

ORDINANCE NO. 2022-04

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES BY AMENDING CHAPTER ____ ENTITLED LAND DEVELOPMENT REGULATIONS BY CREATING SECTION _____ ENTITLED "MOBILE FOOD TRUCKS"; PROVIDING FOR DEFINITIONS; PROVIDING FOR REQUIREMENTS FOR ALL MOBILE FOOD TRUCKS; PROVIDING FOR THE REGULATIONS RELATIVE TO CONDUCTING BUSINESS; PROVIDING PARKING AND STORAGE OF INACTIVE FOOD TRUCKS; PROVIDING FOR WASTE DISPOSAL; PROVIDING FOR LOCATIONS BY ZONING DISTRICT; PROVIDING FOR VIOLATIONS; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Westlake deems it in the best interest of the residents of Westlake to regulate the operation of Mobile Food Trucks within the City; and

WHEREAS, the quality of life enjoyed by the Westlake community will be preserved by enacting a section to the City Code of Ordinance creating specific provisions regulating the business operations of Mobile Food Trucks conducting business within the City; and

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, as follows:

SECTION 1. Recitals. The foregoing "whereas" clauses are confirmed, adopted and incorporated herein and made a part hereof by this reference.

SECTION 2. The City Council hereby amends Chapter ____ entitled Land Development Regulations by creating Section ____ entitled Mobile Food Trucks as follows:

CHAPTER XX: MOBILE FOOD TRUCKS
Article X.1) Definitions.

As used in this Chapter, the following terms shall be defined as follows:

Event Venues: shall mean sites that have been approved for, or are customarily associated with, events.

Mobile food truck shall mean any vehicle that is self-propelled or otherwise movable from place to place, and is used to vend food and beverage products. Mobile food trucks shall be classified as one of the following:

Class I – Mobile kitchens. In addition to the vending of products allowed for class II and class III mobile food trucks, these vehicles may cook, prepare and assemble food items on or in the unit, and serve a full menu. Customers may be notified of the vehicle's location by social media or other forms of advertising. These vehicles may be classified as "mobile food dispensing vehicles," as defined by section 509.102, F.S., if they include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

Class II – Canteen trucks. These vehicles vend fruits, vegetables, hot dogs, pre-cooked foods, pre-packaged foods and pre-packaged drinks. No preparation or assembly of foods or beverages may take place on or in the vehicle. However, the heating of pre-cooked foods is allowed. A cooking apparatus or grill top for the heating of pre-cooked foods is permitted so long as it complies with state regulations. These vehicles are limited to providing catering services to employees at a specific location. These vehicles may be classified as “mobile food dispensing vehicles,” as defined by section 509.102, F.S., if they include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

Class III – Ice cream trucks. These vehicles vend only pre-packaged frozen dairy or frozen water-based food products, soft serve or hand-dipped frozen dairy or frozen water-based food products and pre-packaged beverages. These vehicles may be classified as “mobile food dispensing vehicles,” as defined by section 509.102, F.S., if they include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

Mobile service base shall mean a place for food storage, the cleaning of the equipment, the filling of water tanks and proper disposal of waste water and grease, and shall not include the use of a private home as a mobile service base.

Responsible Party shall mean the owner, management company, or lessee of real property on which the mobile food truck operates.

Vehicle shall mean a motorized vehicle, including a trailer or other portable unit attached to a motorized vehicle, that is intended for use in vending.

Vend shall mean to sell or offer to sell products from a mobile food truck.

City-issued special event permit shall mean a permit issued by the City for special events per the requirements of chapter XXX of City code.

Article X.2) Requirements applicable to all mobile food trucks. The following requirements are applicable to all mobile food trucks operating within the City of Westlake.

Section 1: Health and safety regulations; display of state license. A mobile food truck operating within the City’s municipal boundaries shall at all times 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 truck is operating shall be firmly attached and visible on the mobile food truck at all times, and shall be produced to a law enforcement officer, or City code enforcement officer upon demand. A copy of the liability insurance shall be provided to the City and displayed at all times on the mobile food truck.

