

ORDINANCE NO. 2020-2211

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, PROVIDING FOR AMENDMENT OF ARTICLE XII OF CHAPTER 13, OF THE NEW PORT RICHEY CODE OF ORDINANCES, PERTAINING TO MOBILE FOOD VENDING; PROVIDING FOR AMENDMENT OF SECTION 13-561 THEREOF, PERTAINING TO LICENSING AND REGISTRATION OF MOBILE FOOD VENDORS; PROVIDING FOR EXEMPTION FROM REGISTRATION OF MOBILE FOOD DISPENSING VEHICLES AS DEFINED BY STATE LAW; PROVIDING FOR AMENDMENT OF SUBSECTION (a) OF SECTION 13-564 THEREOF, PERTAINING TO LOCATION OF MOBILE FOOD VENDORS ON PUBLIC PROPERTY; PROVIDING FOR DESIGNATION OF PUBLIC PROPERTY AND STREETS FOR OPERATION OF MOBILE FOOD DISPENSING VEHICLES; PROVIDING FOR AMENDMENT OF SECTION 13-560 THEREOF, PERTAINING TO DEFINITION OF TERMS; PROVIDING FOR A DEFINITION OF MOBILE FOOD DISPENSING VEHICLE AND MFDV LICENSE; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the state legislature adopted Section 509.102 of the Florida Statutes providing for preemption of the regulation of mobile food dispensing vehicles as defined therein;

WHEREAS, said statute prohibits municipalities from requiring licenses, registrations or permits for operation of mobile food dispensing vehicles;

WHEREAS, the aforesaid statute specifically authorizes municipalities to otherwise regulate the operation of such vehicles;

WHEREAS, the City has adopted a mobile food vending ordinance and wishes to bring the same into compliance with state law;

WHEREAS, the purpose of this Ordinance is to make the City's mobile food vendor regulations, codified as Article XII of Chapter 13 of the Code of Ordinances, consistent with state law; 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 in accordance with the City's police powers.

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

Section 1. Chapter 13, Article XII, Section 13-561, of the Code of Ordinances, pertaining to registration and permitting of mobile food vendors, and providing as follows, is hereby amended as follows (strikeout text is deleted and underlined text is added):

Sec. 13-561. - Registration and permitting requirement; exemption.

(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.

(c) Mobile food dispensing vehicles shall be exempt from the provisions of this section, Section 13-562, the registration requirement, only, of Section 13-563 and the permit requirement, only, of Section 13-564 of this article, but shall be subject to all other provisions of this article.

(d) Unless operation under a special event permit is required under Section 13-564 (a), mobile food dispensing vehicles, operated only on public streets in accordance with Section 13-564 (a), shall be exempt from the provisions of Section 13-565, except the insurance requirements of Subsection 13-565 (b) (1), and shall provide proof of such insurance upon request of any City official from time to time.

Section 2. Chapter 13, Article XII, Section 13-564, Subsection (a), of the Code of Ordinances, pertaining to locations of mobile food units on public property, and providing as follows, is hereby amended as follows (strikeout text is deleted and underlined text is added):

(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. Mobile food vendors operating from

mobile food dispensing vehicles, without a permit issued by the City under this article, shall only operate on public streets, other than U.S. Highway 19, in legal parking areas, without ancillary items, in the C-1 Light General Commercial, C-2 General Commercial, Highway Commercial, Office, Downtown, Light Industrial, Residential/Office, and Residential/Office/Retail Zoning Districts of the City, with a properly displayed MFDV license, and on such other public properties specifically authorized by approval of the City. Notwithstanding the foregoing, no mobile food dispensing vehicle shall be operated from the portion of any public street lying adjacent to a public park, single family home, duplex or triplex on either side of said street. No mobile food vendor shall operate from any public property or public way within 500 feet of the area defined by a special event permit issued by the City during the time period of the special event as permitted, and 24 hours prior to and after said period, unless authorized by the special event permit. No mobile food vendor shall operate on public property or public ways, without a permit from the City as provided in this article, or in areas of the city zoned for residential use or adjacent to residential dwellings, except as specifically authorized under this subsection.

Section 2. Chapter 13, Article XII, Section 13-560, of the Code of Ordinances, pertaining to definitions of terms applicable to mobile food vendors, is hereby amended to add the following definitions thereto (strikeout text is deleted and underlined text is added):

Mobile food dispensing vehicle. Any mobile food unit that meets the definition of a “mobile food dispensing vehicle” as defined by state law, having a valid MFDV license.

MFDV license. A license for the operation of a “mobile food dispensing vehicle”, as defined by state law, issued by the Division of Hotels and Restaurants of the Florida Department of Business and Professional Regulation, which authorizes the operation of such vehicle as a “public food service establishment”, as defined by state law.

Section 3. 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 4. 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 5. 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 _____, 2020, 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 _____, 2020.

ATTEST:

By: _____
Judy Meyers, City Clerk

By: _____
Robert Marlowe, Mayor-Council Member

(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