

ORDINANCE NO. 2018-2134

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, PROVIDING FOR AMENDMENT OF CHAPTER 13 OF THE NEW PORT RICHEY CODE OF ORDINANCES, PERTAINING TO LICENSES AND BUSINESS REGULATION; PROVIDING FOR A NEW ARTICLE XII, PERTAINING TO MOBILE FOOD VENDING; PROVIDING DEFINITIONS OF TERMS; PROVIDING FOR REGISTRATION AND PERMITTING; PROVIDING FOR REGULATIONS; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, within the City limits of the City of New Port Richey, Florida the use of mobile food vending vehicles will enhance the quality of life in the City;

WHEREAS, this ordinance is being adopted in accordance with the police power of the City to control activities occurring on public and private property;

WHEREAS, mobile food vending will provide the public with access to food and beverages without increasing traffic congestion in the City; and

WHEREAS, it is declared as a matter of legislative determination and public policy that the provisions and prohibitions herein are necessary in the public interest; and it is further declared that the provisions and prohibitions herein are in pursuance of and for the purpose of securing and promoting the public health, safety, welfare and quality of life in the City.

NOW, THEREFORE, THE CITY OF NEW PORT RICHEY, FLORIDA HEREBY ORDAINS:

Section 1. Chapter 13 of the Code of Ordinances, pertaining to licenses and business regulation, is hereby amended by adding Article XII thereto, pertaining to mobile food vendors, as follows (strikeout text is deleted and underlined text is added):

ARTICLE XII. MOBILE FOOD VENDORS.

Sec. 13-558. Short title.

This article may be known and cited as the “City of New Port Richey Mobile Food Vendor Ordinance”.

Sec. 13-559. Purpose.

The purpose of this article is to establish procedures and governing regulations for mobile food vending businesses operating in the City. These regulations are intended to recognize this special market segment, establish appropriate operational standards and mitigate any associated undesirable impacts.

Sec. 13-560. Definitions.

For the purpose of this article, the following terms shall have the following definitions:

Ancillary items. Those items used in conjunction with, but not attached to or a part of a mobile food unit.

Food. All substance used for human consumption as food, non-alcoholic drink, confectionery or condiments, whether simple, mixed or compound, and all substances or ingredients used in preparation thereof.

Mobile food unit. Any vehicle used for the service of food, whether self-propelled or otherwise designed to be movable from place-to-place, including but not limited to, push carts, vending carts, mobile kitchens, hot dog carts, mobile trailers, ice cream trucks and food trucks.

Mobile food vendor. Any person or entity who offers for sale or distribution any food from a mobile food unit. A mobile food vendor operating from a stationary mobile food unit, shall be considered a stationary mobile food vendor.

Public property. All real property owned or controlled by the City, county, state or federal governments, except public ways.

Public ways. All areas legally open to public use and used for or intended for use for vehicular or pedestrian traffic, including public streets, alleys, sidewalks and roadways.

Stationary mobile food unit. Any mobile food unit that remains in one location for more than fifteen (15) consecutive minutes, or is located in any part of the same four hundred (400) square foot area more than once in a twenty-four (24) hour period.

Sec. 13-561. Registration and permitting requirement.

- (a) It shall be prohibited and unlawful for any person or entity to engage in the sale or distribution of food as a mobile food vendor without first registering or obtaining a permit as a mobile food vendor in the city, as provided in this article.
- (b) A registration or permit fee for each mobile food unit to be operated by a mobile food vendor shall be paid prior to the operation of each mobile food unit. The registration or permit fee shall be established from time to time by resolution adopted by the City Council.

Sec. 13-562. Applications.

All mobile food vendors registering as a mobile food vendor or applying for a permit hereunder shall provide the following:

- (a) An application as a mobile food vendor, including:
 - 1. The applicant's full name and address;
 - 2. The business name under which the applicant will be operating;
 - 3. A description of the food to be sold or distributed;
 - 4. The license or registration number of each vehicle or mobile food unit from which sales will be made that is required to be licensed to travel on public roads;
 - 5. The type of mobile food unit to be utilized;
 - 6. Current photographs of the mobile food unit to be utilized; and
 - 7. A current City business tax receipt for the mobile food vendor.
- (b) A signed hold harmless agreement and proof of insurance, meeting the requirements of Sec. 13-565, if applicable; and
- (c) Such additional information and documentation as the city manager, or designee, may determine to be reasonably necessary to accomplish the purposes of this article and to protect the public health, safety and welfare.

