municipal boundaries of the City; and

WHEREAS, City Council recognizes the regular need to update its regulations to adapt to changes in market conditions, while protecting public health, safety, and welfare; and

WHEREAS, City Council in responding to public input now desires to open up its regulations with respect to food trucks while mitigating any impacts to existing and adjacent uses; and

WHEREAS, City Council desires locational and development standards should be created to allow for food truck parks within certain commercial districts of the City while limiting their impact in predominantly residential areas such as Little Hickory Island or areas sensitive to redevelopment; and

WHEREAS, pursuant to the Article VIII of the Florida Constitution, the City of Bonita Charter and Section 166.021, Florida Statutes, the City Council is authorized to adopt ordinances necessary for the exercise of its powers in for health, safety, and general welfare; and

WHEREAS, the City Council has determined that it is in the best interests and welfare of the City of Bonita Springs and its residents to enact this Ordinance.

THE CITY OF BONITA SPRINGS HEREBY ORDAINS:

Section 1. Recitals Adopted.

That each of the above stated recitals is hereby adopted and confirmed as being true, and the same are hereby incorporated as a part of this Ordinance.

Section 2. Amending Land Development Code

The Bonita Springs City Code is hereby amending Chapter 4 - Zoning, Article VI – Supplementary District Regulations, Division 37 – Subordinate and Temporary Uses, Subdivision III – Mobile Food Vendors of the City's Land Development Code, with deletions depicted with ~~strikethroughs~~ and underlined language as additions, as follows:

Sec. 4-2153. - Applicability, purpose and intent.

~~(a) This subdivision provides minimum regulations for mobile food vendors and food stands. The purpose and intent of this subdivision is to provide regulations for mobile food vendors and food stands, as their use is listed in section 4-408(c)(29) Group III and section 4-408(c)(43) Group I, food stands. The provisions below are intended to provide economic development and entrepreneurial opportunities for applicable businesses, while protecting public health, safety, and welfare, minimizing visual impacts to the public realm, and mitigating fiscal impacts to standard restaurants and related businesses. It is not the intent of these provisions to regulate mobile food vendors from operating that are in transit, i.e., making stops at locations within the city less than a half hour per location.~~

(a) Applicability – The City of Bonita Springs recognizes that this use is temporary and mobile in nature. These regulations are intended to define the locations and development standards for a site to be permitted for mobile food vendors. The standards established in these regulations are intended to allow mobile food vendors to operate while mitigating impacts to the site in which they operate and adjacent properties and right of ways. These regulations do not address mobile food carts, or mobile vendors that visit sites to temporarily vend for a period of minutes and not days or hours (i.e. ice cream trucks, construction or work site vendors). These vehicles are permitted by other agencies and cannot operate in the same manner as a mobile food vendor.

Permit Required – No mobile food vendor location is permitted without an approved permit. Such a permit only address the location. Food vendors are required to provide evidence of all applicable inspections and permits with the City and not permitted or registered through this ordinance.

(b) Property owners that have a fixed (stationery) mobile food vendor permitted before January 1, 2013, and have made substantial improvements to the property (obtained development orders and expended at least \$10,000.00 in site improvements) may continue to have a mobile food vendor on that site for eight years from adoption of the ordinance from which this subdivision is derived, subject to loss of nonconforming status per Section 4-2320 et seq. The community development director may grant a two year extension to the property owner. Property owner may replace the mobile food vendor, who may remain as originally permitted. Any new mobile food vendor located at the site must comply with Ssection 4-2156 except for the duration and physical movement of the vendor.

Sec. 4-2154. - Definitions.

The following words, terms and phrases, when used in this subdivision, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commissary means an approved facility that provides support services for specific required functions of a mobile food vendor, including, but not limited to, mobile food vehicles and mobile food carts. Any food establishment permitted or licensed by a regulatory agency, such as a catering operation, restaurant, grocery store or similar establishment or any otherwise approved facility by FDACS in which food, containers, or supplies are kept, handled, prepared, packaged or stored can be considered for approval as a commissary. When not required at the mobile food establishment, commissaries may provide a three compartment sink for washing, rinsing and sanitization of equipment/utensils in addition to hand wash and rest room facilities. Services required of the commissary will be based on the food sold and the mobile food establishment type and capabilities. A private residence may not be used as a commissary (see F.S. ch. 500 See Chapter 500, Florida Statutes).

