

ORDINANCE 2013- 530

BEFORE THE CITY COUNCIL

AN ORDINANCE OF THE CITY OF KEYSTONE HEIGHTS, AMENDING CHAPTER 152. *TRAILERS* OF THE CODE OF ORDINANCES TO PERMIT HOT DOG CARTS; AMENDING THE LAND DEVELOPMENT REGULATIONS TO WIT: AMENDING SECTION 14 . *DEFINITIONS OF BASIC TERMS* OF ARTICLE II TO DEFINE HOT DOG CART; AMENDING SECTION 49. *EFFECT OF PERMIT ON SUCCESSORS AND ASSIGNS* OF ARTICLE IV TO EXPAND APPLICABILITY OF REGULATORY AND ADMINISTRATIVE PERMIT CONDITIONS TO THE USERS OF PROPERTY SUBJECT TO THE PERMIT; AMENDING SECTION 89. *CONTINUATION OF NON-CONFORMING SITUATION* OF ARTICLE VIII TO PERMIT HOT DOG CARTS ON PROPERTIES ON WHICH A NON-CONFORMITY EXISTS; AMENDING SECTION 100. *COMMERCIAL DISTRICTS* OF ARTICLE IX TO ADD HOT DOG CARTS AS A USE BY EXCEPTION IN THE GENERAL COMMERCIAL ZONING DISTRICT; ADDING SUBSECTION (D) TO SECTION 112. *CHANGE IN USE* OF ARTICLE X TO PROVIDE THAT THE OPERATION OF A HOT DOG CART ON A DEVELOPED PROPERTY DOES NOT CONSTITUTE A CHANGE IN USE; ADDING SECTION 129 TO ARTICLE XII ESTABLISHING REGULATIONS FOR HOT DOG CARTS; PROVIDING FOR APPLICABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Division of Hotels and Restaurants of the Florida Department of Business and Professional Regulation licenses Hot Dog Carts; and

WHEREAS, such regulation addresses the sale of this food type to the public with regard to public health; and

WHEREAS, the City of Keystone Heights has determined that the operation of Hot Dog Carts within the City limits should be permitted provided such use on a commercial property within the City is consistent with the intensity of use and character of commercial properties within the City; and

WHEREAS, the City has reviewed the potential impacts generated by the operation of Hot Dog Carts on infrastructure and on fixed location businesses in the City and determined that the operation of Hot Dog Carts under an approved Use by Exception in the General Commercial (CG) Zoning District provides appropriate review and public notice of approval for a Hot Dog Cart on a particular parcel of land within the City; and

WHEREAS, the Hot Dog Cart use is not identified as a Use by Exception in the General Commercial Zoning District; and

WHEREAS, the City finds that criteria for the approval of an application for a Hot Dog Cart Use by Exception in a General Commercial Zoning District are necessary to

maintain the character of the City's commercial areas, manage the intensity of use on any particular parcel so zoned and insure that adequate public and private infrastructure to support all the business activity located on the parcel is provided.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF KEYSTONE HEIGHTS, FLORIDA:

New text is underlined; deleted text is stricken.

Section 1.

Section 152.04 *Operation of Businesses Prohibited* of Chapter 152: *Trailers* the Code of Ordinances of the City of Keystone Heights is hereby amended as follows:

Section 152.04. OPERATION OF BUSINESSES PROHIBITED

No business, trade, occupation or profession of any kind, temporary or otherwise, shall be maintained, operated or conducted within the corporate limits of the city from the confines of any mobile home, house trailer, motor home or similar mobile business unit of any kind; provided however that this section shall not apply to:

- (A) Businesses dealing in the sale of mobile homes, motor homes or house trailers, or when used as an office for the valid operation of a trailer park; or
- (B) Businesses conducted from a mobile home, motor home or house trailer where such unit is also the residence of the owner or manager of such business; or
- (C) Vehicles used in interstate commerce or in pick up and delivery of consumer goods or vehicles providing repair services; or
- (D) Vehicles used by local farmers selling produce raised by them; or
- (E) Hot Dog Carts permitted as a Use by Exception in the General Commercial Zoning District.

Section 2.

Section 14. *Definitions of Basic Terms* of Article II. *Basic Definitions and Interpretations* of the City of Keystone Heights Land Development Regulations adopted as an Appendix to the Land Development Code Manual is hereby amended to add the following definition:

HOT DOG CART. A non-motorized vehicle that is the subject of a valid permit issued by the Division of Hotels and Restaurants of the Florida Department of Business and Professional Regulation to operate as a Hot Dog Cart. Hot Dog Carts are limited to the reheating of hot dogs or pre-cooked individually encased sausages only and the regulations established by the Division of Hotels and Restaurants. The horizontal surface area of a Hot Dog Cart is limited to 24 square feet.

