

Ordinance No.: 4939

**AN ORDINANCE OF THE CITY OF SWEETWATER AMENDING CHAPTER 42 OF THE CITY CODE OF ORDINANCES BY CREATING ARTICLE IV ENTITLED 'MOBILE FOOD TRUCKS'; PROVIDING FOR DEFINITIONS; PROVIDING FOR AUTHORIZED LOCATIONS; PROVIDING FOR RESTRICTIONS; PROVIDING FOR SPECIAL EVENTS; PROVIDING FOR PENALTIES; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the use, operation and popularity of mobile food trucks has increased markedly in recent years; and,

**WHEREAS**, mobile food trucks oftentimes provide useful and welcome food preparation services to areas where traditional, brick and mortar restaurants may be lacking; and,

**WHEREAS**, the City's residents and businesses would benefit from the operation of food trucks within the city limits; and,

**WHEREAS**, health and safety concerns require that food trucks be regulated in location, hours and nature of service they provide; and,

**WHEREAS**, the City Commission finds it is in the best interest and welfare of its residents to provide regulations relating to mobile food trucks within its city limits by amending Chapter 42 to create: Article IV 'Mobile Food Trucks' of the City Code to provide authorization, standards and penalties relating to the use of mobile food trucks in the City;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SWEETWATER, FLORIDA:**

**Section 1.** The above preamble is incorporated herein by reference as if set forth in full.

**Section 2.** The City Code of Ordinances is hereby amended by the addition of Chapter 42, Article IV entitled 'Mobile Food Trucks' as provided in Exhibit 'A'.

**Section 3.** All ordinances or portions of the Code of Ordinances of the City of Sweetwater in conflict with the provisions of this ordinance shall be repealed upon the effective date hereof.

**Section 4.** It is the intention of the Mayor and the City Commission that the provisions of this ordinance be incorporated into the Code of Ordinances; to effect such intention codifiers may change the words “ordinance” or “section” to other appropriate words.

**Section 5.** If any portion of this ordinance is held invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions of the ordinance.

**Section 6.** This ordinance shall become effective upon its adoption by the City Commission and approval by the Mayor or, if vetoed, upon its reenactment by the City Commission as provided by the Charter of the City of Sweetwater.

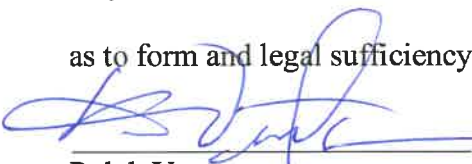
**PASSED AND ADOPTED** on May 1, 2023.

Attest:

  
Carmen Garcia,  
City Clerk

*Ordinance will become effective without the Mayor's signature. 05/14/2023*  
Orlando Lopez,  
Mayor

as to form and legal sufficiency

  
Ralph Ventura  
City Attorney

  
Saul Diaz,  
Commission President

Saul Diaz, President of the City Commission	yes
Isidro Ruiz, Vice President of the City Commission	yes
Idania Llanio, Commissioner	yes
Jose Marti, Commissioner	yes
Reinaldo Rey, Commissioner	yes
Ian Vallecillo, Commissioner	yes
Marcos Villanueva, Commissioner	yes

Date of first reading April 3, 2023  
Date of publication April 19, 2023  
Date of second reading May 1, 2023

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Exhibit A

**CHAPTER 42**  
**MOTOR VEHICLES AND TRAFFIC**  
**Article IV - MOBILE FOOD TRUCK**

**Sec. 42-60. Purpose.**

The purpose of this section is to recognize the mobile food truck specialized market. Establish the types of mobile food trucks, and to designate the areas within the city where food trucks can offer to sell products.

**Sec. 42-61. Definitions.**

*Commissary* - means an approved facility that provides support services for specific required functions of a mobile food truck business. Any food establishment permitted or licensed by a regulatory agency, such as a catering operation, restaurant, grocery store or similar establishment or any otherwise approved facility by Florida Department of Agriculture and Consumer Services in which food, containers, or supplies are kept, handled, prepared, packaged, or stored can be considered for approval as a commissary. When not required at the mobile food truck operation, commissaries may provide a three compartment sink for washing, rinsing, and sanitation of equipment in addition to hand wash and rest room facilities. A private residence may not be used as a commissary.

*MFDV license* - means a license for the operation of a "mobile food dispensing vehicle," as defined by state law, issued by the Division of Hotels and Restaurants of the Florida Department of Business and Professional Regulation, which authorizes the operation of such vehicle as a "public food service establishment," as defined by state law.