Food stand means a temporary, non-motorized food unit with limited infrastructure, which serves food and/or beverage intended for immediate consumption and does not provide indoor seating.

Mobile food cart means any non-motorized mobile food unit with limited infrastructure, which serves food and/or beverages intended for immediate consumption. Mobile food carts may not exceed six feet in length, three feet in width (exclusive of wheels), or four feet in height (exclusive of wheels and umbrellas).

Mobile food vehicle means a motorized mobile food unit, which may be self-sufficient in terms of potable water, sanitary sewer and electric utilities, and generally consists of an enclosed truck, trailer or similar vehicle, where food may be stored, prepared, cooked, and/or served. An open bed truck, van or converted automobile is not considered a mobile food vehicle and is not eligible for a mobile food vending permit pursuant to this division.

~~*Mobile food vending permit* means a permit granted by the city to a mobile food vendor to conduct food vending from a mobile food cart, vehicle, or food stand.~~

Mobile food vendor means any person or business selling foods other than fresh fruits or vegetables from a mobile food vehicle, mobile food cart or food stand.

~~*Mobile food vendor group site* means the temporary siting of two or more mobile food vendors on a single property during a special event, subject to an approved temporary use permit.~~

Mobile Food Vendor Park means a site approved through a Special Exception to allow for permanent location for three or more mobile food vehicles. Such sites must

include required infrastructure and generally include public seating for all vehicles serving in the park.

Sec. 4-2155. - Permit required.

(a) No mobile food vendor shall be permitted to operate within the city unless a permit has been obtained for the proposed location upon which the vendor will operate from the department of community development.

~~(b) A mobile food vendor permit granted under this subdivision authorizes a vendor to sell food and/or beverages subject to all other applicable requirements in this chapter.~~

~~(c) Mobile food vendor permits shall be regulated as follows:~~

~~(1) No more than five mobile food vendor permits, as defined in this subdivision, shall be in effect at any time within the city, excluding temporary use permits issued pursuant to this subdivision.~~

~~(2) Permits shall be issued on a first come, first serve basis, and are non-transferable.~~

~~(3) A mobile food vendor may request approval to vend at a maximum of two locations per application, subject to the submittal requirements of this subdivision.~~

~~(4) Permits, unless sooner suspended or revoked, shall be valid for an initial period of six months from the date of issuance.~~

~~(5) Permit holders may apply to renew the permit for a period of 12 months no sooner than 30 days prior to permit expiration.~~

~~(6) Approved permits must be attached to the mobile food vendor unit where they are readily visible and shall include the name, mailing address, and valid phone number of the mobile food vendor unit owner and shall list the addresses and parcel identification numbers where the permit is valid.~~

~~(7) Routine inspections may be conducted by building or fire inspectors on each mobile food vendor at any time and at any frequency deemed appropriate by the city.~~

~~(8) Any mobile food vendor unit that has been issued a notice of health violation by the state, and on a subsequent inspection, a state inspector determines that the mobile food vendor has not corrected the violation, shall have its city-issued mobile food vendor permit revoked and food service shall cease in the city.~~

~~(d) Submittal requirements. Applications for mobile food vendor permits must include the following information:~~

~~(1) The name, address, telephone number, and email address of the applicant.~~

~~(2) A description of the type of food and/or beverages to be sold.~~

~~(3) Color photograph of the mobile food vehicle, cart or food stand depicting the current condition of the unit.~~

~~(4) Address of proposed vending site, including the property address, property owner's name and telephone number, and the name of the principal business located on the property (where applicable).~~

~~(5) A site plan for each proposed vending site, drawn to scale, depicting the following information:~~

~~(a) Total square footage of the property;~~

~~(b) Location and square footage of the existing principal and accessory uses, where applicable;~~

~~(c) Location and number of existing parking spaces, including a calculation that demonstrates the number of parking spaces required for the principal uses, and the number of parking spaces available to service the mobile food vehicle, cart or food stand pursuant to section 4-1732;~~

~~(d) Proposed location for the mobile food vehicle, cart or food stand;~~

~~(e) Location of ingress/egress to the site; and~~

~~(f) Table demonstrating the minimum setbacks in compliance with the underlying zoning district and this subdivision.~~

~~(6) Address of proposed location to store the mobile food vehicle, cart or food stand when not in use.~~