Section 3.

Section 49. *Effect of Permit on Successors and Assigns* of Article IV. *Permits and Approvals* of the City of Keystone Heights Land Development Regulations adopted as an Appendix to the Land Development Code Manual is hereby amended as follows:

SECTION 49. EFFECT OF PERMIT ON SUCCESSORS AND ASSIGNS

Administrative and regulatory permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable unless the permit-issuing authority makes them personal to the applicant as a condition of the permit. However, so long as the land or structures of any portion thereof covered under a permit is ~~continues to be~~ used for the purposes for which the permit was granted, then:

(A) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and

(B) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit for the following:

(1) Entities ~~All persons~~ having an interest in the property at the time the permit was obtained; ~~and~~

(2) Entities ~~Persons~~ who subsequently obtain any interest in all or part of the property and wish to use it for purposes other than those for which the permit was originally issued; and

(3) Entities who make use of the land or structures covered under the permit.

Section 4.

Section 89. *Continuation of Non-Conforming Situation* of Article VIII. *Nonconforming Situations* of the City of Keystone Heights Land Development Regulations adopted as an Appendix to the Land Development Code Manual is hereby amended to allow the operation of a Hot Dog Cart as a Use by Exception on a property that is otherwise non-conforming:

SECTION 89 CONTINUATION OF NONCONFORMING SITUATION

Unless otherwise specifically provided in this chapter and subject to the restrictions and qualifications set forth in Sections 90 through 95, nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued.

Notwithstanding the restrictions and qualifications set forth in Sections 90 through 95, the operation of a Hot Dog Cart in accordance with an approved Use by Exception and a valid Business License shall be permitted despite existing non-conforming situations on the property.

Section 5.

Section 100. *Commercial Districts* of Article IX. *Zoning Districts & Zoning Maps* of the City of Keystone Heights Land Development Regulations adopted as an Appendix to the Land Development Code Manual is hereby amended to add a use by exception in the General Commercial (CG) Zoning District:

(3) Uses by exception. In these districts, uses by exception are as follows:

- (a) Animal Kennel;
- (b) Restaurant Fast Food;
- (c) Child Care Center;
- (d) On-premise consumption of liquor, beer and wine;
- (e) Limited wholesale operation;
- (f) Contractor, not requiring outside storage;
- (g) Limited warehousing, including mini-warehouses;
- (h) Motels;
- (i) Churches;
- (j) Cabinet Shops;
- (k) Hospital, nursing home;
- (l) Sale of new and used automobiles and boats;
- (m) Automotive / truck service garage (not including semi-tractor trailer repairs)
- (n) Hot Dog Cart consistent with Section 129.

Section 6.

Section 112 . *Change in Use* of Article X. *Permissible Uses* of the City of Keystone Heights Land Development Regulations adopted as an Appendix to the Land Development Code Manual is hereby amended to add a new subsection (D):

(D) The operation of a Hot Dog Cart pursuant to an approved Use by Exception and a valid City Business License in the Commercial General Zoning District shall not constitute a Change in Use.

Section 7.

Section 129. *Hot Dog Carts* is added to Article XII *Supplementary Use Regulations* as follows:

Section 129. REGULATIONS FOR HOT DOG CARTS

(A) The L.P.A. shall consider the operation of a Hot Dog Cart under a regulatory permit application subject to the conditions in divisions (B) and (C) below. Notwithstanding compliance with divisions (B) and (C) below, the L.P.A. shall determine that the requested regulatory permit, if approved, is consistent with divisions (B) and (C) of Section 42.

The regulations and requirements of this section are intended to:

- (1) Promote the health, safety and general welfare of the citizen's by regulating the siting and operation of Hot Dog Carts;
- (2) Maintain the essential character and nature of the activity conducted on the lot prior to operation of the Hot Dog Cart;
- (3) Maintain the visual character of the activity conducted on the lot prior to operation of the Hot Dog Cart; and
- (4) Establish the minimum standards applicable to the operation of a Hot Dog Cart.

