
2019-6 (2ND READING): TO AMEND ORDINANCE 2017-44, APPENDIX A ZONING OF THE CODE OF ORDINANCES TO ALLOW FOOD TRUCKS AS A CONDITIONAL USE IN THE ZONING CODE.

Applicant/Purpose: Staff / to amend ordinance 2017-44, to allow food trucks as a conditional use.

Brief:

- Ordinance 2017-44 established food trucks as a pilot program for 1 year to allow the City time to evaluate the program.
- There have not been any significant issues w/ food trucks since 2017-44 passed in 9/2017.
- Since the fall of 2018 staff, the Planning Commission & food truck operators have been working on changes to the establishing ordinance.
- 12/11/18: Planning Commission recommends approval (5-0).
- No changes since 1st reading.

Issues:

- This amended ordinance recommends the following changes:
 - Extends program another year.
 - Increases the number of allowed permits from 6 to 20 (not more than 6 can be food carts).
 - Food trucks used at a private catering event are defined as a catering truck & are not counted towards the 20 permits.
 - Besides being allowed in HC-1 & HC-2 zones, food trucks are recommended to be allowed as a conditional use in the E, MP, WM, LM zoning districts.
 - Decreases the distance from existing restaurants from 500' to 300'.
 - Allows temporary shade structures (i.e., umbrellas &/or pop-up shade tents) w/in 8' of the food truck.
 - Decreases the permit fee from \$150 to \$25 for additional locations after the 1st two.
 - No permit fees for food trucks on city-owned property (permits still required).
- Per Council direction food carts were added to the definition of "Mobile Food Units".

Public Notification:

- PC held a public hearing in December 2018.
- City Council workshop, January 3, 2019.
- Normal meeting notification.

Alternatives:

- Modify the proposed ordinance.
- Deny the proposed ordinance.

Financial Impact: Increase in business license revenue, hospitality revenues, & permit revenues.

Manager's Recommendation:

- I recommend 1st reading (2/12/19)
- I recommend 2nd reading & approval (2/26/19).

Attachment(s): Proposed ordinance, staff report

CITY OF MYRTLE BEACH
COUNTY OF HORRY
STATE OF SOUTH CAROLINA

ORDINANCE TO AMEND ORDINANCE
2017-44, APPENDIX A ZONING OF
THE CODE OF ORDINANCES TO
ALLOW FOOD TRUCKS AS A
CONDITIONAL USE IN THE ZONING
CODE

IT IS HEREBY ORDAINED that Appendix A, Zoning of the Code of Ordinances, Article 15, Section 1501.PP, Food Vending, is amended as follows:

1501.PP. Food Vending. The purpose of this ordinance is to provide standards for mobile food vendors while balancing the interests of public health, safety, and overall community wellbeing. ~~This Ordinance shall begin a pilot program, which will enable staff to examine impacts of food trucks on the City and report any negative issues back to City Council. If necessary, one year after second reading of this ordinance, City Council may extend the pilot program, or remove it from pilot status.~~ With these amendments, City Council extends the pilot program for a second year, with additional review one year after the 2nd reading of this ordinance. Council may also review this ordinance at any time it deems necessary.

1. Definitions: The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mobile Food Vendor: means any person selling food from a mobile unit.

Mobile food unit (MFU): means a self-contained, vehicle-mounted food service unit as approved by DHEC which is used for either the preparation or the sale of food products, or both. This does not include mopeds. For the purpose of this ordinance, the following types of units are considered Mobile Food Units:

- a. Food trailer: An enclosed attached or detached trailer that is equipped with facilities for preparing, cooking, and/ or selling various types of food products.
- b. Food truck: An enclosed motor vehicle equipped with facilities for preparing, cooking, and/ or selling various types of food products to the general public. If a food truck is catering to a private event and does not sell to the public, the truck is operating as a catering truck (see below).
- c. Food cart: Means any portable vending device, pushcart or other wheeled vehicle which may be moved without the assistance of a motor and which is not required to be licensed and registered by the department of motor vehicles, used for the displaying, storing or transporting of articles offered for sale by a vendor, and which does not exceed four feet in width, six feet in length, and five feet in height, excluding canopy or cover.

Permanent Food Unit (PFU): means one of the above which is stationary and permanently located on a parcel as part of the onsite restaurant business in association with a City approved commercial site plan.

Prepackaged food truck: means an enclosed motor vehicle equipped to sell various types of prepackaged food products.

Catering Truck: a vehicle mounted food product establishment designed to be readily movable from which food and/or drink is distributed or served to attendees of an event in which service is not targeting sale to the general public.