~~(7) A copy of all permits and business licenses required by the state, the county and the city.~~

~~(8) A notarized commissary agreement confirming the mobile food vendor is operating in conjunction with a licensed commissary in accordance with state statutes, where applicable. All commissaries must be pre-approved by the city prior to issuance of a mobile food vendor permit.~~

~~(9) 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:~~

~~(a) 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;~~

~~(b) 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;~~

~~(c) The property owner shall acknowledge that he understands the regulations governing mobile food vendors and will be held responsible, along with the vendor, for any code violations; and~~

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

~~(10) Proof of business insurance, issued by an insurance company that is licensed to do business in the state, 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 vending. Such insurance shall name the city as an additional insured party and shall be in at least the amount of \$500,000.00 for occurrence for injury and \$200,000.00 per person.~~

~~(11) Letters of no objections from any school, church, restaurant Group II through IV or residence within 500 feet, or where applicable pursuant to section 4-2157.~~

~~(12) Application fee as outlined in the city's adopted fee schedule.~~

Permit Submittal Requirements –

1. Completed application.
2. Signed authorization from the property owner or authorized representative.
3. Proof of business insurance, issued by an insurance company that is licensed to do business in the state, 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 vending. Such insurance shall name the city as an additional insured party and shall be in at least the amount of \$500,000.00 for occurrence for injury and \$200,000.00 per person.
4. Site Plan based on a valid survey, approved development order, or Master Concept Plan with dimensions and infrastructure identified, including the proposed location of the mobile food vendors. For large or phased projects, the plan submitted must provide enough detail to determine pedestrian and vehicular access to a public right of way.
5. All sidewalks, driveways, rights of way, parking areas, outdoor seating areas, buildings with entry locations.
6. A statement declaring if biodegradable packaging will be utilized, and if not, why.
7. If required parking spaces are to be utilized, the times businesses use those spaces and the proposed time they would be used for mobile food vending.

Non-Compliance with Permit

1. If a permit holder is found to be operating inconsistent with the standards of the permit, as documented by a violation notice or conviction from the Bonita Springs Hearing Examiner, the permit may be suspended or revoked by the City Council after hearing evidence of the violation in a public hearing. The burden to maintain the permit will be with the permit holder.

Sec. 4-2156. - General standards.

~~The following standards shall apply to all mobile food vendor permits:~~

~~(1) Mobile food vehicles, carts or food stands may be permitted on nonresidentially zoned properties as specified in the zoning district regulations, in compliance with this subdivision.~~

~~(2) Establishments and/or vendors governed by this subdivision shall be limited in operation on site from 7:00 a.m. to 9:00 p.m., Monday through Sunday, unless additional hours are permitted pursuant to this subdivision.~~

~~(3) The mobile food vehicle or cart must physically be moved at least daily and cannot remain in a permitted vending location outside the approved hours of operation.~~

~~(4) Maximum duration. Mobile food vehicles, carts and food stands may not vend at the same location for more than a three days per week (beginning and ending at 7:00 a.m. on Mondays). The mobile food vehicles, carts and food stands must be moved to a different location (permitted) when not in use at the permitted vending locations.~~

~~(5) Exterior colors. Neon and fluorescent colors are prohibited. The use of black paint is limited to trim.~~

~~(6) No products shall be sold from any mobile food vendor vehicle or cart which is stopped, standing, or parked in any public street/right-of-way, crosswalk, and/or driveway. The mobile food vehicle or cart shall not impede the flow of traffic or pedestrians on the sidewalk, or obstruct access to fire hydrants.~~

~~(7) The mobile food vendor shall not block/interfere with required parking spaces, building access, loading areas, stormwater drainage systems, or landscape buffers associated with the principal use.~~

~~(8) Mobile food vehicles, carts, food stands and associated displays must be located in accordance with the principal structure setbacks of the underlying property's zoning district. Mobile food carts must be located in accordance with the accessory structure setbacks of the underlying property's zoning district.~~

~~(9) Parking spaces shall be provided in accordance with section 4-1732. Existing parking spaces for the principal use may count towards the required parking for the mobile food vendor use. However, at no time may the required number of parking spaces for the principal use be rendered nonconforming due to mobile food vendor use.~~

~~(10) The sale of alcohol beverages from a mobile food vehicle or cart is prohibited.~~

~~(11) Amplified music or other sounds from any mobile food vehicle or cart for the purposes of vending products is prohibited.~~

~~(12) Mobile food vendors are prohibited from discharging fat, oil, grease, and waste water into the sanitary sewer system. Waste shall be properly stored and disposed of at the commissary or other permitted recycling/disposal facility.~~

~~(13) Ice must be drained into a retention tank to be properly disposed of at the commissary or designated servicing area. No wastewater leakage will be allowed.~~

(1) Locations must not interfere with vehicular, multi-modal, pedestrian access and access ways.

