

ORDINANCE NO. 2023-16

AN ORDINANCE OF THE CITY COMMISSION OF ST. AUGUSTINE, FLORIDA, AMENDING CHAPTER 28, SECTION 28-2 TO PROVIDE DEFINITIONS FOR MOBILE FOOD DISPENSING VEHICLE, MOBILE FOOD VENDOR, MOBILE FOOD ESTABLISHMENT, MOBILE FOOD TRUCK COURT, AND COMMISSARY; AMENDING SECTIONS 28-165, 28-167, 28-206, 28-207, 28-208, 28-209, AND 28-312 TO ALLOW FOR MOBILE FOOD DISPENSING VEHICLES AS A PERMITTED USE; AMENDING CODE SECTIONS 28-207, 28-208, 28-209, AND 28-312 TO ALLOW FOR MOBILE FOOD COURTS AS A PERMITTED USE; AMENDING CODE SECTIONS 28-163, 28-164, 28-226, 28-246, AND 28-311 TO ALLOW FOR MOBILE FOOD DISPENSING VEHICLE AS A PERMITTED USE BY EXCEPTION; AMENDING CODE SECTION 28-226 AND 28-246 TO ALLOW FOR MOBILE FOOD TRUCK COURTS AS A PERMITTED USE BY EXCEPTION; AMENDING CODE SECTION 28-347 TO PROVIDE FOR SUPPLEMENTARY REGULATIONS OF MOBILE FOOD DISPENSING VEHICLES AND MOBILE FOOD TRUCK COURTS; PROVIDING FOR INCLUSION IN THE CODE OF THE CITY OF ST. AUGUSTINE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 166.041, Florida Statutes, provides procedures for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, the Governor of the State of Florida signed into law the Occupational Freedom and Opportunity Act (SB474/HB1171)(“Act”), which became effective on July 1, 2020; and

WHEREAS, the Act created Florida Statutes Section 509.102 which defined the term Mobile food dispensing vehicle (“MFDV”) and preempted the regulation of MFDVs to the State while otherwise allowing a municipality to regulate the operation of MFDVs; and

WHEREAS, in order to further the intent of Section 509.102, the City wishes to adopt an amendment of terms to clearly define the applicable law as it relates to zoning districts for mobile food dispensing vehicles; and

WHEREAS, on May 2, 2023, the Planning and Zoning Board acting as the designated land planning agency for the City of St. Augustine recommended revisions to Chapter 28, the Zoning Code to the City Commission; and

WHEREAS, the City Commission for the City of St. Augustine finds that it is in the best interest of the public health, safety, and general welfare to adopt the following standards for the location and operation of MFDVs within the City, consistent with the requirements of Section 166.021(4), Florida Statutes, to address and mitigate the potential negative effects that MFDVs may cause.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR ST. AUGUSTINE, FLORIDA, AS FOLLOWS:

Section 1. Amending the Code of the City of St. Augustine. Section 28-2 of the Zoning Code of the City of St. Augustine is hereby amended, as follows:

"Sec. 28-2. - Definitions.

For the purpose of this chapter, certain words and terms used herein shall be interpreted to have meanings as defined below. Where words or terms are not defined, they shall have their ordinarily accepted meanings or such as the context may imply. Words used in the present tense include the future; the singular number includes the plural and the plural includes the singular. The word 'shall' is mandatory; the word 'may' is permissive. The word 'used' or 'occupied' includes the words 'intended, designed or arranged to be used or occupied.' The word 'lot' includes the word 'plot' or 'parcel.' The word 'structure' includes the word 'building' as well as other things constructed or erected on the ground, attached to something having location on the ground, or requiring construction or erection on the ground. The word 'land' includes the word 'marsh,' 'water' or 'swamp.' The word 'map' shall mean the 'Zoning Maps of the City of St. Augustine, Florida' and the 'city' shall mean the City of St. Augustine, Florida, a corporation of the State of Florida.

...

Commissary means an approved facility that provides support services for specific required functions of a mobile food vendor. Any food establishment permitted or licensed by a regulatory agency, such as a catering operation, restaurant, grocery store, or similar establishment, or any other approved facility where food, containers, or supplies are kept, handled, prepared, packaged, or stored can be considered for approval as a commissary. A private residence may not be used as a commissary, consistent with section 61C-1.001, Florida Administrative Code, as amended.