2. General Requirements

a. Mobile food units (with the exception of ice cream trucks) may be allowed as a conditional use in the following zones: HC1, HC-2, E, MP, WM, and LM for permanent locations only, and as indicated in paragraph a.xiv, provided they meet the following requirements:

i. Mobile food units must be affiliated with an existing permanent commercial kitchen to meet the requirements of SC DHEC regulations. This may be in the form of a brick and mortar restaurant with which they are associated. In this case, the mobile food unit is not a replacement for a restaurant, but an addition. Multiple food units may be permitted on a single parcel, but cannot exceed four per acre subject to site plan review requirements. These permanent food units (PFUs) shall not count towards the six (6) allotted permits to be issued in the pilot program or the twenty (20) permits in the second pilot year (of which not more than six (6) may be food carts), nor is a restaurant with a permanent set-up subject to the requirements of the mobile food units as set forth in the pilot program, with the exception of fire safety regulations listed in a.xv. Such a business is subject to review by the Community Appearance Board and must adhere to that level of review scrutiny.

ii. A mobile food unit may be permitted to operate on multiple parcels within the City of Myrtle Beach with one being the property on which the affiliated restaurant is located.

iii. The mobile food unit meets a 15' front setback from the property line, a ten foot clearance between units, and a ten foot emergency access setback between the units and any buildings on site. If adjacent to a residential area, then the mobile food unit must meet the side and rear property setback requirements of its underlying zoning district (this does not include catering trucks). The mobile food unit must also be at least ten feet away from any fire hydrant;

iv. The mobile food units are located on a parcel with no less than an improved dust free surface thirty (30) feet driveway throat length; ingress, egress, and internal circulation of vehicular traffic shall not create a hazard for traffic on an adjacent street or on the subject parcel; and, the mobile food unit is not within ten (10) feet of an entranceway to any business open to the public;

v. The maximum number of Mobile Food Units per parcel (not associated with an onsite restaurant):

a. For parcels up to 10,000 sq ft, up to ~~two~~ three MFUs may be permitted at a time;

b. For parcels more than 10,000 sq ft and less than 20,000 sq ft, up to ~~three~~ five MFUs may be permitted at a time; and,

c. For parcels greater than 20,000 sq ft in size, a maximum of ~~four~~ seven MFUs is permitted at the same time (with the exception of city sponsored events).

- vi. A minimum of two (2) parking spaces must be provided per mobile food unit and maintained in addition to the minimum parking required for the principal business;
- vii. No portion of the mobile food unit shall be allowed to occupy or obstruct access to any parking stall, or parking aisle required by the Zoning Ordinance;
- viii. The mobile food unit is not located within ~~five hundred (500)~~ three hundred (300) feet of the principal public entrance to any food service business not owned by the vendor or property owner, which sells merchandise approved for sale in this ordinance (unless the adjacent food service business owner provides a legal affidavit agreeing to a lesser distance). If a restaurant opens within the ~~five hundred foot~~ three-hundred-foot zone after the mobile food vendor has continuously operated his business in the location for at least six (6) months, the mobile food vendor may remain in that location;
- ix. The mobile food unit is not located within two hundred (200) feet of the principal public entrance to any PreK-12 educational facility, unless approval from the school exists in writing and is provided upon request;
- x. A maximum of twenty (20) ~~six (6)~~ permits will be issued during this extended pilot program and expanded to twenty (20) permits in second pilot year, renewable pursuant to business license and zoning approval as described in a.xii. Each mobile food unit may submit multiple sites for locating, subject to staff approval.
- xi. A list of all requested sites, including the property owners and physical addresses. The applicant must submit site plans, to scale, showing all proposed locations of the vending operation on the plans. The Zoning Administrator must find that the proposed operation complies with all applicable provisions of this Section, and that the proposed operation will not adversely affect the traffic accessibility, or health and public safety.
- xii. The mobile food unit must obtain an annual zoning compliance and business license. A mobile food unit permit decal issued by the City of Myrtle Beach must be affixed in a prominent location.
- xiii. Mobile food vendors shall not provide furniture, umbrellas, objects, or structures outside of the vehicle with the exception of a trash receptacle and a temporary shade structure limited to umbrella or pop-up shade "tents" without walls, unless such items are part of the affiliated on-site restaurant or business. Umbrellas/shade structures may not be located more than eight feet from the MFU, must not be located in or interfere with the required separations between MFUs, and must not be located in the buffer area between the MFU and a fire hydrant. Trash must be removed with the mobile food unit each business day.
- xiv. Mobile food units may locate on public City-owned property subject to vendor permits (such as Myrtle's Market or the Historic Train Depot) and must meet the same standards as set forth for operating on private property.
- xv. Mobile Food Units must meet the requirements of the following safety codes: the International Fire Code (IFC); National Fire Protection Association's NFPA 58 (*Liquefied Petroleum Gas Code*), NFPA 70 (*National Electric Code*), and NFPA 96 (*Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations*); and the Code of Federal Regulations 49 CFR 180.205(d) (*General requirements for requalification of specification cylinders*) and 49 CFR 180.209 (*Requirements for requalification of specification cylinders*). The Fire Marshal's office will be responsible for inspections.

