

ORDINANCE 89 - 22

AN ORDINANCE AMENDING THE CITY OF CAPE CORAL LAND DEVELOPMENT CODE, BY AMENDING ARTICLE 4, "ZONING DISTRICTS," TABLE 4.1.6, "USE TABLE," REGARDING MOBILE FOOD VENDORS AND MOBILE FOOD COURTS AS CONDITIONAL USES IN THE P, C, I, INST, NC, CC, MXB, MX7, AND SC ZONING DISTRICTS; AMENDING ARTICLE 4, "ZONING DISTRICTS," CHAPTER 2, "SPECIFIC REGULATIONS BY DISTRICT," SECTIONS 4.2.6., 4.2.7., 4.2.8., 4.2.9., 4.2.11., 4.2.12., 4.2.13., 4.2.14., AND 4.2.15., REGARDING MOBILE FOOD VENDORS AND MOBILE FOOD COURTS AND TO MAKE ZONING DISTRICT TEXT REGULATIONS CONSISTENT WITH THE ZONING USE TABLE; AMENDING ARTICLE 5, "DEVELOPMENT STANDARDS," CHAPTER 11, "CONDITIONAL USES," TO CREATE SECTION 5.11.15., "MOBILE FOOD VENDORS," REGARDING THE ESTABLISHMENT OF ZONING REGULATIONS FOR MOBILE FOOD VENDORS; CREATING SECTION 5.11.16., "MOBILE FOOD COURTS," REGARDING THE ESTABLISHMENT OF ZONING REGULATIONS FOR MOBILE FOOD COURTS; AND BY AMENDING ARTICLE 11, "DEFINITIONS," CHAPTER 1, "GENERAL PROVISIONS," SECTION 11.2., "DEFINITIONS," REGARDING MOBILE FOOD VENDORS AND MOBILE FOOD COURTS; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council hereby finds that this ordinance is in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS THIS ORDINANCE AS FOLLOWS:

SECTION 1. The City of Cape Coral Land Development Code, Article 4, "Zoning Districts," Table 4.1.6, "Use Table," is hereby amended as follows:

**Table 4.1.6 Use Table**

The following table of permitted uses, when read together with the definitions set forth in Article 11 shall be used to determine the zoning district in which a given use may be established.

<b>Use Table</b>																		
P= Permitted P*= Permitted with Standards CU= Conditional Use SE= Special Exception Empty= Not Permitted																		
PUD zoning allows all uses consistent with the Future Land Use Classification																		
	Use Type	Residential Districts					Non-Residential Districts					Mixed Use Districts						
		R 1	RML	RMM	RE	A	P	C	I	INST	PV	CC	NC	MX7	MXB	SC		
																PRI	SEC	LOC
...																		
Food and Beverage	<u>Mobile Food Courts (MFC)</u>						CU	CU		CU			CU	CU	CU	CU	CU	CU
	Mobile Food Vendor ( <u>MFV</u> )						CU	CU	CU	CU			CU	CU	CU	CU	CU	CU
...																		

SECTION 2. The City of Cape Coral Land Development Code, Article 4, Chapter 2, Sections 4.2.6., 4.2.7., 4.2.8., 4.2.9., 4.2.11., 4.2.12., 4.2.13., 4.2.14., and 4.2.15. are hereby amended as follows:

**Section 4.2.6. - Commercial (C).**

- A. Specific regulations for: ~~commercial~~ accessory parking lots and ~~parking garages as a standalone use~~; craft brewery, distillery, and wineries; building and construction with

outdoor display or storage; ~~mobile food vendors~~; self-storage facilities; and wireless communication facilities are found in Article 5, Chapter 10.

- B. Specific conditions for vehicle repair, minor; vehicle fueling stations; ~~and self-storage facilities~~; mobile food courts; and mobile food vendors are established in Article 5, Chapter 11.

**Section 4.2.7. - Professional office (P).**

- A. Specific regulations for ~~mobile food vendors~~ accessory parking lots and wireless communication facilities are found in Article 5, Chapter 10.
- B. Specific conditions for mobile food courts and mobile food vendors are established in Article 5, Chapter 11.

**Section 4.2.8. - Industrial (I).**

- A. Specific regulations for ~~mobile food vendors~~ building and construction with outdoor display or storage; self-storage facilities; solar arrays; and wireless communication facilities are found in Article 5, Chapter 10.
- B. Specific conditions for mobile food courts and mobile food vendors are established in Article 5, Chapter 11.

**Section 4.2.9. - Institutional (INST).**

- A. Specific regulations for ~~mobile food vendors~~ solar arrays and wireless communication facilities are found in Article 5, Chapter 11.
- B. Specific conditions for mobile food courts and mobile food vendors are established in Article 5, Chapter 11.
- BC. Outdoor storage that is accessory to a principal use shall be screened from view from all rights-of-way by an opaque fence or wall.

