

ORDINANCE NO. 06-2023

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, ESTABLISHING REGULATIONS FOR MOBILE FOOD DISPENSING VEHICLES BY AMENDING THE CITY OF DEBARY’S CODE OF ORDINANCES AND LAND DEVELOPMENT CODE TO CREATE OPERATIONAL, LAND DEVELOPMENT, ZONING, AND OTHER RELATED REGULATIONS PERTAINING TO MOBILE FOOD DISPENSING VEHICLES WITHIN THE CITY; PROVIDING FOR PENALTIES PERTAINING TO VIOLATIONS OF SUCH REGULATIONS; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to § 509.102, Florida Statutes, the licensing, registration, permitting, and charging of fees pertaining for mobile food dispensing vehicles is preempted to the state, and the state regulates such vehicles as public food service establishments; and

WHEREAS, the City is nonetheless authorized by its home rule authority to establish land development, zoning, and other operational regulations pertaining to mobile food dispensing vehicles located within the City; and

WHEREAS, the City desires to amend its Code of Ordinances to include operational requirements for mobile food dispensing vehicles within the City; and

WHEREAS, the City desires to also amend its Land Development Code to establish zoning and siting regulations pertaining to mobile food dispensing vehicles that are consistent with the City’s home rule authority; and

WHEREAS, the City Council determines that this Ordinance is in the best interest of the health, safety and welfare of the citizens of the City of DeBary and is consistent with the Comprehensive Plan.

IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1 RECITALS. The above recitals are true and correct and incorporated herein as legislative findings of the City Council.

SECTION 2 ADOPTION. The following code section and corresponding class of violation is hereby added to the schedule of violations and penalties contained in Chapter 2, Article III, Division 3, Section 2-153 of the Code of Ordinances of the City of DeBary, Florida:

Section 18-310	Mobile Food Dispensing Vehicles	Class II
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SECTION 3 ADOPTION. Article VIII is hereby added to Chapter 18 of the City of DeBary Code of Ordinances as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

ARTICLE VIII. – MOBILE FOOD DISPENSING VEHICLES

Sec. 18-310 – Mobile Food Dispensing Vehicles.

It is the intent of this section to establish appropriate operational standards for mobile food dispensing vehicles within the City and procedures for application for a Business Tax-Receipt in connection with same.

(a) Construction.

The provisions of this section must be interpreted in conformity with § 509.013, Florida Statutes. For the purposes of this Article, the term “*Mobile food dispensing vehicle*” means and refers to any vehicle that is a licensed public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal, or as such vehicle may be from time to time be defined pursuant to § 509.102, Florida Statutes.

(b) Business tax receipt procedures.

Mobile food dispensing vehicles may operate in the City of DeBary in compliance with the following procedures:

- (1) Submit an application for a City of DeBary Business Tax-Receipt as prescribed in Article I of Chapter 18 of the City of DeBary Code of Ordinances, as well as all applicable documents described in the application furnished by the City of DeBary.
- (2) Provide a copy of the following documents upon submittal of application for Business Tax-Receipt:
 - a. Mobile food dispensing vehicle license granted by the Department of Business and Professional Regulation (DBPR) as required by § 509.241, Florida Statutes, and any other licenses or permits as may be statutorily required at the time of submittal.
 - b. Proof of any necessary approvals issued by the Florida Department of Health.
 - c. Proof of completion of all inspections as may be required by § 509.032, Florida Statutes.
 - d. A copy of the fire code inspection form provided by the entity having jurisdiction over fire inspections within the city verifying that the mobile food dispensing vehicle has passed such inspection.

e. A notarized letter of authorization from the owner of the real property upon which the mobile food dispensing vehicle will be operated, which expressly permits operation of such vehicle upon the property. If the applicant is the property owner or tenant of the real property, then a warranty deed verifying ownership or a lease verifying tenancy and authority to operate a mobile food dispensing vehicle on such premises must be submitted.