(2) Cannot be located in a required parking space or driveway, unless it is specifically demonstrated the parking or driveway is not used during the time and/or days the mobile food vendor location is permitted.

(3) A mobile food vendor cannot install or create features, signs, or other identification not utilized while driving, that extend more than 3' from the vending vehicle in any direction.

(4) Must be located on property or within a development with completed infrastructure improvements.

(6) All mobile food vendors shall be located in areas and in a manner that they do not create an adverse view or vista. More specifically, the food truck or anything associated with its operation shall block the view of signs or vehicular or multi-modal access ways.

(7) No more than two mobile food vendors can be requested on a single site. For purposes of this specific requirement, a site includes an entire commercial development even if that development consists of more than one parcel.

(8) A mobile food vehicle cannot be permitted within 250 feet of another permitted location, or mobile food vendor park. This separation requirement will not reduce or amend locational standards for particular overlay districts.

(9) Permitted sites will have the mobile food vendor removed at the end of permitted operating hours.

(11) Cannot be located on the site of an active, or abandoned gas station or convenience store.

(12) Alcohol shall not be sold or consumed from a mobile food vendor.

(13) Advertising signs may be permitted upon the mobile food vendor, but there will not be additional signage installed in any other location.

(14) Notification will only be provided by courtesy mailing for property owners within 1,000' and be the responsibility of the applicant. The mailing list and copy of notification

will be provided to the City. The request for approval will also be listed on the advertised City Council agenda.

(15) Property Owner Responsibilities will include; and

- a) Provision of sanitary facilities consistent with the standards of the Florida Building Code while considering aesthetics of the site; and
- b) The responsibility to ensure vendors meet all applicable federal, state, and local statutes, regulations, laws, ordinances, rules and codes; and
- c) Acknowledgement that the regulations governing mobile food vendors hold the vendor and property owner responsible for violations of code.
- d) Ensure that the property (both the subject site, and other properties that may be directly impacted by mobile food vending) be kept in a continuously neat, clean, and orderly manner.

Sec. 4-2157. - Prohibited locations.

(a) Mobile food vending is prohibited on all parcels zoned for residential uses, except as authorized under this Code pursuant to the special event or temporary use permit. Notwithstanding, mobile food vending may also be authorized at clubhouse or other portion of a residential community separate from the residences with the authorization of the homeowners association.

(b) Mobile food vending is prohibited on Little Hickory Island, except as authorized under this Code pursuant to the special event or temporary use permit.

(c) Mobile food vending is prohibited within the Downtown District on the Future Land Use Map except as authorized under this Code pursuant to the special event or temporary use permit.

~~(b) Mobile food vending is prohibited within the Old U.S. 41 Redevelopment Overlay District (see section 4-866), unless approved pursuant to a temporary use permit for a permitted special event.~~

~~(c) A maximum of one mobile food vendor may be permitted to vend per lot at the same time, unless the location has been permitted as a mobile food vendor group site pursuant to a temporary event/use permit.~~

~~(d) Setbacks.~~

~~(1) Unless there is a letter of no objection, mobile food vehicles, carts and food stands shall not be located closer than 500 feet from:~~

- ~~(a) Any school (noncommercial) or day care center (child).~~
- ~~(b) Church of place of worship.~~
- ~~(c) Restaurants, Groups II through IV.~~

~~-(d) Any residentially used properties.~~

~~(2) A letter of no objection is not required when the applicant subject mobile food vehicle, cart or food stand is the school, day care center, church, or Groups II through IV restaurant.~~

~~(3) Mobile food vehicles, carts and food stands shall not be located closer than 200 feet from any other mobile food vehicle or cart, unless operating at an approved special event. For the purposes of this subsection, the distance shall be measured in a straight line from the subject mobile food vehicle, cart or food stand to the nearest mobile food vehicle, cart or food stand, and/or from the subject mobile food vehicle, cart or food stand to the property line of the school, day care center, church, or Groups II through IV restaurant.~~

Sec. 4-2159. – Mobile Food Vendor Park.