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**Section 4.2.11. - Commercial corridor (CC).**

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- A. Specific regulations for: light vehicle, sales; accessory parking lots; craft brewery, distilleries, and wineries; ~~mobile food vendors~~; building and construction with outdoor display or storage; self-storage facilities; and wireless ~~antennas~~ communication facilities are found in Article 5, Chapter 10.
- B. Specific conditions for multi-family residential; single-family attached with 3 units or greater; vehicle repair, minor; industrial business centers; outdoor screened storage; mobile food courts; mobile food vendors; and home-based businesses ~~and self-storage facilities~~ are established in Article 5, Chapter 11.

**Section 4.2.12. - Neighborhood commercial (NC).**

- A. Specific regulations or conditions for multi-family residences; single family attached 3 units or greater; vehicle fueling stations; craft brewery, distilleries, and wineries; wireless communication facilities; ~~mobile food dispensing vehicles~~; mobile food courts; mobile food vendors; laboratory – medical, research, testing, and development; and home-based businesses are found in Article 5, Chapters 10 and 11.

...

**Section 4.2.13. - Mixed-use bimini (MXB).**

...

- F. Specific regulations or conditions for multi-family residences; single family attached 3 units or greater; brewpubs; craft brewery, distilleries, and wineries; ~~mobile food dispensing~~

~~vehicles; mobile food courts; mobile food vendors;~~ and home-based businesses are found in Article 5, Chapters 10 and 11.

**Section 4.2.14. - Mixed-use seven islands district (MX7).**

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- J. Specific regulations or conditions for multi-family residences; single family attached 3 units or greater; craft brewery, distilleries, and wineries; ~~mobile food dispensing vehicles;~~ mobile food courts; mobile food vendors; and home-based businesses are found in Article 5, Chapters 10 and 11.

**Section 4.2.15. - South cape district.**

The South Cape District special regulations are intended to act as a stimulus to development through provisions that permit a flexible approach to infill development within the City's Community Redevelopment Area.

~~Specific conditions for multi-family residential and vehicle fueling stations are in Article 5, Chapter 12.~~

- A. Maximum Density and Height.  
...
- F. Specific regulations or conditions for multi-family residences; boat sales; vehicle fueling stations; craft brewery, distilleries, and wineries; wireless communication facilities; ~~mobile food dispensing vehicles;~~ mobile food courts; mobile food vendors; and home-based businesses are found in Article 5, Chapters 10 and 11.
- G. The minimum dwelling unit size in the South Cape District may be 500 square feet provided all requirements of the Florida Building Code are met.

SECTION 3. The City of Cape Coral Land Development Code, Article 5, "Development Standards," Chapter 11, "Conditional Uses," Section 5.11.15., is hereby created to read as follows:

**Section 5.11.15. – Mobile Food Vendors.**

- A. Purpose and Intent. The purpose of this section is to establish operational and zoning regulations for Mobile Food Vendors (MFVs) in the City within select zoning districts and to provide for the safety of the public and customers of MFVs.
- B. Permitted and Prohibited locations.
  - 1. Subject to the requirements of this section, MFVs are allowed in the P, C, I, INST, NC, CC, MXB, MX7, and SC zoning districts. Except as provided in Subsection B.2., MFVs are prohibited in the R-1, RE, RML, RMM, PV, and A zoning districts;
  - 2. MFVs are prohibited in the R-1, RE, RML, RMM, PV, and A zoning districts, except if located in public parks and recreational facilities, City parking lots, or Government-owned or leased facilities, and the MFV complies with the additional requirements in Subsection D. For purposes of this section, City parking lots shall mean those improved parking lots owned or controlled by the City of Cape Coral, including those dedicated or reserved as public parking areas on the plat of the Cape Coral Subdivision; and
  - 3. MFVs are prohibited from vending or otherwise conducting business within any street right-of-way or right-of-way easement, except Ice Cream Vehicles operating or otherwise conducting business in accordance with Section 5.11.15.F.
- C. General requirements. MFVs shall meet the following requirements:
  - 1. It shall be a violation for any MFV 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. All items related to the operation of MFV must be kept either on or in the MFV;