Sec. 13-563. Standards for mobile food vendors on private property.

Each mobile food vendor shall register each mobile food unit with the City and comply with the requirements of this section for operation on private property.

- (a) Zoning. Stationary mobile food vendors shall only operate on properties designated with a commercial, industrial, multi-family or mixed use planned development zoning classification, licensed and operating as a use authorized under one of said zoning classifications.
- (b) Setbacks. No stationary mobile food unit shall be operated within 100 feet of the property line of a single family or duplex dwelling.
- (c) Frequency. Except where a special event mobile food vendor license has been issued, stationary mobile food units shall not be operated on the same property more than once in any seven (7) day period, nor for more than any part of three (3) consecutive days.
- (d) Parking. No handicap or required off-street parking spaces shall be utilized for mobile vending operations, including the placement of mobile food units and ancillary items, or the congregation of patrons of the mobile food vendor.

- (e) Location. No mobile food unit shall be placed in any location that impedes the ingress or egress of any business or building, emergency exit or handicap access area.
- (f) Storage. Mobile food units shall not be stored on private property at any time the operation thereof is prohibited, unless the zoning and use of the property allows for the storage of that type of mobile food unit.

Sec. 13-564. Standards for mobile food vendors on public property and public ways.

Each stationary mobile food vendor shall obtain a permit from the City and comply with the requirements of this section for operation on public property or public ways. No other mobile food vendor shall operate on public property or public ways within the City.

- (a) Locations. Stationary mobile food units shall only be operated on public property or public ways at such times and locations specifically authorized by a mobile food vendor permit or by special event permit issued by the City. No mobile food vendor shall operate on public property or public ways in areas of the City zoned or adjacent to residential dwellings.
- (b) Exclusivity. Issuance of a mobile food vendor permit shall not entitle the mobile food vendor to conduct business exclusively at any specific location on any public property or public way.
- (c) Registration and equipment. Mobile food units shall be registered as required by state law, and it is prohibited and unlawful for a mobile food vendor to operate, move, park, stop or stand any mobile food unit on a public way unless the vehicle is equipped as required by state law.
- (d) Traffic. No mobile food vendor shall operate on any public way or public property so as to impede normal pedestrian or vehicular traffic.
- (e) Removal. All mobile food vendors shall remove each mobile food unit and ancillary items at the close of each business day.

Sec. 13-565. Indemnification and insurance.

Prior to the issuance of a mobile food vendor permit for any stationary mobile food unit to be operated on public property or public ways, the applicant shall provide the following:

- (a) A signed agreement on a form provided by the city that the licensee shall hold harmless the city, its officers, officials, employees and agents and shall indemnify the city, its officers, officials, employees and agents for, from and against any and all claims for

damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the mobile food vendor license; and

- (b) Proof of insurance for public liability, food products liability, and property damage liability for all claims and damage to property or bodily injury including, but not limited to, death, which may arise from operations under the mobile food vendor license or in connection therewith, as follows:
 - 1. Such insurance shall provide coverage of not less than \$1,000,000.00 for bodily injury, property damage, or any claims or injuries respectively per occurrence; and
 - 2. Such insurance shall be without prejudice to coverage otherwise existing therein and shall name as additional insured the city, its officers, officials, employees and agents, and shall further provide that the policy shall not terminate or be cancelled prior to the completion of the mobile food vendor license period without written notice to the city at the address shown in the permit.

Sec. 13-566. Standards for mobile food units on any property.

The requirements of this section shall apply to any mobile food unit, regardless of whether it is located on public or private property.