Section 2: Initial and annual fire safety inspections. The mobile food truck shall be made available for inspection by the Palm Beach County Fire Department at a location determined by the Fire Department. The Palm Beach County Fire Department shall ensure compliance with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and

codes. Subsequently, every Class I mobile food truck shall undergo an annual inspection by the Palm Beach County Fire Department.

Section 3: *Written consent of Responsible Party.* A mobile food truck shall not operate on any private property without the written consent of the Responsible Party. A copy of such written permission shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or City code enforcement officer upon demand.

Section 4: *Stock-in-trade; storage.* All materials, equipment, and stock-in-trade shall be stored entirely within the mobile food truck unless the Responsible Party has obtained a City-issued special event permit, or is at an Event Venue and has permission of the Responsible Party to store such items on the Responsible Party's property.

Section 5: *Food vending.* Food vending shall only be conducted from the mobile food truck, unless the Responsible Party has obtained a City-issued special event permit.

Section 6: *Alcohol sales.* A mobile food truck may sell alcohol beverages in compliance with the State alcohol license requirements. Special events with mobile food trucks shall be exempt from the City Code separation requirements

Section 7: *Conducting business in public right-of-way.* A mobile food truck, except for ice cream trucks, shall not conduct business or operate in the public right-of-way unless approved as part of a City-issued special event permit and with the written permission of SID. When mobile food trucks are authorized to operate, such trucks may stop, stand or park only in right-of-way areas identified in the City-issued special event permit. The mobile food truck shall be responsible for restoring the right of way to a condition equivalent to that before the use by the mobile food truck, including re-sodding and repairing irrigation as necessary. Any restoration required shall be completed within seventy-two (72) hours after receiving a written notice of restoration.

Section 8: *Conducting business near street intersections or pedestrian crosswalks.* A mobile food truck shall not be located within twenty-five (25) feet of any street intersection or pedestrian crosswalk, unless the Responsible Party has obtained a City-issued special event permit.

Section 9: *Interference with vehicular and pedestrian traffic.* A mobile food truck shall not impede ingress or egress of other businesses, building entrances, or emergency exits. A mobile food truck shall not impede the flow of vehicular or pedestrian traffic unless pursuant to a City-issued special event permit.

Section 10: *Parking requirements.* The property on which the food truck is parked during active operation must also provide parking for the customers of the food truck. The mobile food truck shall not be parked:

- (A) in a fire lane or in an area blocking a fire hydrant;
- (B) in Americans with Disabilities (ADA) accessible parking spaces or accessible ramps;
- (C) in any driveway aisles, "no parking" zones, or loading-only areas.

Section 11: Use of designated parking spaces.

~~(A) OPTION 1: The on-site parking requirements shall be maintained for the principal use of the property except pursuant to a City issued special event permit and with the written permission of the Responsible Party.~~

(B) OPTION 2: The on-site parking requirements shall be maintained for the principal use of the Responsible Party's property unless:

(1) the mobile food truck is operating pursuant to a City-issued special event permit and has the written permission of the Responsible Party; or

(2) the Responsible Party demonstrates that a mobile food truck's use of required parking spaces will not negatively impact the parking of any other use, which may be demonstrated through a parking study, written permission of the other uses relying on a common parking lot, or other evidence acceptable to the Planning and Zoning Director.

Section 12: Parking and storage of inactive mobile food trucks. Food trucks not in active operation may be parked and stored as follows:

(A) Food trucks associated with an existing retail food establishment may park in the parking spaces designated for the existing retail food establishment.

(B) Food trucks may park in appropriate parking lots so long as:

(1) The food truck is parked in a designated parking lot or space designed to accommodate oversized vehicles in a parking lot or space designated for light industrial use.

(2) The food truck operator obtains the written permission of the Responsible Party

(3) The parking space is not in a loading zone, unless overnight parking in the loading zone is approved by the City as part of a site plan.

(4) The parked food truck meets all parking, location, and screening requirements governing parking of commercial vehicles, trucks, or trailers pursuant to Chapters 3 and 8 of the LDRs.

Section 13: Noise limitations. Except for class III ice cream trucks, a mobile food truck shall not make sounds, announcements, or amplify music to call attention to its vending or products either while traveling on public or private rights-of-way, or when stationary. All mobile food trucks, including, but not limited to, class III ice cream trucks, shall comply with the City's noise ordinance contained in Chapter 21 of City Code. A Responsible Party may apply for a special event permit with the City to deviate from these requirements.

