

ORDINANCE NO. 2023-018

AN ORDINANCE OF THE TOWN OF PEMBROKE PARK, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES BY AMENDING CHAPTER 15 ENTITLED “LICENSES AND BUSINESS REGULATIONS;” CREATING ARTICLE IV, TO BE ENTITLED “MOBILE FOOD DISPENSING VEHICLES;” PROVIDING FOR THE REGULATION OF MOBILE FOOD VENDORS AS PERMITTED BY SECTION 509.102, FLORIDA STATUTES; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Pembroke Park desires to update and amend the Town Code to provide for the reasonable regulation of mobile food dispensing vehicles and to ensure compliance with Section 509.102, F.S.; and

WHEREAS, Sec. 509.102, F.S., preempts local government from imposing certain regulations of mobile food dispensing vehicles; and

WHEREAS, Sec. 509.102, F.S., expressly prohibits a municipality from requiring a separate license, registration, or permit other than those provided by state law; and

WHEREAS, municipalities may regulate the operation of mobile food dispensing vehicles, with the exception of those areas that are otherwise preempted; and

WHEREAS, following proper notice to the public and after having received input and participation by interested members of the public and staff, the Town Commission finds that this ordinance updating the Town code to establish certain regulations for mobile food dispensing vehicles and to comply with Sec. 509.102, F.S., is in the best interest of the citizens, residents, and business establishments in the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA:

Section 1. RECITALS ADOPTED. That each of the above-stated recitals is hereby adopted and confirmed.

Section 2. CHAPTER 15 OF TOWN CODE AMENDED. Article 15, entitled “Mobile Food Dispensing Vehicles,” of Chapter 15 of the Town code, is hereby created and shall read as follows:

ARTICLE IV - Mobile Food Dispensing Vehicles

Sec 15-409 Definitions. For purposes of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- 1) “Mobile Food Dispensing Vehicles” shall be as defined in Section 509.102, F.S., as may be amended from time to time.
- 2) “Temporary Commercial Kitchen” shall be as defined in Section 509.102, F.S., as may be amended from time to time.

Sec. 15-410 Licenses

Mobile Food Dispensing Vehicles and Temporary Commercial Kitchens shall comply with all federal, state, and local health and safety regulations and requirements, and shall obtain and maintain any and all licenses required by any other health organization or governmental organization having jurisdiction over the same. The license under which the mobile food dispensing vehicles is operating shall be firmly attached and visible on the mobile food dispensing vehicles at all times, and shall be produced to a law enforcement officer, or City code enforcement officer upon demand. The Town shall not require any additional license, registration, or permit as set forth in Section 509.102, F.S., as amended.

Sec. 15-411 Restrictions, Mobile Food Dispensing Vehicles

- 1) Mobile Food Dispensing Vehicles are allowed on private property that is designated and used for residential, commercial, industrial, recreational or non-residential purposes, subject to the following conditions:
 - (a) Mobile food dispensing vehicles must display all valid licenses, registrations, and permits required by Florida law.

- (b) No display areas, merchandise, or stored items in association with the mobile food dispensing vehicle or those associated with the principal use of the property, which are displaced due to the mobile food vending activity, shall encroach onto any public street, right-of-way, easement, or onto any adjacent private property without express permission from that property owner.
- (c) Mobile food dispensing vehicles shall set up and locate the vehicle, wares, and any associated displays within the permitted setbacks of the underlying property's land use designation.
- (d) Mobile food dispensing vehicles shall not:
 - (i) Operate a freestanding generator, unless approved within a special event permit;
 - (ii) Operate an amplified speaker or sound system, unless approved within a special event permit;
 - (iii) Park, stand, or stop in an area where motor vehicles are prohibited from parking, standing, or stopping;
 - (iv) Cause an obstruction to pedestrian traffic, vehicular traffic, or cause any hazard, including interfering with lines of sight;
 - (v) Dispense, sell, or serve anyone in a motor vehicle or operate a drive through;
- (e) Mobile food dispensing vehicles' sales area shall not exceed more than three parking spaces or 600 square feet in area, whichever is greater. The mobile food dispensing vehicle shall designate a portion of the sales area as a waiting area for patrons. Such designated area shall not conflict with or impede traffic. In addition, one parking space for each 100 square feet of the mobile food dispensing vehicle area shall be required for customer parking. However, at no time may the required number of parking spaces for the principal use of the property be rendered nonconforming due to the mobile vendor use.
- (f) Mobile food dispensing vehicle may only operate from dawn to dusk unless additional operations are allowed pursuant to a special event permit.
- (g) Mobile food dispensing vehicles shall operate in compliance with the Town's noise regulations.
- (h) Mobile food dispensing vehicles shall not display or use any sign or banner that is otherwise prohibited by the Town code.
- (i) Mobile food dispensing vehicles are prohibited from discharging fat, oil, grease or waste into the sanitary sewer system. All waste, including trash, shall be removed and disposed daily.

- (j) All menus and signage shall be fully affixed to the mobile food dispensing vehicle. Detached signs are not permitted.
 - (k) Mobile food dispensing vehicles shall not interfere with required parking, loading and unloading spaces, or the vehicular access to those spaces designated for the principal use.
 - (l) Mobile food dispensing vehicles shall not block, damage, or interfere with required landscaping, buffers, or stormwater drainage systems.
 - (m) Mobile food dispensing vehicles shall not block or interfere with fire lanes.
 - (n) No more than two mobile food dispensing vehicles shall be permitted on any one parcel, unless approved unless approved within a special event permit.
 - (o) Tables, chairs, umbrellas, and other furniture for patron seating may be placed within 25 feet the mobile food dispensing vehicle provided the property owners agrees to the placement such furniture, and all items placed are removed when the mobile food dispensing vehicles is closed or leaves the property.
 - (p) The sale of alcoholic beverages shall be conducted in compliance with all applicable law.
- 2) Temporary Commercial Kitchens shall operate within the limitations provided by Section 509.102, F.S., as amended.

Sec. 15-412 Penalties:

It shall be unlawful for any person to violate any of the provisions of this Article. Violations may be enforced by any means allowable by law, including, but not limited to a code enforcement action and citation as permitted by the Ch. 162, F.S. and the Town code, against all responsible parties. Each day a violation occurs shall constitute a separate offense and all penalties are nonexclusive.

Section 3. It is the intention of the Town Commission of the Town of Pembroke Park that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the Town of Pembroke Park, Florida, and that the Sections of this ordinance may be renumbered,

re-lettered and the word "Ordinance" may be changed to "Section," "Article" or such other word or phrase in order to accomplish such intention.

Section 4. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 5. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

Section 6. This Ordinance shall become effective immediately upon its passage and adoption.

(REMAINDER INTENTIONALLY LEFT BLANK)

**PASSED AND ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF
PEMBROKE PARK, FLORIDA, ON THE FIRST READING, THIS ____ DAY OF
_____, 2023.**

PASSED ADOPTED BY THE TOWN COMMISSION OF THE TOWN OF PEMBROKE PARK, FLORIDA, ON THE SECOND AND FINAL READING, THIS ____ DAY OF _____, 2023.

ATTEST:

ASHIRA MOHAMMED
Mayor

MARLEN D. MARTELL
Town Clerk

Approved as to form and legal sufficiency:

Jacob G. Horowitz
Interim Town Attorney

CODING: Words in ~~strike-through~~ type are deletions from existing law;
Words in underlined type are additions.