*Mobile food truck/trailer* - means a vehicle which is used to vend food and beverage products and is classified as one of the following:

- (1) *Class I—Mobile kitchens*. These vehicles may cook, prepare and assemble food items on or in the unit and serve a full menu. These vehicles may also vend the products permitted for class II mobile food trucks.
- (2) *Class II—Canteen trucks*. These vehicles vend pre-cooked foods, pre-packaged foods, pre-packaged drinks and incidental sales of pre-packaged frozen dairy or frozen water-based food products, fruits and vegetables. No preparation or assembly of food or beverage may take place on or in the vehicle; however, the heating of pre-cooked food is permitted.
- (3) *Class III—Ice cream trucks*. These vehicles vend only pre-packaged frozen dairy or frozen water-based food products, soft serve or hand-dipped frozen dairy or frozen water-based food products and pre-packaged beverages.

*Mobile food truck/trailer vendor* - means a person who prepares, dispenses or otherwise sells food from a mobile food truck.

*Registry* - means a city database that contains information of food trucks operating in the city.

*Right-of-way* means all areas legally open to public use and used for or intended for use for vehicular or pedestrian traffic, including public streets, alleys, sidewalks and roadways.

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*Vehicle* - means a motorized vehicle, including a trailer or other portable unit, attached to a motorized vehicle, that is intended for use in vending.

*Vend* - means to sell or offer to sell products from a mobile food truck.

### **Sec. 42.62 Registration**

Mobile food truck/trailer operators are required to register with the city and furnish proof of compliance with the state's licensing requirements and city's operating requirements. The documentation provided to the city should include:

- (1) MDFV license.
- (2) Proof of business insurance.
- (3) A notarized commissary agreement confirming the mobile food truck/trailer vendor is operating in conjunction with a licensed commissary in accordance with Florida Statutes.
- (4) A notarized statement by each property owner indicating that the applicant has permission to operate on the site. The affidavit must also indicate that the property owner acknowledges the following requirements:
  - a. The property owner shall comply with all ordinances regarding solid waste disposal and must provide the mobile food truck vendor access to solid waste collection on the subject property.
  - b. The property owner shall require that the mobile food truck vendor meets all applicable federal, state and local ordinances, rules and codes.
  - c. The property owner shall acknowledge that he/she understands the regulations regarding mobile food truck vendors and operation of mobile food trucks and will be held responsible, along with the mobile food truck vendor for any code violations.
- (5) Color photograph of the mobile food truck depicting its current condition.
- (6) Obtain the required Local Business Tax Receipt as per Chapter 62 Article III Section 62-69.

### **Sec. 42-63. Mobile food truck/trailer requirements.**

- (a) This section shall not apply to pushcart vending, roadside vending markets, or a self-contained mobile or modular kitchen utilized solely for and situated on the same property as the brick-and-mortar restaurant or café or vending on city park property which is subject to other regulations.
- (b) It is a violation to vend any product from a mobile food truck/trailer at any location except in compliance with the requirements of this article.
- (c) This section excludes a contractual or other private arrangement between a mobile food truck/trailer and an individual or group that wishes to have food catered to a specific location and which is not open to the public.
- (d) No tables, chairs or other furniture or equipment (other than the mobile food truck/trailer where allowed by this section) shall be placed in the right-of-way.

### **Sec. 42-64. Permitted zoning districts for operation of Class I and Class II food trucks.**

Class I, Class II and Class III mobile food trucks/trailer may only be permitted to operate in the following zoning districts:

- (a) Commercial District (C-1, C-2, C-3), only north of State Rd 836.
- (b) Industrial District (I-1, I-2).
- (c) Dolphin Community Urban Center.

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## Sec. 42-65. Locations

Vending from a Class I, Class II and Class III mobile food truck/trailer is allowed subject to the conditions of this section.

