

CHAPTER 16 – FOOD AND FOOD ESTABLISHMENTS

ARTICLE II. – MINIMUM STANDARDS FOR FOOD ESTABLISHMENTS

Sec. 16-21. Mobile, vessel, roadside, and temporary food vendors.

Staff note: This section of the Code of Ordinances is being repealed to avoid duplication of regulations.

Committee comments

- The LPA questioned whether permits would be required given the proposed amendments to Chapter 34 and the need to maintain compliance with state statute, which precludes requiring permits for mobile food vending operations.
- The LDCAC questioned whether there is an instance when a local business tax receipt is not required for a mobile food vendor. Staff agrees with the LDCAC and has modified this section to remove “if required.”

Mobile and roadside food vendors within Lee County are required to obtain a ~~certificate of zoning compliance, if required from the local governmental agency having jurisdiction, prior to the issuance of a health department permit~~ local business tax receipt from the entity authorized to collect the tax. Mobile, vessel and roadside food vendors must affiliate with a health department approved commissary as ~~their base of operations~~ required by Chapter 61C-4, F.A.C., as amended. Operating a mobile or food commissary business within Lee County from a private residence is prohibited.

~~Temporary permits may be issued to allow a vendor to sell foods at a public gathering which is sponsored by an organization or the community. Temporary permits shall be valid only for the specific gathering for which it is issued and shall not exceed eighteen (18) days allowed for the periods prescribed in Land Development Code Sections 34-3041 through 34-3052.~~

CHAPTER 33 – PLANNING COMMUNITY REGULATIONS

ARTICLE V. – LEHIGH ACRES PLANNING COMMUNITY

DIVISION 3. – SPECIFIC USE STANDARDS

Sec. 33-1422. – Reserved. ~~Food vending cart signs.~~

~~Staff note: Delete section. Mobile Food Vendors are now regulated under LDC Section 34-3052.~~

~~Individual identification signs including sandwich signs are prohibited as well as signs listed as prohibited in this section; however, advertising signs may be permitted on the temporary food vending cart but may not extend beyond the cart.~~

Sec. 33-1432. – Reserved. ~~Food vending carts.~~

~~Staff note: Delete section. Mobile Food Vendors are now regulated under LDC Section 34-3052.~~

~~(1) *Applicability.* The following regulations apply to food vending carts:~~

- ~~(a) Food vending carts may be permitted in conventional zoned commercial and industrial properties; commercial and industrial planned developments; mixed use planned developments on the commercial or industrial portions; and on properties developed with a religious facility with a place of worship, as defined in section 34-2.~~
- ~~(b) Temporary permits for food vending carts will be issued in accordance with section 34-3041.~~
- ~~(c) A food vending cart must be located on private property and not be placed within the public right-of-way.~~
- ~~(d) The temporary use permit for food vending carts will be valid for a period of one year from the date of issuance. At the end of one year, the applicant must apply for a new permit.~~
- ~~(e) Responsibility for restroom facilities for employees lies with the occupational license holder and must be detailed in the application for a temporary use permit.~~
- ~~(f) Food vending carts must be approved by the County Health Department with proof of approval provided at the time of request for a temporary use permit as well as compliance with the following conditions:~~

- ~~(1) The applicant must provide a notarized letter from the property owner giving permission for the use of the property.~~
- ~~(2) Food vending carts must be in compliance with applicable building codes and must be located in an area which does not detract from visibility at intersections, block any driveway, fire lane or fire hydrant, or cause parking problem associated with the use or patronage of the food vending cart.~~
- ~~(3) A site plan must be submitted showing the layout of the property, including the location of existing building(s), the food vending cart, parking spaces, aisle ways for pedestrians and any seating area. Food vending carts must be located on an asphalt or concrete surface. Minimum setbacks from all applicable property lines must be shown as follows:
 - ~~(a) Street setback: 50 feet for arterials and collectors; 25 feet for local.~~
 - ~~(b) Side setback: 15 feet.~~
 - ~~(c) Rear setback: 25 feet.~~~~
- ~~(4) Temporary permits will be issued for individual carts at specified locations and will be nontransferable. Change in ownership of a cart or location requires application and applicable fees for a new permit.~~
- ~~(5) There must be no more than one temporary food vending cart located within one mile of another temporary food vending cart.~~
- ~~(6) Food vending carts must not exceed 200 square feet in floor area.~~
- ~~(7) No alcoholic beverages are to be sold or consumed from temporary vending carts.~~
- ~~(8) Food vending carts must not be left unattended and must be removed each evening in accordance with approved hours of operation.~~
- ~~(g) For the purposes of this section, a food vending cart is synonymous with a van, or trailer serving food.~~

