

Talking Points for Mobile Food Vendors

On October 1, 2012 Commission reviewed a draft ordinance on this topic. The purpose of this meeting is to discuss the main points of the ordinance and get consensus that staff is on the right track. Currently, there is a moratorium on mobile food vendors until December 31, 2012. There is a resolution on the 7:00pm agenda to extend the moratorium until June 2013 to allow for the new ordinance to be brought forward to Commission.

- Zoning Requirements
 - Currently commercial zones only
 - Not allowed on vacant land
 - Requires permission from owner or closest tenant (if on private property)
- Location
 - Do you want any restrictions regarding placement of the food carts
 - Sidewalks
 - Right of way
 - City Property
- Pushcart size limitations
 - Currently 5 1/2 ft wide by 10 ft long by 8 ft overall height
 - Some vendors within the City probably exceed this now (grandfather provision)
- Time provisions
 - Currently 7:00am to 10:00pm
 - Also a provision stating can only operate during the times of adjacent business...need to clarify.
- Distance between food vendors and existing restaurants food sale establishments
 - Currently 100 ft. Commission expressed increasing this distance. 300 feet?
- Do you allow alcohol sales at mobile vendors
- Business license requirements
 - Requirements of state food license as a prerequisite for renewal
 - Insurance requirements
- Requirements for DRC/Site Plan (i.e., when does it apply)
- How many locations per permit
 - Currently up to two
- Suspension allowed if
 - Health permit is revoked or terminated
 - Lapse in Insurance
 - Crime or Misdemeanor of moral turpitude
 - Failure to comply with this code
 - Health, safety and welfare concerns

ORDINANCE 2012-17

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA, AMENDING CODE OF ORDINANCES, ZONING CODE, TO REGULATE THE USE AND OPERATION OF PUSHCARTS AND MOBILE FOOD VENDORS ON CITY RIGHTS-OF-WAY AND PRIVATE PROPERTY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and

WHEREAS, pursuant to the referenced provision of the Florida Constitution, a city may exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Chapter 166, Florida Statutes, the “Municipal Home Rule Powers Act,” reinforces the authority granted under the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and

Sec. 6.24 – Pushcarts and Mobile Food Vendors

- (a) *Generally.* This section governs the sale of products from pushcarts on private property and on public rights-of-way within the City. It shall be a violation to sell any product from a pushcart at any location except in compliance with the requirements of this section. The City Clerk shall establish such additional rules and procedures as are reasonable and necessary for the regulation, control and enforcement of pushcarts within the City. The City Commission may establish such fees as it determines to be reasonable and appropriate to administer this section.
- (b) *Private Property.* Retail sales of flowers, plants, fruits, vegetables, beverages, hot dogs, and other pre-cooked and pre-packaged foods including hamburgers, sandwiches, ice cream and snack-type edibles from pushcarts or mobile food vendors shall be a permitted accessory use on property in all commercial zoning districts. Pushcarts and mobile food vendors shall be prohibited on vacant property and undeveloped property. Pushcarts and mobile food vendors shall have the written permission of the property owner or current tenant closest to the pushcart or mobile food vendor and shall not be placed on any location that impedes the ingress or egress of other businesses, building entrances or

emergency exits. Pushcarts and mobile food vendors shall be located at least 100 feet from a previously permitted restaurant which is not located on the same lot or property. Pushcarts and mobile food vendors on private property shall be attended at all times and may operate only during the business hours of the adjacent business.

- (c) *Right-of-way.* The City Clerk is authorized to issue business licenses for the retail sale of flowers, plants, fruits, vegetables, beverages, hot dogs, and other pre-cooked and pre-packaged foods including hamburgers, sandwiches, ice cream and snack type edibles, from pushcarts and mobile food vendors on rights-of-way on 8th Avenue West lying between Riverside Drive and 17th Street West, and on 10th Street between 8th Avenue West to the eastern city limits, including both sides of the rights-of-way. Vendors shall comply with state, county and municipal health laws and ordinances. Cooking of raw food shall not be allowed on pushcarts or mobile food vendors, however, the heating of pre-cooked foods shall be allowed. Alcoholic beverages shall not be sold from pushcarts or mobile food vendors. A sale to any person in or on a vehicle is prohibited.
- (d) *Pushcart design.* A pushcart shall be designed for retail sales and mounted on at least two wheels that have a diameter of not less than eight inches. A pushcart shall be no larger than 5½ feet in width, ten feet in length and eight feet in overall height; shall not be propelled by an internal combustion engine, electric motor or other similar mechanical device; and when fully loaded with merchandise, shall be movable by one person. Any canopy or umbrella shall not overhang the pushcart by more than two feet. Pushcarts may include a cooking apparatus or grill top for the heating of pre-cooked foods only, in accordance with this section and state regulations. The pushcart shall be required to have three-inch-wide reflective tape on all sides for higher visibility. Pushcarts shall have no features which would be a nuisance or hazardous to public safety.
- (e) *Hours of operation for right-of-way locations.* Pushcart and mobile food vendor vending is prohibited before 7:00 a.m. and after 10:00 p.m. and shall take place only at approved locations. Such vehicles may not be placed at their approved location prior to 7:00 a.m. and must be removed at the close of business each day. Such vehicles shall be attended at all times.
- (f) *Location.* A license for pushcart or mobile food vendor vending shall be subject to the following restrictions:
 - 1. Pushcart or mobile food vendor vending locations on rights-of-way shall be at least 100 feet from any restaurant on the same block face (measured from the closest wall of the restaurant).
 - 2. Pushcart and mobile food vendor vending locations shall be at least 100 feet apart.