(3) Any other permits or licenses required by the state of Florida or any division or department thereof in connection with the operation of the mobile food dispensing vehicle must be acquired prior to the issuance of a Business Tax-Receipt.

(c) Hours of operation, frequency, duration.

(1) Hours of operation. Mobile food dispensing vehicles may not be operated at any time other than the below prescribed hours:

Sunday thru Saturday: 9:00 A.M. until 9:00 P.M.

(2) Frequency. No single parcel may host more than one (1) mobile food dispensing vehicle for more than one (1) day per calendar week.

(3) Duration. A mobile food dispensing vehicle may not be located on the same parcel of real property for more than 12 hours in a single calendar week.

(d) Prohibited conduct. The following activities conducted by the operator of a mobile food dispensing vehicle are prohibited.

(1) Water, grease, or other liquid waste may not be discharged on the site where the mobile food dispensing vehicle is located.

(2) An operator of a mobile food dispensing vehicle may not by act or omission create or cause a hazardous or unsafe condition, produce or emit excess noise, or cause excess heat or glare, vibration, or electronic interference.

(3) An operator of a mobile food dispensing vehicle may not employ the use of a free-standing barbecue grill or smoker. All cooking equipment must be maintained inside the mobile food dispensing vehicle.

(4) An operator of a mobile dispensing vehicle may not sell products to persons occupying motor vehicles.

(5) An operator of a mobile food dispensing vehicle may not vacate a site without removing and disposing of all trash or materials generated as a result of the operation of such mobile food dispensing vehicle.

- (6) An operator of a mobile dispensing vehicle may not sell anything other than that which the vendor has been licensed to sell by the appropriate permitting or licensing authority.
- (7) An operator of a mobile food dispensing vehicle may not dump waste or wastewater at the site or at any other place in the City of DeBary other than a location lawfully designated for such disposal.
- (8) An operator of a mobile dispensing vehicle may not connect to permanent water and sewer utilities.
- (9) An operator of a mobile food dispensing vehicle may not connect to permanent electrical utilities via the use of an extension cord with a length greater than ten feet and that is not otherwise rated for such connection.
- (10) An operator of a mobile food dispensing vehicle may not utilize sound amplification equipment.
- (11) An operator of a mobile food dispensing vehicle may not prepare food outside of such vehicle.
- (e) Lights. Mobile food dispensing vehicle operations must conform to the lighting standards of § 30-36(6) of this code to avoid the creation of nuisance conditions.
- (f) Trash disposal and pickup. From the time of setup on site to vacation of a site, the operator of a mobile food dispensing vehicle must maintain at least one trash receptacle per mobile food dispensing vehicle. Receptacles must be appropriately emptied in accordance with the law and removed from the site when the vehicle has been removed from the site.
- (g) Enforcement, penalties.
 - (1) Law Enforcement, City Code Enforcement Officers, and other designated enforcement officers are responsible for the enforcement of the provisions of those regulations pertaining to mobile food dispensing vehicles.
 - (2) Mobile food dispensing vehicles operating in violation of any of the provisions of this section or any referenced provisions of separate sections must cease all operations and vacate the location and may be subject to a citation in accordance with applicable provisions of the city's code of ordinances.

SECTION 4. ADOPTION. Chapter 1, Section 1-3 of the Land Development Code of the City of DeBary, Florida, is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

Sec. 1-3. - Definitions and rules of construction.

- (a) *Words and terms defined.* The following words and phrases, as used in this Code, shall have the following meanings:

Mobile food dispensing vehicle means any vehicle that is a licensed public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal, or as such vehicle may be from time to time defined in § 509.102, Florida Statutes.

SECTION 5 ADOPTION. Chapter 3, Article III, Division 3, Land Development Code of the City of DeBary, Florida, is hereby amended as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

Sec. 3-83 – P Public Use Classification.

- (b) *Permitted principal uses and structures.* In the P Public Use Classification, no premises shall be used except for the following uses and their customary uses and structures:

Mobile food dispensing vehicles.