- (a) *Parking.* No mobile food truck/trailer is allowed to operate, stop, stand or park in any area of the right-of-way, except as provided in Sec. 42-67.
- (b) *Proof of license.* The MFDV license shall be conspicuously displayed.
- (c) *Private property.* The vending of products from a Class I, Class II and Class III mobile food truck/trailer on private property within authorized zoning districts shall be allowed subject to the following conditions:
  - (1) *Vacant properties.* Operation of multiple Class I, Class II and Class III mobile food trucks/trailers are prohibited on vacant and undeveloped property, unless approved as a conditional use by the city commission.
  - (2) *Application.* A mobile food truck/trailer vendor shall submit an application and a site plan to the City of Sweetwater Building and Zoning Department to register the vending site and location of mobile food truck /trailer.
  - (3) *Permission.* A Class I, Class II and Class III mobile food trucks/ trailer operator shall have the written permission of the owner of the property on which it is located. The mobile food trucks/ trailer operator shall provide

A notarized statement by each property owner indicating that the applicant has permission to operate on the site. The affidavit must also indicate that the property owner acknowledges the following requirements:

- a. The property owner shall comply with all ordinances regarding solid waste disposal and must provide the mobile food truck/trailer vendor access to solid waste collection on the subject property.
  - b. The property owner shall require that the mobile food truck/trailer vendor meets all applicable federal, state and local ordinances, rules and codes.
  - c. The property owner shall acknowledge that he/she understands the regulations regarding mobile food truck/trailer vendors and operation of mobile food trucks/trailer and will be held responsible, along with the mobile food truck/trailer vendor for any code violations.
  - d. No discharge any liquid waste or grease into the property drainage system shall be permitted. All liquid waste or grease shall be self-contained within the mobile food truck/trailer.
- (4) *Maximum number of mobile food truck/trailer.* No more than two mobile food truck/trailer shall operate on any property at any one time, except as may be allowed by a city approved special event.
  - (5) *Access.* A mobile food truck/trailer shall not be placed in any location that impedes the ingress or egress of other businesses or building entrances or emergency exits.

## Sec. 42-66. Prohibitions.

Class I and Class II mobile food truck/trailer are prohibited from the following:

- (a) Selling or distributing alcoholic beverages;
- (b) Operating outside of the permitted zoning districts unless operating pursuant to a temporary special event permit;
- (c) Operating within 2,000 feet of a residential district;
- (d) Operating on unimproved surfaces, vacant lots and abandoned business locations; unless approved by the City Commission as a Conditional Use.
- (e) Placing temporary signs, banners, or other prohibited attention-getting devices in or alongside the public right-of-way or across roadways. Signs must be permanently affixed to or painted on the mobile food truck. An A-frame menu board up to nine square feet is permitted to be placed by the mobile operation and within the vending area. An operation is allowed to display this sign only during hours of operations, otherwise the board shall be removed;
- (f) Providing or allowing a dining area greater than 1 table per 2 chairs maximum of 8 chairs on the site, booths, bar stools, benches, standup counters, shade canopies, umbrellas, tents;
- (g) Selling or dispensing food to customers in a moving vehicle or otherwise engaging in drive up sales;
- (h) Parking a mobile food truck:
  - (1) Within 20 feet of a crosswalk;
  - (2) Within 15 feet of any fire hydrant or storm drainage structure;
- (i) The use of any sound amplification is prohibited regardless of the intended purpose;
- (j) Operation of a Class I and Class II mobile food truck/trailer are prohibited within a 500 foot radius of a food service establishment unless approved as a special event by the city or 1,000 foot radius from another mobile food truck/trailer on another property.

## Sec. 42-67. Class III—Ice cream trucks.

The vending of products on rights-of-way is allowed subject to the conditions of this section:

- (a) *Parking.* A class III mobile food truck/trailer which is stopped, standing or parked in the right-of-way shall be responsible for complying with all parking regulations. No class III mobile food truck shall stop, stand or park for more than ten minutes, unless there are customers waiting in line to buy products.
- (b) *Private property.* The vending of products from a class III mobile food trucks on private property shall be allowed subject to the following conditions:
  - (1) Vending from a class III mobile food truck is permitted within all zoning districts for permitted use.

## Sec. 42-68. Food truck general regulations.

- (a) Mobile food truck/trailer vendors shall remove all waste and trash at the end of each day.
- (b) Under no circumstances shall grease or liquid waste be released into the city's sanitary sewer system. No liquid waste or grease is to be disposed in tree pits or onto the sidewalks, streets or other public spaces.