...
Mobile food dispensing vehicle (MFDV) means any vehicle that is a public food service establishment as defined in section 509.013(5)(a), Florida Statutes, as may be amended, and that is self-propelled or otherwise moveable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal, as defined in section 509.102, Florida Statutes as may be amended. MFDVs are regulated by the Florida Department of Business and Professional Regulation.

Mobile food establishment means any mobile food vendor who sells prepackaged food and non-potentially hazardous food items, including coffee, tea, pastries, popcorn, candies and ice confections and are regulated by the Florida Department of Agriculture and Consumer Services (FDACS).

Mobile food truck court means a property used or developed to accommodate one or more mobile food dispensary vehicles as the primary use of the property while possibly accommodating areas on the property for entertainment or recreational opportunities. Food truck courts must have a valid certificate of occupancy in addition to all other applicable permits and inspections.

Mobile food vendor means any person or business selling food from a mobile food dispensing vehicle or mobile food establishment from which food items are sold separately from a catered event.

...
Operator means the owner, licensee, proprietor, lessee, manager, assistant manager, or appointed agent of a public food service establishment.

Catered event means an event where a food truck is used as the sole source of food supply.

...
"

Section 2. Amending the Code of the City of St. Augustine. Sections 28-163, 28-164, 28-165, and 28-167 of Code of the City of St. Augustine are hereby amended, as follows:

"Sec. 28-163. Residential, general-one: RG-1.

Intent. This district is intended to apply to those neighborhoods designated for multiple-family dwellings and uses, as well as those nonresidential uses compatible and complementary with medium density residential uses, so as to create and maintain a medium intensity residential character.

...
(3) Permitted uses by exception:

...
j. Mobile food dispensing vehicle as per section 28-347(9).
..."

"Sec. 28-164. Residential, general-two: RG-2.

Intent. This district is intended to apply to those neighborhoods designated for multiple-family dwellings and uses, as well as those nonresidential uses compatible and complementary with medium density residential uses, so as to create and maintain a diverse medium intensity residential character.

...
(3) *Permitted uses by exception:*

...
h. Mobile food dispensing vehicle as per section 28-347(9).
..."

"Sec. 28-165. - Residential and general office: RGO.

Intent. This district is intended to apply to those neighborhoods designated for mixed residential and commercial uses so as to create a medium intensity residential and low intensity commercial mix of uses.

(1) *Permitted uses and structures:*

...
I. Mobile food dispensing vehicle as per section 28-347(9).
..."

"Sec. 28-167. - Residential and general office-A: RGO-A.

(a) *Intent.* This district is intended to apply to those neighborhoods designated for mixed residential and commercial uses so as to create a medium intensity residential and low intensity commercial mix of uses.

(1) *Permitted uses and structures.*

...
I. Mobile food dispensing vehicles as per section 28-347(9).
..."

Section 3. Amending the Code of the City of St. Augustine. Sections 28-206, 28-207, 28-208, and 28-209 of Code of the City of St. Augustine are hereby amended, as follows:

"Sec. 28-206. - Commercial low-one: CL-1.

Intent. This district is intended to apply to areas where small groups of low intensity commercial uses may be appropriately located to serve within convenient traveling distance from one (1) or several neighborhoods. The CL-1

district is not intended for use by medium intensity commercial uses such as service stations, vehicle repair and sales, etc. However, professional and business offices and similar uses are encouraged.

(1) Permitted uses and structures:

...

p. Mobile food dispensing vehicle as per section 28-347(9).

..."

"Sec. 28-207. - Commercial low-two: CL-2.

Intent. This district is intended to apply to areas where low intensity commercial uses may be located to serve one (1) or more neighborhoods. The CL-2 district is not intended for use by medium intensity commercial uses but low traffic generating commercial uses are encouraged.

(1) Permitted uses and structures:

...

r. Mobile food dispensing vehicle as per section 28-347(9).

s. Mobile food truck court as per section 28-347(9).

..."

"Sec. 28-208. - Commercial medium-one: CM-1.

Intent. This district is intended to apply to areas where adequate lot depth is available to provide meaningful development for service-oriented automotive uses, tourist accommodations, attractions and supporting facilities. It is not intended that this district become or be used for strip commercial purposes.