- ~~(h) Vending carts used for, but not limited to, the sale of flowers, souvenirs, goods, or paintings, that are not part of a permitted temporary special event, are prohibited.~~

CHAPTER 34 – ZONING

ARTICLE I. – IN GENERAL

Sec. 34-2. – Definitions.

Staff note: Add overarching definition of *mobile food vendors* and attendant definitions for vehicles or temporary structures referenced in definition of mobile food vendor. Establish definition for *conveyance* to provide a “catch all” term for the variety of vehicles or temporary structures used by mobile food vendors. Add definition of *ice cream vehicle*, which is regulated separately.

Committee comments

- The LPA recommended modifying the definition of “food vending cart” to include trailers. This definition has been modified accordingly.

Canteen vehicle means a self-propelled vehicle which is used for the temporary retail sale, display and accessory advertising of pre-cooked foods, pre-packaged foods and drinks, and prepared foods.

Conveyance means a food stand, a food vending cart, an ice cream truck, a canteen truck, or a mobile food dispensing vehicle as defined in Sec. 509.102, Florida Statutes.

Food stand means a temporary open air stand, kiosk or place for the retail sale, display and accessory advertising of pre-cooked food, pre-packaged food and drinks, and prepared foods. A food stand is portable and capable of being dismantled or removed from the sales site.

Food vending cart means any non-motorized cart, trailer, table, equipment, or apparatus which is not a structure, which is designed and intended so as to not be a permanent fixture on a lot, and which is used for the temporary retail sale, display, and accessory advertising of food. A food vending cart does not include a mobile food dispensing vehicle.

Ice cream vehicle means a self-propelled vehicle which is used for the temporary retail sale, display and accessory advertising primarily of pre-packaged frozen dairy or frozen water-based food products, soft serve or hand-dipped frozen dairy products or frozen water-based food products and pre-packaged beverages. At least seventy-five (75) percent of its inventory shall consist of ice cream products or related frozen dessert products, as more particularly defined in Florida Statutes Chapter 503, as may be amended from time to time, and offer for sale no more than twenty-five (25) percent of other prepackaged products which are non-ice cream or non-related frozen dessert products.

Mobile food vendor means an operator offering the temporary retail sale, display and accessory advertising of fresh prepared food, pre-cooked food, pre-packaged food, and prepared food from mobile food dispensing vehicles as defined in Sec. 509.102, Florida Statutes, or from a similar self-propelled conveyances such as ice cream trucks or canteen vehicles, or non-fixed structure such as a food stand or food vending cart.

ARTICLE VII. – SUPPLEMENTAL DISTRICT REGULATIONS

Division 37. – SUBORDINATE AND TEMPORARY USES.

Sec. 34-3052. – Mobile Food Vending.

Staff note: Establish new section to regulate mobile food vending businesses. Provide for standards to regulate location on a specific property and prohibit operation within a right-of-way or street easement. Establish requirements related to signage, waste and grease collection and disposal. Prohibit outdoor seating within a public right-of-way and the sale or dispensing of alcoholic beverages as part of mobile food vending operations. Establish permitted and prohibited locations based on zoning districts or use of property subject to certain setbacks. Establish standards for ice cream vehicles, which are separate and distinct from mobile food vendors.