3. The MFV must maintain the valid license required under F.S. § 509.241; and any other valid licenses and insurance required to operate a motor vehicle within the state;
4. Alcoholic beverages must not be sold or dispensed by an MFV. Consumption of alcoholic beverages by patrons of an MFV is prohibited except when the MFV is operating as an ancillary use to and on the same premises as an establishment with a valid approval for outdoor consumption of premises;
5. While vending or otherwise conducting business the operator of an MFV must possess and display the written and notarized permission from the owner of the property;
6. MFVs must remove all vehicles, equipment, and other accessory items from the permitted site when not vending or otherwise conducting business;
7. 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 MFV will be required to cease operation immediately and clean up the improperly disposed material to the reasonable satisfaction of the City. The responsible MFV may not resume vending or otherwise conducting business until an alternate method of disposal has been approved by the City Manager or the City Manager's designee;
8. MFVs shall not block pedestrian or vehicular traffic entering, exiting, or maneuvering on a property;
9. MFVs must be located on and over an approved impervious surface. No portion of an MFV shall be located on, or project over, a pervious surface;
10. MFVs are prohibited from vending or otherwise conducting businesses within required off-street parking spaces on the site, including, but not limited to, handicap parking spaces;
11. No MFV shall provide tables, chairs, or other furniture or equipment intended to provide accommodations for the patrons of an MFV;
12. Tents and tarps for the purposes of providing weather protection for patrons in the process of ordering from an MFV may be provided; however, tents or tarps for the purposes of accommodating on-site dining for patrons are prohibited;
13. Electrical service, if required, must be provided by a portable generator or by a temporary connection to an existing point of service;
14. A permanent water or wastewater connection is prohibited;
15. MFVs are limited to the following signs:
  - a. 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;
  - b. Awning signs, as defined in LDC Article 11, Definitions, provided that the awning does not project more than five feet (60 inches) from the exterior of the conveyance; and
  - c. An A-Frame sign, as defined in LDC Article 11, Definitions, provided that the sign does not have a copy area wider than 24 inches by 36 inches.

16. MFVs must provide a trash can or similar container and keep areas of consumption free of litter in accordance with City Code of Ordinances Chapter 9 – Health and Sanitation; and
  17. MFVs must meet all fire safety requirements of the Florida Fire Prevention Code (7<sup>th</sup> Ed.) 2018, as amended.
- D. Additional requirements for MFVs at public parks and recreational facilities, City parking lots, or Government-owned or leased facilities.
1. The location, dates, and hours of vending or otherwise conducting business must be approved in writing by the person or entity that owns or controls the property or public right-of-way; and
  2. MFVs, whether vending or otherwise conducting business or out of operation, are prohibited from being parked overnight at that location, regardless of the underlying zoning, unless written permission has been provided by an authorized representative of the Government entity. For purposes of this section, parked overnight shall mean parked or stored for any period of time between the hours of 2:00 a.m. and 6:00 a.m.
- E. Exemptions. The following MFVs are exempt from compliance with the requirements of this section:
1. MFVs vending or otherwise conducting business as part of a permitted Special Event approved by the Parks and Recreation Department in accordance with LDC Article 3, Chapter 3;
  2. MFVs vending or otherwise conducting business on private property for private parties or a private event for a duration of less than one day and that is not open to the general public; and
  3. MFVs vending or otherwise conducting business during the period of a declared state of emergency in the City.
- 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.
  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.
    - 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 and serving customers.
- G. Any owner or operator of an MFV, or property owner(s) of property on which an MFV is located, who violates any of the provisions of this section shall be subject to a minimum civil penalty in the amount of \$100.00. Each day that a violation exists shall constitute a separate and distinct violation for which a civil citation may be issued. Alternatively, a notice of violation in accordance with the code enforcement provisions and procedures provided in Chapter 2, Division 3, Cape Coral Code of Ordinances, may be issued to any person who violates any of the provisions of this section.

SECTION 4. The City of Cape Coral Land Development Code, Article 5, “Development Standards,” Chapter 11, “Conditional Uses,” Section 5.11.16., is hereby created to read as follows:

**Section 5.11.16. – Mobile Food Courts.**

- A. Purpose and Intent. The purpose of this section is to establish operational and zoning regulations for Mobile Food Courts (MFC) within select zoning districts and to provide for the safety of the public and customers of these businesses. It is the permanent nature that primarily distinguishes an MFC from temporary MFV locations.
- B. Permitted and Prohibited locations.
1. Subject to the requirements of this section, MFCs are allowed in the P, C, INST, NC, CC, MXB, MX7, and SC zoning districts;
  2. MFCs are prohibited in the R-1, RE, RML, RMM, PV, I, and A zoning districts;
  3. MFCs are prohibited from occupying required off-street parking spaces; and
  4. MFCs are prohibited on public road rights-of-way.
- C. General requirements. MFCs shall meet the following requirements:
1. MFCs must have a Site Development Plan (SDP) approved by the Director of the Development Services Department or the Director's designee;
  2. MFCs must provide a stabilized surface for each MFV that will be vending or otherwise conducting business on the property;
  3. Central water and sewer must be provided to each MFVs that will be vending or otherwise conducting business on the property;
  4. For the purposes of this section, the stabilized surface and the utility connections for an individual MFV permitted at an MFC constitute a "vending space";
  5. An MFC must provide for a minimum of three vending spaces on-site and one additional vending space for each additional MFV proposed to be permitted to vend or otherwise conduct business at the MFC. No MFV shall conduct business outside of an approved vending space;
  6. Every vending space and accessory structure must meet the setback requirements for the zoning district in which the MFC is located;
  7. All MFVs vending or otherwise conducting business within an MFC must be capable of being moved. An MFV located within a vending space shall not have any axles removed or be placed on blocks, timbers, or other materials;
  8. A minimum of three parking spaces shall be provided per vending space plus one additional parking space per 15 seats. Additional parking spaces for on-site accessory uses such as bars or restaurants are required per LDC Article 6, as amended;
  9. MFCs must provide on-site improvements for stormwater management, landscaping, sidewalks and roadway improvements, waste collection, and related improvements for non-residential land development;
  10. MFCs shall include restroom facilities on-site in conformance with the requirements of the Florida Building Code, as amended;
  11. All MFVs operating within an MFC must possess and display a current and valid Business Tax Receipt from the City of Cape Coral;
  12. MFCs must be kept free of litter in accordance with City Code of Ordinances Chapter 9 – Health and Sanitation; and
  13. MFCs must meet all fire safety requirements of the Florida Fire Prevention Code (7th Ed.) 2018, as amended.