(B) A single Hot Dog Cart may be approved by Exception to be located on a developed property in the General Commercial Zoning District provided the following minimum conditions are incorporated as conditions of the Exception:

- (1) The operator maintains a valid Business License with the City;
- (2) The Hot Dog Cart is licensed by the Florida Department of Business and Professional Regulation (DBPR) under the Division of Hotels and Restaurants and said license is valid with no outstanding violations. All required State of Florida and City licenses must be clearly displayed on the Hot Dog Cart;
- (3) The hours of operation of the Hot Dog Cart coincide with the operating hours of the permanent business operating on the property;
- (3) Trash receptacles are provided adjacent to the Hot Dog Cart and maintained (emptied) each night. No liquid waste shall be disposed in landscape areas, storm drains or onto the sidewalks, streets or other public space. Failure to maintain the property in a clean and healthy manner or to improperly dispose of waste shall result in an immediate suspension of the City's Business License, requiring the Hot Dog Cart operations to cease immediately. Operations shall not resume until an alternative method of disposal has been approved by the City or the Health Department, as applicable.
- (4) Coolers, ice chests or other accessory containers shall not be permitted;
- (5) Heating, warming or cooling unit(s) shall be an integral part of the cart;
- (6) The property owner of record shall be responsible for all litter and trash associated with the Hot Dog Cart operations including litter and trash generated by customers of the Hot Dog Cart. The area surrounding the Hot Dog Cart shall be maintained in a clean and safe manner. Failure to provide a clean and safe environment may be cause for revoking the Exception;

(7) Signage for the Hot Dog Cart is not permitted; graphics printed on the cart shall be permitted, limited to 5 square feet in area;

(8) Customer seating is not permitted;

(9) Lighting shall be permitted for safety to illuminate the customer service area and horizontal serving area of the Hot Dog Cart. Lighting for the purpose of attracting customers shall not be permitted.

(10) The operator of the Hot Dog Cart shall not sell or attempt to sell, engage in or attempt to engage in any commercial transaction with the occupant of any motor vehicle whether the motor vehicle is in motion, stopped or parked.

(11) A freestanding, fixed structure may not be erected as a cover to the Hot Dog Cart or its customer service area. A non-permanent covered area may be provided during the hours of operation of the Hot Dog Cart, limited to an area no larger than a three foot extension of the horizontal surface area of the Hot Dog Cart. Umbrellas shall be permitted and may contain printing, limited to the name of the Hot Dog Cart business or name of the product sold.

(12) Audio amplification shall not be permitted.

(13) The Hot Dog Cart must be removed from the property during impermissible hours of operation and may not be stored, parked or left overnight in any residential district within the City or within any public street or sidewalk.

(C) A site plan identifying the potential physical locations for a Hot Dog Cart on the property shall be submitted with the Exception application; the site plan approved under an Exception for Hot Dog Cart use shall be incorporated into the approved Exception. The site plan shall identify those portions of the property on which a Hot Dog Cart may be located if the Exception is approved as hatched areas within the parcel boundary. The L.P.A. may reduce the Permitted Hot Dog Cart Area of the property to an area less than the area requested. The Permitted Hot Dog Cart Area shall not place the vending cart, trash receptacles and customer service area:

(1) within 50 feet of a public right of way;

(2) within 300 feet of the property line of a parcel on which is located an existing fixed location restaurant, measured from the closest point on the Hot Dog Cart Area to the closest point on the property on which the fixed location restaurant is located;

(3) within any parking space, drive aisle, curb cut or public sidewalk;

(4) within 10 feet of any building exit, including emergency exits;

(5) within 10 feet of a fire hydrant or in a location that blocks access to the fire hydrant by fire apparatus;

(6) greater than 50 feet from the primary entrance to the permanent business operating on the property;

(7) within any landscape area; or

(8) within 100 feet of another approved Hot Dog Cart Area.

(D) Approval of Use by Exception. The approval of a Hot Dog Cart Use by Exception for a property in a General Commercial Zoning District shall expire pursuant to Section 48 (A)(1). Initial use of the property for a Hot Dog Cart within one year of approval of the Use by Exception shall vest the Hot Dog Cart use despite non-use of the property for a Hot Dog Cart at any time subsequent to the initial use unless otherwise limited by the approved Exception.

Section 8. Applicability

This ordinance shall apply to any action covered herein undertaken within the City limits after June 3, 2013.

Section 9. Conflict

If any provision of this Ordinance is in conflict with any portion of any other ordinance, the provisions of this ordinance shall govern.

Section 10. Severability

If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, said holding shall in no way affect the validity of the remaining portions of this ordinance.

Section 11. Directions to the Codifier

The codifier is instructed to place the provisions of this Ordinance within the Code of Ordinances of the City of Keystone Heights and make any modifications necessary to place the provisions in a form that complies with the Code.

Section 12. Effective Date.

This Ordinance shall become effective upon adoption by the Council.

This Ordinance was adopted on first reading on motion by Councilperson _____, second by Councilperson _____, on a vote of _____ to _____ this _____ day of _____, 2013.

This Ordinance was adopted on second reading on motion by Councilperson _____, second by Councilperson _____, on a vote of _____ to _____ this _____ day of _____, 2013.

Mary Lou Hildreth
MAYOR

ATTEST:

Terry Suggs
City Manager

FORM APPROVED:

Rob Bradley
City Attorney