3. No more than two pushcart locations shall be permitted on each side of a block bounded by intervening streets or avenues.
 4. Pushcarts with a valid license for a specific location which was issued prior to the issuance of a certificate of occupancy for a restaurant shall be grandfathered at that location for so long as the license is continuously renewed and does not expire or is not revoked.
 5. Pushcarts shall not be located within five feet of any crosswalk or fire hydrant, and shall not block any ingress or egress from a building entrance or emergency exit.
- (g) *Right-of-way location.* A license issued for vending on the right-of-way shall be issued for a specific location not in the right-of-way subject to the following conditions:
1. Pushcarts shall not be allowed in medians.
 2. Pushcarts shall be located a minimum of 18 inches from the back of the curb and shall leave an unobstructed space not less than six feet wide for pedestrian passage.
 3. The licensed pushcart vending location shall not exceed five and one-half feet in width and ten feet in length. Accessory equipment, such as coolers and storage crates, shall be located within the permitted area and shall be kept in a neat and orderly fashion.
 4. Pushcarts and their attendants shall not cause damage to any vegetation on the right-of-way. Damaged vegetation shall be immediately replaced by the pushcart licensee upon demand by the City Clerk or his designee.
- (h) *Business Licenses.* Each pushcart shall be required to obtain the appropriate business tax receipt which identifies the permitted locations for the pushcart.
1. Licenses issued for pushcarts or mobile food vendors shall be limited to one year but may be renewed annually if the vendor has complied with all of the provisions of this code.
 2. Applicants for pushcart or mobile food vendor vending licenses may obtain a license for not more than two locations for each vehicle that they own. A separate license is issued for each location. Licenses are not transferable to another person.
- (i) *Liability and insurance.*

1. By applying for a pushcart or mobile food vendor license, any person or entity owning or operating such use agrees to indemnify, defend, save and hold harmless the City, its officers, agents and employees from any and all claims, liability, lawsuits, damages and causes of action which may rise out of such activity. The owner or operator shall enter into a written agreement with the City to evidence this indemnification. Such agreement must have the written approval of the City Attorney prior to operating such use.
2. The owner or operator shall acquire and keep in full force and effect, at its own expense, insurance in the following amounts and types:
 - a. Commercial general liability in the amount of at least \$500,000.00 per occurrence for bodily injury and property damage. The City shall be named as an additional insured on the policy and an endorsement shall be issued as part of the policy evidencing compliance with this requirement.
 - b. Workers' compensation and employers' liability as required by the State.
 - c. The City shall receive at least 30 days' written notice prior to any cancellation, non-renewal or material change in the coverage provided.
 - d. Any person or entity operating a pushcart or mobile food vendor shall provide and must have approved by the City's Clerk, an original certificate of insurance as evidence that the above requirements have been met prior to the initiation of the pushcart or mobile food vendor operation. Failure to comply with all these requirements shall cause a suspension or revocation of all pushcart activities.
 - e. The insurance policy shall be in effect from October 1 until September 30 of the following calendar year.
3. A business license shall be required for pushcart or mobile food vendor vending.
4. A push cart or mobile food vendor application shall include the following information:
 1. A certificate of insurance showing the required insurance;
 2. Two photographs of the pushcart or mobile food vendor and a line drawing showing dimensions;

3. A copy of all state or county health department license/permits for the vehicle;
5. *Scope of approval.* A pushcart or mobile food vendor vending license authorizes the applicant to engage in vending of approved items at the location specified in the license.

Licenses issued for locations on the right-of-way pursuant to this section shall not be valid during any City event or activity or any event subject to a special function permit approved by the City Commission.

6. A pushcart or mobile food vendor vending business license shall expire on September 30th but may be renewed on an annual basis for one year periods. A copy of any requested state license shall be submitted to the City. If a copy of the renewed state license is not submitted to the City by November 1st, such business license shall become null and void.
7. *Suspension or revocation.* A license issued under this section may be suspended or revoked by the City Clerk for any of the following reasons:
 - a. Any required business or health permit or business tax receipt for the vehicle has expired or been suspended, revoked or canceled;
 - b. The licensee does not have insurance in effect which complies with the minimum amounts and requirements described in this section;
 - c. Conviction of any crime or misdemeanor involving moral turpitude;
 - d. Conducting business as a licensee under this section in an unlawful manner or in such a manner as to constitute a breach of the peace or to interfere with the normal use of the right-of-way or to constitute a menace to the health, safety or general welfare of the public; or
 - e. Failure to comply with this Code.
- (j). *Record keeping.* Each vehicle shall display the appropriate business tax receipt and state or county health certificates, which identifies the permitted locations for the pushcart.