

ORDINANCE NO. 2021-11

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, ESTABLISHING REQUIREMENTS FOR MOBILE FOOD TRUCKS WHICH SHALL BECOME PART OF THE CITY'S CODE OF ORDINANCES 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 A CONFLICTS CLAUSE, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Westlake deems it in the best interest of the residents of Westlake to provide for regulations of Mobile Food Trucks operating within the City; and

WHEREAS, the quality of life enjoyed by the Westlake community will be preserved by the implantation 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 establishes regulations entitled "Mobile Food Trucks" as follows:

MOBILE FOOD TRUCKS

Sec. XX - Definitions.

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

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.

Property owner shall mean the owner 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 X of City code, a scenario event approval, or a City- or SID-sponsored or sanctioned event.

Sec. XX-X – Requirements applicable to all mobile food trucks.

The following requirements shall apply to all mobile food truck operations within the City:

- (a) 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 food truck special event. In order for such events to occur, the property owner 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 property owner to the City in accordance with the requirements of chapter X of City code.
- (b) Health and safety regulations; display of state license. A mobile food truck 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 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.
- (c) 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.

- (d) Written consent of property owner. A mobile food truck shall not operate on any private property without the written consent of the property owner. 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.
- (e) Stock-in-trade; storage. All materials, equipment, and stock-in-trade shall be stored entirely within the mobile food truck unless the property owner has obtained a City-issued special event permit.
- (f) Outside patron seating. No tables, chairs, umbrellas, or other furniture for patron seating may be placed outside the mobile food truck unless the property owner has obtained a City-issued special event permit.
- (g) Food vending. Food vending shall only be conducted from the mobile food truck, unless the property owner has obtained a City-issued special event permit.
- (h) Alcohol sales. A mobile food truck shall not sell alcoholic beverages, unless the property owner has obtained a City-issued special event permit.
- (i) 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 property owner 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.
- (j) 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.
- (k) Conducting business in public right-of-way in association with a special event. A mobile food truck, except for ice cream trucks, shall not conduct business or operate in the public right-of-way in association with a special event, unless the adjacent property owner has obtained a City-issued special event permit. Where mobile food trucks are authorized to operate, such trucks may stop, stand or park in designated parking areas on the property.
- (l) Conducting business near street intersections or pedestrian crosswalks. A mobile food truck shall not be located within fifteen (15) feet of any street intersection or pedestrian crosswalk, unless the property owner has obtained a City-issued special event permit.
- (m) Interference with vehicular and pedestrian traffic. A mobile food truck shall not impede the flow of vehicular traffic, sidewalks, the ingress or egress of other businesses, building entrances, or emergency exits, unless the property owner has obtained a City-issued special event permit.

- (n) 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 property owner has obtained a City-issued special event permit.
- (o) Limitations on number of operating days. A 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 ten (20) days in total per calendar year, unless the property owner has obtained a City-issued special event permit.
- (p) Use of designated parking spaces. On-site parking requirements shall be maintained for the principal use of the property. The subject site should also provide parking for the customers of the food truck. The mobile food truck shall not be parked:
- (1) in a required parking space unless permitted by property owner or pursuant to a City-issued special event permit;
 - (2) in a fire lane or in an area blocking a fire hydrant;
 - (3) in Americans with Disabilities (ADA) accessible parking spaces or accessible ramps;
 - (4) on an unimproved surface (including but not limited to dirt, sand, grass, gravel, or vacant lot); or
 - (5) in any driveway aisles, "no parking" zones, or loading-only areas.
- (q) 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 property owner has obtained a City-issued special event permit.
- (r) Parking and storage of inactive mobile food trucks. Food trucks associated with an existing retail food establishment may park in the parking spaces associated with the existing retail food establishment when the food truck is not in active operation and may park in non-residential parking lots with the written permission of the non-residential property owner or operator. Otherwise, the parking or storage of mobile food trucks that are not in active operation shall conform to all parking, location, and screening requirements, such as the requirements governing parking of commercial vehicles, trucks, or trailers within residential zoning districts pursuant to Chapters 3 and 8 of these LDRs.
- (s) 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 property owner may apply for a special event permit with the City to deviate from these requirements.
- (t) 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 property owner 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 food truck is on public property with a publicly accessible flushable restroom or when the food truck is within 400 feet of a publicly accessible flushable restroom.
- (u) 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.
- (v) *Signage.* Menu signs shall be affixed to the mobile food truck at all times, and mobile food trucks shall not display any products or samples off of the vehicle unless operating pursuant to a City-issued special event permit. Mobile food trucks shall not post or utilize any advertising, except that the prices, product descriptions and food truck name may be posted on the vehicle. No freestanding signs or advertisements, flags, balloons, streamers, flashing lights, banners, or other similar attraction devices or person(s) shall be posted or utilized to advertise mobile food trucks. Sandwich board signs may be placed no more than 10 feet from the food truck and may not impede pedestrian or vehicular traffic. When in operation, Chapter 6 of the City code shall not apply to mobile food trucks.

Sec. XX-x – Vending locations by zoning district.

A mobile food truck shall be permitted to operate only on the properties designated below, unless the property owner 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 property owner 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 locations within clearly delineated boundaries of the site. Boundaries shall be delineated through the use of fencing or other materials enclosing a construction site, 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 property owner 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 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.

Sec. XX-X – 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, and chapter 2 of City code, or legal action. 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 _____, 2021, on first reading.

PUBLISHED on this ____ day of _____, 2021 in the Palm Beach Post.

PASSED AND ADOPTED this ____ day of _____, 2021, on second reading.

City of Westlake
Roger Manning, Mayor

ATTEST:

Zoie Burgess, City Clerk

APPROVED AS TO LEGAL FORM:

OFFICE OF THE CITY ATTORNEY