- (a) Hours of operation. No mobile food vendor shall operate between the hours of 3:00 a.m. and 5:00 a.m.
- (b) Trash. Prior to moving a mobile food unit from a sales location, a mobile food vendor shall pick up and remove all litter, trash and waste related to the mobile vendor's sales or distributions and within an area encompassing a radius of 100 feet from the sales or distribution area. Mobile food units shall be equipped with, or operate in an area with, a suitable trash container readily accessible to the public, in which the mobile food vendor's customers may deposit any litter, trash or waste related to the vendor's sales or distributions.
- (c) Signs. No mobile food vendor shall display any signs which are not attached to the mobile food unit, and no sign shall be displayed that extends more than 36 inches above the mobile food unit.
- (d) Safety. No mobile food vendor shall create or contribute to a potential safety or hazardous situation or condition on public or private property, including without limitation the emission of excessive exhaust or any fluids of any kind.
- (e) Compliance with laws. All mobile food vendors shall comply with any applicable federal, state, or local laws or ordinances applicable to the activities and operations of the mobile food vendor.

Sec. 13-567. - Display of registration or permit.

Each mobile vendor shall attach the mobile food vendor registration or permit issued pursuant to this article to each mobile food unit, at a location conspicuous to the public at all times.

Sec. 13-568. Grounds for revocation of registration or permit.

A mobile food vendor's registration or permit may be revoked by the City Manager, or designee, for any of the following reasons, and said operator shall immediately remove the mobile food unit and all ancillary items:

- (a) Any false statements were made on the mobile food vendor application;
- (b) Changing conditions of pedestrian or vehicular traffic cause congestion on the public property or public way for which the permit was issued, creating a potential danger to the health, safety or general welfare of the public;
- (c) The mobile food vendor or any of the mobile food vendor's agents or employees fails to abide by one or more of the terms, provisions, covenants or conditions of this article;
- (d) Revocation by any governmental jurisdiction of any other required license or permit held by the mobile food vendor;
- (e) The mobile food vendor or any of the mobile food vendor's agents or employees operates the mobile food unit in a manner that violates state or City traffic, parking, stopping and standing laws, code, ordinances, rules or regulations or otherwise creates or contributes to a potential safety or hazardous situation or condition on public or private property; or
- (f) The mobile food vendor or any of the mobile food vendor's agents or employees fails on two (2) or more occasions to restore the public way or public property to its original condition upon the close of business each day.

Sec. 13-569. Registration or permit expiration.

A mobile food vendor registration or permit shall be issued and valid for a period of one (1) year from the date of issuance and may be renewed upon the same terms and conditions as the original upon the filing of a new application in accordance with this article. A renewal applicant shall be required to update any expired information contained in the original application and provide any information that has changed from the original application.

Temporary mobile food vendor permits may be issued for periods of less than two (2) weeks for special events conducted in the city, in locations approved by the City Council for such events.

Sec. 13-569. Violations, penalties and code enforcement.

- (a) It is prohibited and unlawful to violate the provisions of this article.
- (b) The provisions of this article may be enforced by any means of code enforcement as may be permitted under controlling law or the code of ordinances.
- (c) Penalties for violations of this article shall be as set forth in the applicable fine ordinance of the city.

Sec. 13-570. Appeal.

Any person aggrieved by any decision of the City Manager to revoke a registration or permit pursuant to Section 13-568 may appeal said decision to the City Council on an application filed with the City Clerk within thirty (30) days of the revocation of said license.

Section 2. Conflict with Other Ordinances and Codes. All ordinances or parts of ordinances of the City of New Port Richey, Florida, in conflict with the provisions of this ordinance, are hereby repealed to the extent of such conflict.

Section 3. Severability. If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Section 4. Effective Date. This ordinance shall take effect immediately upon its adoption as provided by law.

The foregoing Ordinance was duly read and approved on first reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this ____ day of _____, 2018, and read and adopted on second reading at a duly convened meeting of the City Council of the City of New Port Richey, Florida this ____ day of _____, 2018.

ATTEST:

By: _____
Judy Meyers, City Clerk

By: _____
Robert Marlowe, Mayor

(Seal)

APPROVED AS TO FORM AND
LEGALITY FOR THE SOLE USE AND
RELIANCE OF THE CITY OF NEW PORT
RICHEY, FLORIDA:

Timothy P. Driscoll, City Attorney