- (a) Applicability. The Lee County Board of County Commissioners recognizes that mobile food vending is temporary and mobile in nature. These regulations are intended to define locations and provide standards to allow mobile food vendors to operate while mitigating impacts to the location in which they operate, as well as adjacent properties and rights-of-way. These regulations also address other food dispensing vehicles (i.e., vehicles serving a construction site and

ice cream trucks), which tend to temporarily vend for a period of minutes and not days or hours. Temporary mobile food vendors are not considered a “hawker” or “peddler” as provided for in Code of Ordinances Chapter 22, Article IV. The dispensing of food from mobile units by humanitarian organizations or other similar entities as part of disaster relief efforts is exempt from the provisions of this section.

(b) General Standards. The following general standards apply to mobile food vendors:

(1) It shall be a violation for any mobile food vendor to offer for retail sales, display or accessory advertising of any food or beverage product at any location except in compliance with the requirements of this section.

(2) This section excludes:

a. A written contractual or other private arrangement between a mobile food vendor and an individual or group that desires to have food or beverage catered at a specific time and location and which is not open to the public.

b. Mobile food vendors operating in conjunction with a permitted special event or temporary use.

Committee comments

- The LPA recommended noting that any contractual or private arrangement for catering by a mobile food vendor should be required in writing. This section has been amended accordingly.
- The EROC and LDCAC each recommended exempting mobile food vendors operating in conjunction with a permitted special event or temporary use from these regulations. This section has been amended accordingly (see subsection b).

(3) The mobile food vendor must maintain the valid license required under Section 509.241, Florida Statutes, and any other valid licenses and insurance required to operate a motor vehicle within

the state. [Staff note: This section requires a mobile food vendor to obtain a state public food service establishment license and all other licenses required to operate a motor vehicle]

Committee comments

- The LPA questioned whether the insurance requirements for mobile food vendors indemnify the County.
- The EROC recommended requiring mobile food vendors to affiliate with a commissary kitchen in order to obtain a local business tax receipt. Commissary kitchen affiliation requirements are considered as part of state licensure for certain mobile food vending operations.

(4) All mobile food vendors must have the name of the business clearly displayed on the conveyance.

(5) A conveyance is limited to the following signs:

- Signs attached to its exterior, which must be secured and mounted flat against the conveyance and may not project more than six inches from the exterior of the conveyance;
- Awning signs, as defined in section 30-2, provided that the awning does not project more than five feet (60 inches) from the exterior of the conveyance; and
- A sandwich sign, as defined in section 30-2, provided that the sign may not exceed six square feet in copy area.

Committee comments

- The LDCAC questioned whether awnings and temporary signs would be prohibited as a result of this regulation. Staff acknowledges the need to provide the opportunity for the use of awnings and display of temporary signage (e.g. a sandwich sign or A-frame sign) in conjunction with a mobile food vending operation. This section has been modified accordingly to allow this type of signage, subject to certain limitations.

- (6) Alcoholic beverages must not be sold or dispensed by a mobile food vendor. Consumption of alcoholic beverages by patrons of a mobile food vendor is prohibited except when a mobile food vendor is operating as an ancillary use to and on the same premises as an establishment with a valid approval for outdoor consumption on premises. [Staff note: This section is intended to allow mobile vendors to operate as an ancillary use to establishments with valid COP approvals such as microbreweries or distilleries with ancillary tap/tasting rooms, or other similar uses.]

Committee comments

- The EROC expressed a concern about mobile food vendors encouraging consumption of alcoholic beverages outside of approved areas. Consumption on premises approvals are reviewed and approved in compliance with LDC Section 34-1264, and consumption on premises outside of approved areas constitutes a code enforcement violation.
- (7) No tables, chairs or other furniture or equipment intended to provide accommodations for the patrons of a mobile food vendor may be placed in the public right-of-way.
- (8) Mobile food vendors must provide or have available a trash receptacle which is clearly marked with a sign requesting its use by patrons. The mobile food vendor must remove all generated waste and trash at the end of each day or more frequently if needed to maintain the public health, safety and welfare.
- (9) Liquid waste or grease must be disposed of at an approved location and may not be placed in tree pits, storm drains, or sanitary sewers, or onto sidewalks, streets or other public or private space. 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 and clean up the improperly disposed material to the reasonable satisfaction of the County. The responsible mobile food vendor may not resume operation until an alternate method of disposal has been approved.