D. Any owner or operator of an MFV or MFC who violates any of the provisions of this section shall be subject to a minimum civil penalty in the amount of \$100.00. Each day that a violation exists shall constitute a separate and distinct violation for which a civil citation may be issued. Alternatively, a notice of violation in accordance with the code enforcement provisions and procedures provided in Chapter 2, Division 3, Cape Coral Code of Ordinances, may be issued to any person who violates any of the provisions of this section.

SECTION 5. The City of Cape Coral Land Development Code, Article 11, "Definitions," Chapter 1, "General Provisions," Section 11.2., "Definitions," is hereby amended as follows:

**Section 11.2. - Definitions.**

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~~Food Truck, see "Mobile Food Unit".~~

Food Vending Cart, is 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.

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~~Hot Dog Cart, is a non-motorized food unit which serves hot dogs, sausages, or other similar type foods or beverage, or both, limited for immediate consumption and provides no seating.~~

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Mobile Food Court (MFC), is a site to allow for permanent location for three or more MFVs. Such sites must include required infrastructure for each MFV vending or otherwise conducting business within an MFC and generally include public seating.

Mobile Food Dispensing Vehicle (MFDV), is as defined by F.S. § 509.102, as amended.

Mobile Food Vendor (MFV), is 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 a Mobile Food Dispensing Vehicle or from a similar self-propelled conveyances such as ice cream vehicles, hot-dog carts, or from other non-fixed structures such as food vending carts.

~~Mobile Food Trailer, is a food service unit that is delivered to an event or a location and then transported again after a specific length of time. Mobile food trailers are commonly used at events such as carnivals or fairs.~~

~~Mobile Food Unit, is any food service unit serving food or beverage, or both, intended for immediate consumption, which is self-propelled or otherwise moveable from place to place and contains utilities, such as propane, water, electricity, and liquid waste disposal. An open bed truck is not considered a mobile food unit. Also commonly known as a "food truck" or "mobile food trailer".~~

~~Mobile Food Vendor, is any person or business selling foods or beverage, or both, other than fresh fruits or vegetables not intended for immediate consumption, from a mobile food unit, including a self-sufficient mobile food unit or hot dog cart.~~

~~Mobile Food Trailer, is a food service unit that is delivered to an event or a location and then transported again after a specific length of time. Mobile food trailers are commonly used at events such as carnivals or fairs.~~

~~Mobile Food Unit, is any food service unit serving food or beverage, or both, intended for immediate consumption, which is self-propelled or otherwise moveable from place to place and contains utilities, such as propane, water, electricity, and liquid waste disposal. An open bed truck is not considered a mobile food unit. Also commonly known as a "food truck" or "mobile food trailer".~~

~~Mobile Food Vendor, is any person or business selling foods or beverage, or both, other than fresh fruits or vegetables not intended for immediate consumption, from a mobile food unit, including a self-sufficient mobile food unit or hot dog cart.~~

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SECTION 6. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 7. Effective Date. This ordinance shall become effective 90 days after its adoption by the Cape Coral City Council.

ADOPTED BY THE COUNCIL OF THE CITY OF CAPE CORAL AT ITS REGULAR SESSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
JOHN GUNTER, MAYOR


VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	NELSON	_____
TATE	_____	WELSH	_____
SHEPPARD	_____	LONG	_____
HAYDEN	_____	COSDEN	_____

ATTESTED TO AND FILED IN MY OFFICE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

\_\_\_\_\_  
KIMBERLY BRUNS  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JOHN E. NACLERIO III  
ASSISTANT CITY ATTORNEY  
Ord/FoodTrucks Final 101422