- (c) In accordance with the state department of business and professional regulation guidelines, all necessary control measures shall be used to effectively minimize, or eliminate when possible, the presence of rodents, roaches and other vermin and insects on the premises of all mobile food trucks. Each mobile food truck vendor shall maintain a log containing a written record of the control measures performed by exterminators or other pest control businesses on the mobile food truck. This log shall be open to inspection by city code enforcement officers.
- (d) Mobile food truck /trailer vendor must not engage in food preparation if the vehicle does not provide water and waste systems as required by the state department of business and professional regulation or otherwise fails to meet sanitation and safety requirements.
- (e) All food service equipment utilized by the mobile food truck vendor shall be maintained in good repair and a clean condition.
- (f) A mobile food truck/trailer vendor shall use only single-service food utensils. All single-service food utensils such as cups, straws, knives, forks, spoons and stirrers shall be individually wrapped, kept in a clean place, properly handled and shall be used only once. All cups and containers for bulk drinks shall be stored in closed cartons and served from dispensers which protect their rims from contamination by customers, dust, dirt or flies.
- (g) All pre-packaged food must be individually wrapped and must comply with the labeling requirements provided in 21 CFR Part 101, as amended. No person shall keep or offer for sale individual portions of perishable food products which have been rewrapped or repackaged or portions of which the identifying date on the wrapper has been altered, disfigured or changed in any manner.
- (h) No mobile food truck/trailer shall remain on the property beyond the hours of operations specified under Sec. 42-69(a).

**Sec. 42-69. Operating requirements.**

- (a) Mobile food truck/trailer shall be permitted to operate between 7:00 a.m. and 11:00 p.m. Sunday through Thursday and Friday and Saturday between 7:00 a.m. and 1:00 a.m. of the following day., including set up and takedown.
- (b) Mobile food truck/trailer shall not exceed ten feet in width, excluding any side extensions of awnings, 24 feet in length, including the length of any trailer hitch, the trailer or other extensions.
- (c) Mobile food truck/trailer must be self-contained when operating (including all utilities: power, water, cooking fuel sources), except for the required trash and/or recycling receptacles, which must be attached to the mobile food truck/trailer, and shall not impede free movement of automobiles or pedestrians. The mobile food truck/trailer vendor shall keep all areas within five feet of the mobile food truck clean of grease, trash, paper, cups or cans associated with the vending operation.
- (d) No more than two mobile food truck/trailer shall operate on any property at any one time, except as may be permitted in this chapter. An additional mobile operation is allowed for each additional 50,000 square feet of net lot area, up to a maximum of three mobile operations per site.
- (e) Mobile food truck/trailer operation shall not be located in the required parking spaces of the site, unless the applicant or owner approves the location of the mobile food truck/trailer on the site.
- (f) Mobile food truck/trailer are allowed a dining area not greater than 1 table per 2 chairs maximum of 8 chairs on the site.

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**Sec. 42-70. Refrigeration and heating equipment.**

- (a) All mobile food trucks shall have adequate mechanical refrigeration equipment that is capable of maintaining food or drink at a temperature of 40 degrees Fahrenheit or less, if any food or drink is required to be kept cold.
- (b) All mobile food trucks shall have adequate mechanical heating equipment that is capable of maintaining food or drink at a temperature of 140 degrees Fahrenheit or more, if any food or drink is required to be kept hot, or capable of heating food or drink to a temperature of 165 degrees Fahrenheit or more, if any food or drink is required to be heated.
- (c) All mechanical refrigeration and heating equipment shall be equipped with a thermometer.

**Sec. 42-71. Insurance.**

All mobile food trucks operating in the city shall be insured in an amount not less than \$1,000,000.00 for public liability, food products liability, and property damage liability for all claims and damage to property or bodily injury including, but not limited to, death, which may arise from their operations and shall provide proof of such insurance upon request of any city official from time to time.

**Sec. 42-72. Food service provided to persons engaged in construction.**

Class II mobile food trucks that are being used to provide food and drink to persons engaged in construction in the city are exempt from the provisions of section 42-66(c) above, provided such vehicles are only parked for a maximum of 30 minutes.

**Sec. 42-73. Special events.**

Special events. Food trucks may be permitted to operate in any zoning district of the city as part of a permitted special event approved by the planning and zoning director or as per Chapter 56 of the City Code. Food trucks authorized to participate in the special event shall comply with the insurance requirements and conditions imposed by the city under Chapter 56 to ensure that any impacts are mitigated to a reasonable degree.

**Sec. 42-74. Penalty.**

- (a) A code enforcement officer or a law enforcement officer may issue a civil citation for a violation of this chapter pursuant to the procedures and amounts listed in Chapter 2 Article IX Section 2-374 (1.15) of the City Code. In instances that a code enforcement officer or a law enforcement officer deems that a violation poses an immediate danger to the health and safety to the public, no written warning shall be given to the violator.
- (b) Each violation shall constitute a separate instance for which a separate penalty of a minimum of \$500 may be imposed. Upon a mobile food truck vendor's third offense within a twelve-month period, the mobile food truck may be banned from vending in the city.

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