Section 14: Restroom facility. Mobile food trucks operating on a private property for a duration of more than three (3) hours shall have a written agreement with the Responsible Party that confirms the food truck employees have access to a flushable restroom within 400 feet of the vending location during the hours of operation. A copy of such written permission shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or City code enforcement officer upon demand. This requirement shall not apply when the mobile food truck is on public property with a publicly accessible flushable restroom, when the mobile food truck is within 400 feet of a publicly accessible flushable restroom, or when the mobile food truck is operating under a City-issued special event permit and has access to either a temporary restroom.

Section 15: Waste disposal. Mobile food trucks shall:

- (1) Provide for their own waste collection and removal such that no waste remains on the property;
- (2) Provide a waste receptacle for public use;
- (3) Keep the surrounding area neat and orderly at all times;
- (4) Remove all garbage or trash prior to departure of the mobile food truck each day;
- (5) Properly discard any waste material in accordance with any applicable federal, state, county, and municipal laws, rules, regulations, orders, or permits;
- (6) Not, under any circumstances, release grease or any waste materials into the stormwater system, tree pits, sidewalks, streets, parking lots, or onto any private or public property;
- (7) Not, at any time, discharge any fluids or toxic pollutants.

- (8) Class I mobile food trucks shall also have a current written agreement, with a state or local licensed facility, for the proper disposal of grease. A copy of such written agreement shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or City code enforcement officer upon demand.

Section 16: (v) Signage. All mobile food trucks may affix a sign to the mobile food truck displaying prices, product descriptions and food truck name. Mobile food trucks shall not display any products or samples outside of the vehicle unless operating pursuant to a City-issued special event permit. Mobile food trucks shall not post or utilize any freestanding signs or advertisements, flags, balloons, streamers, flashing lights, banners, or other similar attraction devices, and shall not utilize or post person(s) to advertise mobile food trucks, except sandwich boards placed no more than 10 feet from the mobile food truck, which displays prices, product descriptions and the food truck name. Sandwich board signs shall not impede pedestrian or vehicular traffic. When in operation, Chapter 6 of the City code shall not apply to mobile food trucks.

Article X.3) Requirements applicable generally

Section 1: *Applicability.*

(A) Exceptions. This Article shall not apply to:

(1) Event Venues.

(2) Any City-sponsored or City-sanctioned special event or SID.

(B) Unless excepted above, the requirements in this Chapter shall apply to all mobile food truck operations within the City.

Section 2: *Limitations on number of mobile food trucks per property.* No more than one (1) mobile food truck shall operate on a given property at any one time, unless the Responsible Party has obtained a City-issued special event permit.

Section 3: *Food truck special event requirements.* Gatherings of two (2) or more class I, class II, and/or class III mobile food trucks on a property at any given time shall be classified as a special event. In order for such events to occur, the Responsible Party shall be required to obtain a City-issued special event permit prior to the event taking place. Applications for special event permits shall be made by the Responsible Party to the City in accordance with the requirements of chapter X of City code.

Section 4: *Outside patron seating.* No tables, chairs, umbrellas, or other furniture for patron seating may be placed outside the mobile food truck unless the Responsible Party has obtained a City-issued special event permit.

Section 5: *Conducting business near existing retail food establishments.* A mobile food truck shall not be located within 200 feet of any existing retail food establishment during

such establishment's hours of operation without the prior written permission from the retail food establishment unless the Responsible Party has obtained a City-issued special event permit. A copy of such written permission shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or City code enforcement officer upon demand.

Section 6: Conducting business near City-sponsored or City-sanctioned special event. A mobile food truck shall not be located within 200 feet of any City-sponsored or City-sanctioned special event, unless the mobile food truck is permitted by the City to operate at such special event.

Section 7: Limitations on number of operating days. The same mobile food truck shall not operate on a given property more than two (2) consecutive days per calendar month, and further shall not operate on a given property more than twenty (20) days in total per calendar year, unless the Responsible Party has obtained a City-issued special event permit. Canteen trucks are exempt from this provision as authorized in subsection (x.4)(1)(b).