- i. The applicant's permanent street address and mailing address;
 - ii. A brief description of the nature of the business and goods to be sold;
 - iii. SCDHEC Certification, or a letter from SCDHEC stating that certification is not required;
 - iv. Proof of current license plate and vehicle(s) registration;
 - v. Color photographs of the vehicle(s) exterior in sufficient number to provide permitting officials to be familiar with all the exterior views of the mobile food unit;
 - vi. A site plan (or plans) for the properties on which they propose to operate; and,
 - vii. A letter and/or copy of an official lease agreement from the property owner to vend on the subject parcel and a copy of the property owner's business license must be provided. If applicable, the vendor must provide a copy of the approved county hospitality tax application and a State sales tax number to the Zoning Administrator before a vending permit is issued.
 - viii. A current business license will be required for the affiliated restaurant.
3. Duration and Fees (for all mobile food units):
 - a. The fee levied by this ordinance is for the purpose of providing such regulation as may be required by the businesses subject thereto and for the purpose of raising revenue through a privilege tax. The mobile food permits issued under this ordinance will be valid beginning on date of this ordinance's enactment until March 31 of the ensuing year. In the following year, a permit shall be from April 1 until ~~March 31~~ May 31 of the ensuing year, and from then on follow the business license renewal calendar;
 - b. The permitting fee for each mobile food unit is \$150.00, which includes review of two vending locations. For any additional location reviews made in conjunction with an initial application, there will be a fee of \$100.00 \$25.00 per location. There will be no location permitting fees for mobile food vending on city-owned property.
4. Permitted Merchandise: Mobile food vendors shall be limited to selling food items. The selling of non-food or non- drink items shall be limited to merchandise displaying the mobile food vendor company logo and/or branding. No items may be displayed outside of the vehicle.
5. Signage:
 - a. No advertising shall be permitted on any mobile food unit except to identify the name of the product or the name of the vendor, and the posting of prices;
 - b. Electronic or illuminated signs shall not be utilized;
 - c. Temporary off-site signs for the mobile food units shall be prohibited;
 - d. One on-site sandwich style sign shall be permitted per mobile food unit, maximum two (2) feet by three (3) feet in size, located within ten (10) feet of the mobile food unit, and must be located outside of all buffers and rights-of-way.
6. Prohibited conduct (for all mobile food units): No vendor shall:
 - a. Vend on any street or sidewalk where vending is otherwise prohibited;

- 1 b. Sell alcohol. Permanent food units operating in association with an onsite
2 restaurant may sell alcohol in coordination of the affiliated restaurant;
3 c. Leave any mobile food unit unattended;
4 d. Store, park, or leave any mobile food unit overnight at any vending location
5 unless the mobile food vendor has written consent from the property owner;
6 e. Sell food or beverages for immediate consumption unless there is a litter
7 receptacle and recycling bins available for the patrons' use;
8 f. Leave any location without first removing and disposing of all trash or refuse
9 remaining from sales made by the vendor;
10 g. Allow any items relating to the operation of the vending business to be placed
11 anywhere other than within, on, or under, the mobile food unit;
12 h. Set up, maintain or permit the use of any crate, carton, rack, or any other device
13 to increase the selling or display capacity of the mobile food unit with the
14 exception of one table 3' x 5' in size (subject to site plan approval), and no taller
15 than 4' in height is allowed;
16 i. Sell anything other than permitted merchandise as detailed in this ordinance;
17 j. All mobile food units shall abide by the existing noise ordinance;
18 k. Allow the mobile food unit or any other item relating to the permitted vending
19 operation to lean against or hang from any building, utility pole, or other
20 structure.

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22 7. Exemptions (for all mobile food units): The provisions of this section shall not apply
23 to special events, festivals, community projects or public events which occur on a
24 periodic basis and which are specifically approved by City Council or as an
25 approved Special Event. This section shall not apply to activities conducted
26 pursuant to a franchise agreement or other contract with the City of Myrtle Beach.
27 The vendor, property owner/ lessee and assigns shall be responsible for any
28 violation of this section or any other sections of the City of Myrtle Beach Code of
29 Ordinances. Such violations may result in the revocation or denial of a Certificate
30 of Zoning Compliance and vending permit, and may also result in the revocation
31 and denial of a Certificate of Zoning Compliance and for any future vending
32 permits. If the mobile food unit receives more than 3 violations, the permit will be
33 revoked for one year.
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36 This ordinance will take effect upon second reading.
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41 BRENDA BETHUNE, MAYOR
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43 ATTEST:
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49 JENNIFER STANFORD, CITY CLERK
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51 1st Reading: 2-12-19

2nd Reading: 2-26-19