Applicability – This applies to any location that intends to provide permanent locations for mobile food vendors either through dedicated parking within an existing facility, or the creation of parking for such purpose. It is the permanent nature and not the number of mobile food vendors that distinguishes a mobile food vendor Park from temporary mobile food vendor locations.

General Standards

1. Must provide stabilized surface for the parking of the intended number of mobile food vendors
2. Central water and sewer must be provided for all mobile food vendors and the general public.
3. A mobile food vendor park can only co-locate on a site with existing uses if the tenants of those legal uses sign a no objection form
4. Any accessory structures, seating areas, pedestrian access must be specifically approved as part of the submitted plan.
5. There shall be no more than one mobile food vending park within 250 feet of another permitted park or mobile food vending location. This separation requirement will not reduce or amend locational standards for particular overlay districts.
6. Parking will be provided at three spaces per mobile food vendor, plus 1 additional parking space per 15 seats.
7. Restroom facilities will be required based on the standards of the Florida Building Code.
8. Cannot be located on the site of an active, or abandoned gas station or convenience store.
9. A food truck site will not be permitted on Little Hickory Island or within the Downtown District on the Future Land Use Map as provided by Section 4-2157.
10. Neighborhood meetings are required consistent with Bonita Springs LDC 4-28.
11. Public notice will include courtesy mailed notices for property owners within 2,000' for both Zoning Board and City Council hearings.

12. Mobile food vendors may have advertising on their vehicles, however, signage for a mobile food vending park must be consistent with the standards of Bonita Springs Land Development Code Chapter 6.

Permit Submittal Requirements

1. Mobile Food Vendor Parks may only be approved through a Special Exception permit
2. All required submittal requirements for a Special Exception, and
3. For open air central seating areas, an analysis for off-site impacts.
4. Analysis for off-site impacts of glare, dust, vibration, and odor on the adjacent and surrounding community.
5. For applications with outdoor entertainment, analysis for off-site impacts for noise.

Mobile Food Vendors

1. For Mobile Food vendors to locate at an approved location (both an approved site or approved mobile food vendor park), they must provide evidence that all required permits, inspections, licensure, or other approvals as needed by either county, state, or federal agencies prior to operating within the City.
2. Documentation will be submitted to the City through copies or accepted electronic forms.
3. Submittal of these documents will not produce a permit and other than maintain evidence of documents for public records, it will not produce a registry or registration.

Section 3. SEVERABILITY

The provisions of this Ordinance are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any court of competent jurisdiction shall hold any of the provisions of this Ordinance unconstitutional, the decision of such court shall not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would be adopted had such unconstitutional provision not been included therein.

Section 4. CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted City of Bonita Springs ordinance or Florida Statutes, the more restrictive shall apply.

Section 5. CODIFICATION AND SCRIVENER'S ERRORS

It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Bonita Springs Code; that sections of this Ordinance may be renumbered or re-lettered and that the word "ordinance" may be changed to

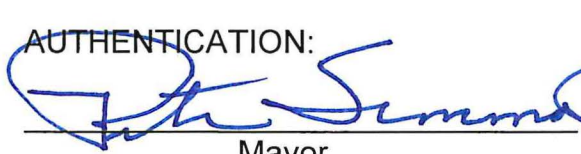
"section", "article", or such other appropriate word or phrase in order to accomplish such intention; and that any typographical errors which do not affect the intent may be authorized by the City Manager without need of public hearing, by filing a corrected copy with the City Clerk. It is further the intent of the City Council that the provisions of this Ordinance may be modified as a result of consideration that may arise during public hearing(s) and that such modifications shall be incorporated into the final version.

Section 6. EFFECTIVE DATE


This Ordinance shall be effective immediately upon its adoption.

DULY PASSED AND ENACTED by the City Council of the City of Bonita Springs, Lee County, Florida, this 7th day of October, 2020.

AUTHENTICATION:



Mayor



City Clerk

APPROVED AS TO FORM:



City Attorney

Vote:

Carr	Aye	Gibson	Aye
Purdon	Aye	Quaremba	Aye
Forbes	Aye	Simmons	Aye
Corrie	Nay		

Date filed with City Clerk: 10/9/2020