(1) *Permitted principal uses and structures:*

...

q. Mobile food dispensing vehicle as per section 28-347(9).

r. Mobile food truck court

..."

"Sec. 28-209. - Commercial medium-two: CM-2.

Intent. This district is intended to apply where adequate traffic circulation capacity is available to provide medium intensity automotive oriented commercial and service uses and related facilities. It is not intended that this district become or be used for strip commercial purposes.

(1) *Permitted uses and structures.* As for CM-1 (section 28-208), and in addition:

...

o. Mobile food dispensing vehicle as per section 28-347(9).

p. Mobile food truck court as per section 28-347(9).

..."

Section 4. Amending the Code of the City of St. Augustine. Section 28-226 of the City of St. Augustine is hereby amended, as follows:

“Sec. 28-226. - Industrial and warehousing: IW.

Intent. This district is intended to allow light manufacturing and related service, storage and commercial uses.

(1) Permitted use by exception:

- o. Mobile food dispensing vehicle as per section 28-347(9).
- p. Mobile food truck court as per section 28-347(9).

...”

Section 5. Amending the Code of the City of St. Augustine. Section 28-246 of the City of St. Augustine is hereby amended, as follows:

“Sec. 28-246. - Open lands district: OL.

Intent. This district is intended to apply to areas which are sparsely developed and including uses as normally found in environmentally sensitive areas away from urban activity. It is intended that substantial residential, commercial or industrial development shall not be permitted in the OL district; but lands in such district may be rezoned to the proper district to accommodate such uses when conditions warrant rezoning.

...”

(3) Permitted uses by exception:

- m. Mobile food dispensing vehicle as per section 28-347(9).
- n. Mobile food truck court as per section 28-347(9).

...”

Section 6. Amending the Code of the City of St. Augustine. Sections 28-311 and 28-312 of the City of St. Augustine are hereby amended, as follows:

“Sec. 28-311. - Maritime use district: MUD.

Intent: The city has a long history of marine uses, such as boat building, fishing, and seafood processing, to include the historic lighthouse. This zoning district is intended to recognize these uses, and establish areas where this industry, and associated uses are allowed.

(c) Permitted uses by exception:

...”

- (2) Mobile food dispensing vehicle as per section 28-347(9).

...”

“Sec. 28-312. - Maritime use district-A: MUD-A.

Intent: The city has a long history of marine uses, such as boat building, fishing, and seafood processing along its waterways. This zoning district is intended to recognize the historic maritime uses in our community and establish areas where this maritime industry, and similar uses that are compatible with maritime uses are allowed, but also recognize that a mix of commercial uses along the waterways protects the city's maritime heritage and promotes the working waterfronts and access to the waterfronts. To this end a ratio of sixty (60) percent of the gross land area of a site must be used for water dependent uses associated with maritime industries or working waterfronts with a maximum of forty (40) percent of the gross land area of a site allowed for non-water dependent uses as listed below.

(a) Permitted uses and structures:

Non-water dependent permitted uses:

- (10) Mobile food dispensing vehicles as per section 28-347(9).*
- (11) Mobile food truck court as per section 28-347(9).*

Section 7. Amending the Code of the City of St. Augustine. Section 28-347 of the Code of the City of St. Augustine is hereby amended, as follows:

“Sec. 28-347. - Supplementary regulations for certain uses.

In addition to the permissible uses by exception listed in the schedule of district regulations, (article III), the following uses shall be permissible by exception in the districts indicated; and, unless specific provision is made otherwise in the grant of exception, such uses, whether permitted or permissible by exception, shall conform to all supplementary regulations listed under such use:

(9) Mobile food dispensing vehicle. Where such use is permitted or permitted as a use by exception it shall be subject to the following conditions:

- a. *Complete a Public Works Mobile Food Vendor Site Compliance Review application on forms supplied by the Public Works Department as updated from time to time with the following requirements:*
 1. *All applications shall include the name, address, telephone number, and email address of the applicant and vehicle owner, where applicable;*
 2. *Attach a copy of the DBPR application submitted to and approved by the state;*
 3. *Attach a sketch of the proposed site for operation with Parcel ID or address and its zoning.*