Section 8: Hours of operation. A mobile food truck shall operate only between the hours of 7:00 a.m. to 9:00 p.m., unless the Responsible Party has obtained a City-issued special event permit or the hours of operation would be restricted pursuant to the rules and regulations of a Property Owners' Association or restricted by restrictive covenants encumbering the subject property.

Article X.4) Vending locations by zoning district.

Section 1: A mobile food truck shall be permitted to operate only on the properties designated below, unless the Responsible Party has obtained a City-issued special event permit allowing for a deviation from these requirements.

(A) Class I – Mobile food trucks.

(1) Residential zoning districts.

(a) Individual single-family lots only if there is a written contractual agreement between a mobile food truck and the Responsible Party for catering services. A copy of such written agreement shall be maintained in the mobile food truck at all times during the event, and shall be produced to a law enforcement officer, or City code enforcement officer upon demand. The term “catering services” shall not include the vending of products from the mobile food truck itself during a catered event and does not include events that are open to the public.

(b) Properties owned or operated by homeowners associations or property owners associations.

(c) Rental apartment complexes.

(2) Nonresidential zoning districts and mixed-use districts. Class I mobile food trucks shall be permitted on any nonresidential or mixed-use property where retail sales and restaurants are a permitted use under the applicable zoning regulations.

- (3) Recreation/open space district. The vending of products from a Class I mobile food truck on properties zoned as recreation/open space shall be allowed pursuant to an City-issued special event permit.
- (B) Class II – Canteen trucks. Class II canteen trucks are prohibited in all zoning districts except to provide catering to employees on-site at construction sites, where there is a currently valid construction permit.
- (C) Class III – Ice cream trucks.
 - (1) Residential zoning districts.
 - (a) Individual single-family lots only if there is a written contractual agreement between a mobile food truck and the Responsible Party for catering services and not prohibited by the terms of any rules or regulation promulgated by a Home Owner’s Association. A copy of such written agreement shall be maintained in the mobile food truck at all times during the event, and shall be produced to a law enforcement officer, or City code enforcement officer upon demand. The term “catering services” shall not include the vending of products from the mobile food truck itself during a catered event, and does not include events that are open to the public.
 - (b) Properties owned or operated by homeowners associations or property owners associations.
 - (c) Rental apartment complexes.
 - (2) Nonresidential zoning districts and mixed-use districts. Class III ice cream trucks shall be permitted on any nonresidential or mixed-use property where retail sales and restaurants are a permitted use under the applicable zoning regulations.
 - (3) Recreation/open space district. The vending of products from a class III ice cream truck on properties zoned as recreation/open space shall be allowed pursuant to a City-issued special event permit.
 - (4) Rights-of-way. A class III ice cream truck shall not stop, stand or park for more than ten (10) minutes, unless there are customers waiting in line to buy products.

Article X.5) Penalties for violations.

It shall be unlawful for any person to violate any of the provisions of this division. This division may be enforced by any means allowed by law, including, but not limited to, code enforcement citation under F.S. ch. 162 . If the citation method is used to punish violators, the violation shall be treated as a civil infraction, and fines shall be set forth in the schedule of fees and charges adopted by resolution of the City Council and such fines may then be revised from time to time by resolution of the City Council; however, any fine amount set forth in such resolution of the City Council shall not to exceed five hundred dollars (\$500.00) per offense. Each day a violation occurs shall constitute a separate offense and shall be punishable hereunder as a separate offense.

SECTION 4. Codification. It is the intention of the City Council of the City of Westlake that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Westlake, 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 5. Conflicts. All ordinances or parts of ordinances, resolutions or parts of resolutions which are in conflict herewith, are hereby repealed to the extent of such conflict.

SECTION 6. Severability. Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

SECTION 7. Effective Date. This ordinance shall be effective upon adoption on second reading.

PASSED this ____ day of _____, 2022, on first reading.

PUBLISHED on this ____ day of _____, 2022 in the Palm Beach Post.

PASSED AND ADOPTED this ____ day of _____, 2022, on second reading.

City of Westlake
JohnPaul O'Connor, Mayor

ATTEST:

Zoie Burgess, City Clerk

APPROVED AS TO LEGAL FORM:

OFFICE OF THE CITY ATTORNEY