Sec. 3-100. – B-2 Neighborhood Commercial Classification.

- (b) *Permitted principal uses and structures.* In the B-2 Neighborhood Commercial Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Reference Article II, Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles.

Sec. 3-101. – B-3 Shopping Center Classification.

- (b) *Permitted principal uses and structures.* In the B-3 Shopping Center Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Also, reference Article II, Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles.

Sec. 3-102. – B-4 General Commercial Classification.

- (b) *Permitted principal uses and structures.* In the B-4 General Commercial Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Also, reference Article II, Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles.

Sec. 3-103. – B-5 Heavy Commercial Classification.

- (b) *Permitted principal uses and structures.* In the B-5 Heavy Commercial Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Also, reference Article II, Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles.

Sec. 3-104. – B-6 Highway Interchange Commercial Classification.

- (b) *Permitted principal uses and structures.* In the B-6 Highway Interchange Commercial Classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager:

Mobile food dispensing vehicles.

Sec. 3-106. – B-9 General Office Classification

- (b) *Permitted principal uses and structures.* In the B-9 General Office classification, no premises shall be used except for the following uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Also, reference Article II, Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles.

Sec. 3-107. – I-1 Light Industrial Classification.

- (b) *Permitted principal uses and structures.* In the I-1 Light Industrial Classification, no premises shall be used except for the following industrial uses and their customary accessory uses or structures unless a use is found to be substantially similar in nature by the City Manager. Permitted and special exception uses must also be consistent with the uses permitted by the property's future land use designation on the City's adopted Future Land Use Map. Also, reference Article, II Overlay Districts, for any additional applicable regulations.

Mobile food dispensing vehicles with standard permitted uses.

SECTION 6. ADOPTION. Chapter 3, Article III, Division 4, Land Development Code of the City of DeBary, Florida, is hereby amended to create a new Section 3-140 to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

Sec. 3-140 – Mobile Food Dispensing Vehicles.

- (a) *Purpose and intent.* This section establishes zoning and siting regulations pertaining to the operation of mobile food dispensing vehicles.
- (b) *Locations, permitted and prohibited.*
- (1) *Permitted locations.* Mobile food dispensing vehicles are not permitted on any real property unless such is located in one of the following zoning classifications:

- i. P as a permitted use.
- ii. B-2 as a permitted use.
- iii. B-3 as a permitted use.
- iv. B-4 as a permitted use.
- v. B-5 as a permitted use.
- vi. B-6 as a permitted use.
- vii. B-9 as a permitted use.
- viii. I-1 as a permitted use.
- ix. R-1 through R-8 with a Special Event permit.
- x. Active PUDs, RPUDs, BPUDs, IPUDs, and MPUDs when temporarily allowed pursuant to a Special Event permit.
- xi. Sites, regardless of zoning classification, located in the Transit Oriented Development (TOD) overlay district as when temporarily allowed pursuant to a Special Event permit.

(2) Prohibited locations. Mobile food dispensing vehicles, regardless of zoning classification, may not be located on any properties or locations on a property that contain one or more of the following conditions, unless specially allowed pursuant to a Special Event permit.

- i. Unimproved properties.
- ii. Properties that do not contain an active commercial or industrial principal use.
- iii. Locations on a property that are within one-hundred (100) feet of a structure for residential use or that contains an active residential use.
- iv. Locations on a property that are within three hundred (300) feet of the building frontage of any licensed restaurant located in a principal structure during the hours said restaurant is open for business.

(c) Setbacks and Standards for mobile food dispensing vehicles.

(1) Maximum vehicle size: A mobile food dispensing vehicle may not exceed a size of 9 feet in width and 20 feet in length. If the mobile food dispensing vehicle is a trailer, the trailer must be unhitched from the motorized vehicle and stabilized prior to operating the mobile food dispensing vehicle, and the trailer alone will be measured for the purposes of meeting the size limitation set forth herein. Tent structures are not permitted to be utilized in connection with the operation of a mobile food dispensing vehicle.