Committee comments

- The LPA recommended adding “reasonable” with respect to clean-up of improperly disposed material to the County’s satisfaction. This change has been made accordingly.

(10) Mobile food vendors must remove all vehicles, equipment, and other accessory items from the permitted site when vending is not taking place.

Committee comments

- The LPA questioned whether there was any restriction on hours of operation for mobile food vendors proposed. Staff clarified that no limitations on hours of operation are contemplated by these regulations and has revised subsection (10) to remove reference to “restricted hours of operation.”
- The EROC recommended allowing mobile food vendors to remain in place if they are operating in conjunction with an approved special event or temporary use permit. Mobile food vendors operating in conjunction with an approved special event or temporary use permit are exempt from this section.

(11) A mobile food vendor may not operate in areas designated on an approved local development order as a buffer or preserve area or within any recorded conservation easement.

Committee comments

- The LDCAC questioned whether preserve areas, which may be used for passive recreation, could be used for seating for patrons of mobile food vending operations. Staff noted that if such accommodations are available, they could be utilized by the general public, but that mobile food vendors may not operate or provide accommodations for patrons within these areas. The LDCAC also noted that there may be instances where conservation easements exist on a specific lot. This section has been modified accordingly.

(12) Electrical service, if required, must be provided by a portable generator or by a temporary connection to an existing point of service.

Committee comments

- The LPA recommended adding a standard to mitigate noise of sounds not to exceed 80 decibels as measured 15 feet from the vehicle. The County noise ordinance establishes maximum sound levels County-wide; therefore, the noise ordinance provisions would govern.

(13) The stopping, standing, or parking of any mobile food vendor within any street right-of-way or street easement in violation of stopping, standing or parking prohibitions or restrictions is prohibited.

Committee comments

- The LPA questioned whether mobile food vendors would be prohibited from operating within any easement. County staff clarified that the easement referenced in subsection (13) is intended to be a street easement and has clarified this section accordingly.

(14) A mobile food vendor may not conduct business within 20 feet of any fire lane, fire hydrant, fire alarm box or fire connection.

(15) A mobile food vendor may not block access to a public facility such as a mail box, parking meter, traffic control box, driveway or other access point.

Committee comments

- The LPA recommended removing reference to “telephone booth” in subsection (14) since this equipment is obsolete. This change has been made accordingly.

(16) If the conveyance will operate between dusk and dawn, adequate lighting must be provided and the lighting must be directed to eliminate glare on any other use or property.

Committee comments

- The LPA recommended strengthening subsection (16) to preclude lighting/glare onto any other property, not just properties that are developed and occupied. This section has been modified accordingly.

(17) A permanent water or wastewater connection is prohibited.

(18) Tents and tarps for the purposes of accommodating patrons are prohibited. All mobile food vending must be conducted from the conveyance.

(19) All items related to the operation of conveyance must be kept either on or in the conveyance.

~~(20) No more than two mobile food vendors may locate on an individual lot;~~ [Staff Note: Many local jurisdictions limit the number of vendors permitted on a single property. Staff recommends establishing a maximum number of vendors so as to avoid the establishment of a *de facto* food truck park without the zoning and development order approvals. Staff is currently preparing draft LDC amendments to establish a new food truck park use.]

Committee comments

- The LPA questioned whether these regulations would apply to a food truck park concept. Staff indicated that these regulations are intended to apply to single mobile food vendors operating outside of any food truck park-type development.
- The EROC recommended striking this provision, indicating that the number of patrons and size of the property will adequately limit mobile food vendors on a specific lot. Staff has removed this limitation in response to this comment.
- The LDCAC questioned whether there was an opportunity to modify this regulation to allow for more than two vendors to operate on a specific lot. Staff has removed this regulation in response to this comment.

(c) Permitted locations. Mobile food vendors may be located on any lot or lots within:

- (1) Any conventionally-zoned Community Facilities, Commercial, Marine-Oriented, or Industrial zoning district;
- (2) Any agricultural zoning district provided that the mobile food vendor is associated with an agritourism activity, as defined in section 34-2;

Committee comments

- The LPA asked for clarification on what agritourism is and how mobile food vendors fit into agritourism operations.

- (3) Any common element of a conventionally-zoned Residential, Mobile Home, or Recreational Vehicle zoning district developed as a recreation facility or other similar amenity;
- (4) Any portion of a Community Facilities, Commercial, Industrial, or Mixed Use Planned Development zoning district not designated for residential use on the approved master concept plan; or
- (5) Any portion of a Residential, Commercial, or Mixed Use Planned Development zoning district designated on the approved master concept plan as a recreation facility or other similar amenity.

(d) Prohibited locations. Mobile food vendors must not be located:

- (1) Within any street right-of-way or street easement;
- (2) Within any required preserve or landscape buffer;
- (3) In a manner inconsistent with section 34-3131;
- (4) Within 50 feet of a single-family residential lot unless separated and screened by a minimum six (6) foot high opaque wall; or
- (5) On undeveloped property.

Committee comments

- The LPA recommended modifying subsection (5) to preclude mobile food vendors from operating on property that is vacant and undeveloped. This section has been modified accordingly, and will allow mobile food vendors to operate on property that has an approved local development order and may be partially developed or under development. The LPA also requested clarification on the meaning of easement. Staff clarified that the intent of the regulation is to prohibit mobile food vendors from operating within street easements, and not all easements. This section has been modified accordingly.

(e) Minimum setbacks. Mobile food vendors must meet the following minimum setbacks as measured from the closest part of the exterior of the conveyance:

(1) 50 feet from the main entrance into any non-residential enterprise or from the boundary of any outdoor dining area;

Committee comments

- The LPA questioned whether a 50-foot setback was adequate separation between a brick and mortar establishment and a mobile food vending operation. The LPA also questioned whether property owner permission is required for a mobile food vendor to operate on a property. Staff noted that it would be presumed that a mobile food vendor has permission from the property owner of the property from which the mobile food vendor is operating.
- The LDCAC recommended establishing how the required minimum setback is measured. This section has been modified accordingly.

(2) 20 feet from a street right-of-way or street easement; and

Committee comments

- The LPA requested clarification on the meaning of easement. Staff clarified that this regulation is intended to prohibit mobile food vendors from operating within street

easements, and not all easements. This section has been modified accordingly.

- (3) A minimum setback of ten feet from any internal drive or permitted curb cut, provided that the location is in conformance with section 34-3052(d)(3). Mobile food vendors operating within a designated parking space are exempt from this requirement.

Committee comments

- The LDCAC questioned the applicability of this regulation as it relates internal drives. The LDCAC noted that if a mobile food vendor is parked in a designated parking space, then it is not possible to be compliant with this regulation. Staff clarified that this regulation is intended to establish a setback requirement from internal drives for mobile food vendors operating on a portion of a lot that is outside of a designated parking area. This section has been modified accordingly.

(f) Ice cream vehicles.

- (1) Locations. An ice cream vehicle may operate within public rights-of-way and must stop as far to the right of the street as far as possible before serving customers, but may not stop or park within any open drainage conveyance.

Committee comments

- The LDCAC questioned whether this section would apply to Sno-Cone vendors. The definition of ice cream vehicle in section 34-2 includes the vending of water-based frozen food products; therefore, Sno-Cone vendors would be subject to this section.

- (2) Standards. The following standards shall apply:

- a. Ice cream vehicles are allowed to operate between 9:00 a.m. and dusk in all zoning districts.

Committee comments

- The LPA questioned whether it was appropriate to allow ice cream trucks to operate until 9:00 p.m., which is after dark during some parts of the year, and recommended that ice cream trucks be permitted to operate until dusk in lieu of an evening end time. This change has been made accordingly.

b. Ice cream vehicles are permitted to play music from the vehicle to draw the attention of customers; however, this music must be turned off anytime the ice cream vehicle is stopped serving customers.