- b. No vehicle shall be used for the sale of products as provided in this article until it has passed a city fire department safety inspection at a location determined by the fire department. The fire department safety inspection is for the safety of the general public to ensure the mobile food dispensing vehicle complies with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and codes.
- c. Location and Separation Requirements
1. Mobile food dispensing vehicles shall not be operated on unimproved surfaces, vacant lots, and abandoned business locations where public safety is a potential issue, unless otherwise approved by the Building Official and Fire Marshal. Any denial of a location may be appealed through the City's Planning and Zoning Board.
 2. Any food truck gatherings or mobile food truck courts of two or more mobile food dispensing vehicles shall consider the estimated public attendees and the maximum number of individual food trucks on site. This will include: general placement of the individual food trucks, location of garbage and recycling receptacles, public bathroom locations, location of onsite and offsite parking areas.
 3. Mobile food dispensary vehicles shall not make use of tables, seats, umbrellas or similar furnishings for customers, with the exception of waste receptacles without paying applicable utility capacity charges, i.e. flow based fees, pursuant to Sec.26-53 of the Municipal Code of the City of St. Augustine. This requirement may be met through the owner of the property.
 4. Mobile food dispensing vehicles that are present in the same location more than three times per week and/or park on site overnight shall also provide a notarized letter/affidavit from the property owner authorizing the food truck be located on the property.
 5. Mobile food dispensing vehicles that are present in the same location more than three times per week shall not be located in parking spaces required by the primary or accessory use on the property unless the number of spaces exceeds the minimum amount required for other uses on the property.
 6. Individual mobile food dispensing vehicles shall not be required to have a flushable restroom unless outdoor seating is provided pursuant to a site plan provided by the City. All food truck courts shall confirm that employees and patrons have a flushable restroom within one hundred fifty (150) feet of the vending location during hours of operation.
 7. Mobile food dispensing vehicles shall not be located within any city park, city right-of-way, city owned or controlled public parking lot or facility, or within ten feet of any right-of-way or public sidewalk and may not disrupt vehicular or pedestrian circulation for ingress and egress to the property; create or become a public nuisance; increase traffic

congestion; constitute a hazard to life or property; or, obstruct adequate access by fire/medic, police or sanitation vehicles.

8. Mobile food dispensing vehicles may not enter or park upon any "no parking" area, loading zone, driveway, handicapped parking space, or designated public safety lane (e.g., fire lanes) or within ten (10) feet of a crosswalk or within ten (10) feet of a fire hydrant or storm drainage structure.
9. No more than one mobile food dispensing vehicle may be operating on any property at any given time unless it is by special event, or at an established mobile food truck court or food truck gathering approved by the City.
10. Mobile food dispensing vehicle gatherings shall be permitted without the need for a public hearing and by a temporary event permit for food truck gatherings issued by the City Manager or his or her designee.
11. With the exception of allowable outdoor seating areas, all equipment must be contained within, attached to, or within 3 feet of the mobile food dispensing vehicle.

d. Hours of Operation, Signage and Noise.

1. The mobile food vendor or designee must be present at all times during operation of the mobile food dispensing vehicle. Hours of operation are limited to the hours between 7:00 a.m. and 10:00 p.m. in residential zones but may not be in the same location more than twice per calendar month. Mobile food dispensing vehicles may operate on private property in all other listed zones until no later than 10:00 p.m. unless the location of the site is within one hundred fifty (150) feet of a residential neighborhood unless approved as a permitted use by exception.
2. Mobile food truck courts hours of operations shall be limited to the hours between 7:00 a.m. and 10:00 p.m unless approved as a permitted use by exception.
3. Animated signs, flashing signs, balloons, streamers and attention-getting devices are not permitted on MFDVs. Free standing advertisements, A-Frame or sandwich boards are not permitted to be placed on the ground in the zones provided in Chapter 3 of the Municipal Code of the City of St. Augustine. All signage must be contained on the vehicle itself.
4. Audio amplification or bullhorns are not permitted as part of a mobile food dispensing vehicle operation.
5. Mobile food dispensing vehicles are prohibited from selling, dispensing or distributing alcoholic beverages within the city limits of the City of St. Augustine.

6. Private caterers and mobile licensed bar tenders for private events not open to the public are not regulated pursuant to this subsection, but must otherwise comply with all other state and local regulations.

- e. Waste Management

1. Mobile food vendors must keep all areas within twenty-five (25) feet of the vehicles and any associated seating areas clean of grease, trash, paper, cups, or cans associated with the mobile food dispensing operation.
2. No grease shall be released or disposed of in the City's sanitary or stormwater systems. Each mobile food dispensing vehicle must provide for grease interception by either:
 - i. Install a grease interceptor approved by the City within the mobile food dispensing vehicle to receive drainage from fixtures and equipment with grease-laden waste and meet the definition of a Self-Sufficient Mobile Food Dispensing Vehicle as stated in 61C-1.001 of the Florida Administrative Code; or
 - ii. Discharge wastewater into an approved commissary grease interceptor on a daily basis with a fully executed commissary agreement verifying the mobile food vendor is operating in conjunction with a licensed commissary in accordance with Florida law and regulations, where applicable.
3. Provide for recycling of used cooking oil with a rendering company.
4. Provide a reduced pressure backflow preventer on the potable water service used by the mobile food dispensing vehicle.
5. Provide solid waste service pursuant to Chapter 30 of this code.
6. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the responsible mobile food vendor will be required to cease operation immediately, clean up the improperly disposed material to the satisfaction of the City, and shall not resume operation of the mobile food dispensing vehicle until an alternate method of disposal has been approved by the City Utility Department.

- f. Enforcement.

1. All mobile food dispensing vehicles shall make the vehicle available for routine inspections by the City Fire Marshal, Building Official, environmental compliance inspectors, or Code Enforcement officer at any time requested and at any frequency deemed appropriate, while at a location or in operation, to ensure compliance with all applicable federal, state, and local fire safety statutes, regulations and codes, and local regulation of this section.
2. All mobile food dispensing vehicles shall comply with all requirements of the most current edition of the Florida Fire Prevention Code (FFPC) and the National Fire Protection Association (NFPA). Upon inspection, if the fire marshal or his or her designee determines any violations of

the FFPC or NFPA exists, the mobile food dispensing vehicle may be required to cease operations immediately.

3. If at any time, the State of Florida revokes or suspends the issued mobile food dispensing vehicle permit, the City of St. Augustine local business tax receipt will simultaneously be revoked or suspended. A mobile food dispensing vehicle that has its state license or permit declared null and void or revoked for any of the reasons set forth in this section shall not be allowed to reapply for a mobile food dispensing vehicle authorization or a local business tax receipt for a period of ninety (90) days after the effective date of such action.
4. If at any time evidence is provided that a mobile food dispensing vehicle is being operated in a way that does not comply with these regulations, a notice of violation shall be issued to the lot owner and mobile food vendor and the violation shall be referred to the Code Enforcement Board for a hearing and disposition in accordance with the provisions of Chapter 2, Article VI of this Code of Ordinances.

g. Non-Transferability.

1. All mobile food dispensing vehicle operation locations approved by the City are non-transferable upon the sale or transfer of ownership of the mobile food dispensing vehicle. All local business tax receipts issued by the City are non-transferable upon the sale or transfer of ownership of the mobile food dispensing vehicle.

..."

Section 8. Inclusion in Code. The City Commission intends that the provisions of this ordinance shall become and shall be made part of the Code of the City of St. Augustine, that repealed language shall be removed and that the sections of this ordinance may be re-numbered or re-lettered and that the word ordinance may be changed to section, article or other such appropriate word or phrase in order to accomplish such intentions.

Section 9. Conflict with Other Ordinances. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

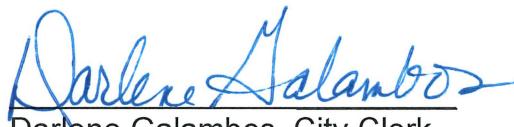
Section 10. Severance of Invalid Provisions. If any section, subsection, sentence, clause, phrase, word, or provision of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then said holding shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Section 11. Effective Date. This ordinance shall become effective upon passage, pursuant to § 166.041(4), Florida Statutes.

PASSED by the City Commission of the City of St. Augustine, Florida, this
22nd day of May, 2023.

ATTEST:


Nancy Sikes-Kline, Mayor-Commissioner



Darlene Galambos, City Clerk

(SEAL)