(2) Clearance. Mobile food dispensing vehicles must maintain minimum clearances as set forth below:

- i. Setbacks established for the zoning classification of the parcel upon which the mobile food dispensing vehicle is located.
- ii. Buildings: A setback of ten (10) feet must be maintained from all buildings on the property.
- iii. A setback of ten (10) feet must be maintained from all parking spaces and access ramps established for the disabled, including the ingress and egress routes for such ramps and spaces.
- iv. Loading zones: A setback of ten (10) feet from all loading zones must be maintained.
- v. Driveway aprons: A setback of ten (10) feet from all driveway aprons must be maintained.
- vi. Drive aisles: A setback of ten (10) feet from all drive aisles must be maintained.
- vii. Fire lanes: A setback of fifteen (15) feet from all fire lanes must be maintained.
- viii. Fire control devices: A setback of fifteen (15) feet from all fire control devices, including hydrants and emergency hose stations must be maintained.
- ix. Public rights-of-way: A setback of five (5) feet from all public rights-of-way must be maintained.
- x. Combustible material: All mobile food dispensing vehicles must be located a minimum of twenty-five (25) feet from any combustible materials.

(d) Exceptions

- (1) To the extent that a conflict exists between the terms of a Special Event permit and the requirements of this code, the terms of the Special Event permit will govern and control to the extent any such conflict exists. The terms of the Special Event permit may differ from subsections (d), (e), and (f) of this section.
- (2) Mobile food dispensing vehicles are exempt from this code when operated in conjunction with a private catering event conducted on a residentially zoned property.
- (3) Mobile food dispensing vehicles operated pursuant to an existing contract with the owner or lessee of a commercial or industrial zoned property are exempt from this code. For the purposes of this paragraph, a contract is existing if it is a valid and binding contract

that is in effect at the time this ordinance is enacted. Any contracts drafted after the effective date of this ordinance, which deviate from this ordinance, must receive approval from the City Council to be valid

SECTION 7. ADOPTION. A new Chapter 5, Article II, Land Development Code of the City of DeBary, Florida, is hereby created to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

Sec. 5-45– Mobile food dispensing signs

(a) Permitted signs. The following signage, when used in connection with the operation of a mobile food dispensing vehicle, is permitted:

(1) Mounted signs. Mounted signs shall be allowed as long as they are affixed to the mobile food dispensing vehicle.

(2) Painted signs. Painted signs are allowed as long as they are placed upon the mobile food dispensing vehicle.

(3) Wrapped signs. Wrapped signs laminated or otherwise affixed upon the mobile food dispensing vehicle

(b) Prohibited signs.

(1) Any signs or forms of advertising that are not otherwise located or mounted upon a mobile food dispensing vehicle.

SECTION 8. SEVERABILITY. If any section, subsection, sentence, clause, phrase, word or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 9. CONFLICTS. This Ordinance shall control over any Ordinances or parts of Ordinances in conflict herewith to the extent that such conflict exists.

SECTION 10. CODIFICATION. Sections 2 and 3 of this Ordinance are to be codified and made a part of the City of DeBary Code of Ordinances. Sections 4, 5, 6, and 7 of this Ordinance are to be codified and made a part of the City of DeBary Land Development Code. The City Clerk is given liberal authority to correct typographical errors and to renumber the sections and subsections as may be necessary to codify the ordinance into the existing codes. Grammatical, typographical and similar like errors may be corrected, including additions, alterations, and omissions that do not otherwise affect the construction, intent, or meaning of this Ordinance.

SECTION 11. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption.

APPROVED on first reading on ____ day of _____ 2023.

ADOPTED at the second reading on ____ day of _____ 2023.

**CITY COUNCIL
City of DeBary**

Karen Chasez, Mayor

Attest:

Annette Hatch, CMC, City Clerk

Date: _____

SEAL: