

## ORDINANCE NO. 2009-4177

**An ordinance of the City Commission of the City of Sanford, Florida relating to the regulation of mobile food vendors; providing for legislative findings and intent; providing for a short title; providing for purpose and a prohibition of other mobile vendors; providing for definitions; providing for requirement for a license, license applications, standards, display, expirations, renewals and license revocations; providing for use of public ways, indemnification of the City and insurance; providing for violations, penalties and code enforcement; providing for implementing administrative actions and rules; providing for conflicts; providing for a savings provision; providing for codification; providing for severability and providing for an effective date.**

**Be it enacted by the People of the City of Sanford, Florida:**

Section 1. Legislative findings and intent.

A new section of the *City Code of the City of Sanford* is created to read as follows:

(a). This Ordinance is enacted pursuant to the home rule powers of the City of Sanford as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*; Chapter 166, *Florida Statutes*; and other applicable controlling law.

(b). The City Commission of the City of Sanford hereby adopts and incorporates into this Ordinance the findings of this Section the City staff report and City Commission agenda memorandum relating this Ordinance.

(c). The City of Sanford has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

(d). Although not a land development regulation, this Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Sanford*.

### **Section 2. Short Title.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

This Ordinance may be known and cited as the "City of Sanford Mobile Food Vendors Ordinance".

### **Section 3. Purpose/prohibition of other mobile vendors.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

(a). The purpose of this Ordinance is to establish licensing procedures and governing regulations for mobile food vending businesses operating within the City.

(b). It is also the purpose of this Ordinance, by limiting mobile vendors to mobile food vendors, to reduce the proliferation of mobile vendors within the City, to reduce traffic by providing more local and transient food establishments accessible to the public and the workforce without necessity of travel by means of a motor vehicle while providing for an ambience of a vibrant downtown with pedestrian mobility and activity. It is also the purpose of this Ordinance to address the provision of food items to the public during the course of various special events which occur from time-to-time within the City of Sanford.

(c). All mobile vendors except for those mobile food vendors provided for in this Ordinance are prohibited and unlawful unless otherwise specifically permitted in the *City Code*.

#### **Section 4. Definitions.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

For the purpose of this Ordinance, the following terms shall apply:

*Developed site* – a parcel of real property on which permanent improvements have been legally constructed and is currently the land development regulations. Such site may not be one upon which uncorrected code violations exist or which is under citation for code violations.

*Food* – all substance used for human consumption as food, drink, confectionery or condiments, whether simple, mixed or compound, and all substances or ingredients used in preparation thereof.

*Mobile food unit* – a vehicle mounted food service establishment, which is self-propelled, or otherwise designed to be movable from place-to-place including, but not limited to, carts, mobile kitchens, hot dog carts, mobile trailers and lunch trucks. Mobile food units must comply with the standards specified by Chapter 5K-4.002, *Florida Administrative Code*, and the U.S. Food and Drug Administrative 2001 Food Code as such codes may be amended from time-to-time.

*Mobile food vendor* – the owner or operator of a food service establishment from a mobile food unit. Persons selling fresh fruits, fresh vegetables from trucks, trailers or similar conveyances shall not be considered mobile food vendors. The term also may also apply to a food service establishment that operates at a fixed location for a period of time in conjunction with a single special event for which an appropriate permit or permits have been issued

including, but not limited to, special events such as fairs, shows, circuses, exhibitions, municipal celebrations, festivals and other similar events within a specifically defined area of the City for a specified period of time.

*Public ways* – all areas legally open to public use and used for or intended for use for vehicular or pedestrian traffic said term including public streets, alleys, sidewalks and roadways, but excluding any public property of the of the City, County, State or Federal governments.

*Public property* – all property, real and personal, belonging to the City, County, State or Federal governments, but excluding that property which is used for or intended for use for vehicular or pedestrian traffic and defined herein as a public way.

### **Section 5. Requirement for a license.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

(a). It is prohibited and unlawful for a person to engage in the sale of food as a mobile food vendor without first obtaining a license as a mobile food vendor from the City.

(b). A license fee in the amount of one hundred dollars (\$100.00) for each mobile food unit to be operated by a mobile food vendor shall be paid prior to the issuance of a license. The fee may be modified from time-to-time by resolution adopted by the City Commission.

### **Section 6. License applications.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

(a). Applications for mobile food vendor licenses shall be made on forms furnished by the City as published by the City Manager, or designee which form shall, at a minimum, contain the applicant's full name and residential address, the business name under which the applicant will be operating and the business address, if applicable, a brief description of the food to be sold, the license or registration number of each vehicle or mobile food unit from which sales will be made (if licensed to travel on public roads).

(b). The application form shall require such information and documentation as the City Manager, or designee, may determine to be reasonably necessary to accomplish the purposes of this Ordinance and to protect the public health, safety and welfare. Such information shall include a site plan depicting the proposed location of mobile food operations; the type of mobile food unit to be utilized, all parking spaces, entrances and exits to and from the site; and distances from any buildings or structures, sidewalks, rights-of-way, fire hydrants, fire lanes and landscaped areas.

(c). The applicant must provide proof that all other appropriate licenses and permits (such as right of way use permits) have been acquired at the time of issuance of the mobile food vendor license.

(d). The applicant must provide a copy of the appropriate State licenses that may be required at the time of issuance of the mobile food vendor license.

(e). The applicant must provide proof that all appropriate taxes (such as the local business tax) have been paid at the time of issuance of the mobile food vendor license. The local business tax receipt must be displayed by the permittee when conducting mobile food service operations.

### **Section 7. Public ways; indemnification of the City; insurance.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

(a). Prior to the issuance of a mobile food vendor license, the applicant shall furnish the City with a signed statement on a form provided by the City that the licensee shall hold harmless the City, its officers, officials, employees and agents and shall indemnify the City, its officers, officials, employees and agents for, from and against any and all claims for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the mobile food vendor license.

(b). The mobile food vendor licensee shall furnish to the City and maintain such public liability, food products liability, and property damage liability from all claims and damage to property or bodily injury including, but not limited to, death, which may arise from operations under the mobile food vendor permit or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000.00) for bodily injury, property damage, or any claims or injuries respectively per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein and shall name as additional insured the City, its officers, officials, employees and agents, and shall further provide that the policy shall not terminate or be cancelled prior to the completion of the mobile food vendor license period without forty-five (45) days' written notice to the City at the address shown in the permit. The applicant shall provide proof of necessary insurance prior to receiving the mobile food vendor license.

### **Section 8. Standard for issuance.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

(a). Mobile food vendors shall be allowed to operate on private property with the written permission of the owner set forth on a form provided by the City or on public ways when approved by the City.

(b). If operating on private property, all activities of a mobile food vendor must be on real property assigned a commercial or industrial zoning classification which real property is a developed site and does not abut real property which is single-family, two-family or multi-family use or zoning classification.

(c). Issuance of a mobile food vendor license shall not entitle the mobile food vendor licensee to conduct business exclusively at any specific location on any street or sidewalk.

(d). Mobile food units shall be registered as required by State law and it is prohibited and unlawful for a mobile food vendor to operate, move, park, stop or stand any mobile food unit on a public way unless the vehicle is equipped as required by State law.

(e). It is prohibited and unlawful for a mobile food vendor, operating on City sidewalks or other public ways, to impede normal pedestrian traffic.

(f). It is prohibited and unlawful for a mobile food vendor to create or contribute to a potential safety or hazardous situation or condition on public or private property.

(g). It is prohibited and unlawful for a mobile food vendor to fail to comply with all State and City traffic and parking, stopping and standing laws, codes, ordinances, rules and regulations.

(h). Mobile food units shall be equipped with a suitable trash container readily accessible to the public, in which the mobile food vendor's customers may deposit any litter, trash or waste related to the vendor's sales. Prior to moving a mobile food unit from a sales location, a mobile food vendor shall pick up and remove all litter, trash and waste related to the mobile vendor's sales and within an area encompassing a radius of one hundred feet (100') from the sales area.

(i). The mobile food vendor sales area shall not exceed an area of a standard parking space (two hundred (200) square feet).

(j). It is prohibited and unlawful for a mobile food vendor to create a nuisance condition to include, but not be limited to, displaying flags, signage not located within the operational area of a mobile food unit, loud noises, shouting or amplified music or sound.

(k). It is prohibited and unlawful for a mobile food vendor to set up its sales area or conduct sales from dusk to dawn or such other hours as may be permitted on a license unless otherwise authorized in accordance with other provisions of the *City Code*.

(l). It is prohibited and unlawful for a mobile food vendor to fail to remove a mobile food unit or related items at the close of each business day.

(m). It is prohibited and unlawful for a mobile food vendor to set up its sales area or conduct sales at any of the following locations:

(1). On or within two hundred and fifty feet (250') of First Street and Second Street between French Avenue and Sanford Avenue.

(2). On or within two hundred and fifty feet (250') of Sanford Avenue between Commercial Street and Thirteenth Street.

(3). Within two hundred and fifty feet (250') of any other mobile food vendor unless specifically permitted to do so.

(4). Within five hundred feet (500') of any licensed restaurant located in a permanent structure during the hours said restaurant is open for business.

#### **Section 9. Display of license.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

The mobile vendor must attach the license issued pursuant to this Ordinance to the mobile food unit, at a location conspicuous to the public at all times.

#### **Section 10. Grounds for revocation of license.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

(a). The City Commission may revoke a mobile food vendor's license (with no refund of fees) for any of the following reasons:

(1). The mobile food vendor or any of the mobile food vendor's agents or employees engages in any fraudulent, deceptive or unlawful business practice in connection with the mobile food vendor's business.

(2). False statements were made on the mobile food vendor license application.

(3). Failure to comply with any State health or food vending regulations.

(4). The mobile food vendor or any of the mobile food vendor's agents or employees violates any provision of this Ordinance.

(5). Revocation by any jurisdiction of any other related license or permit held by mobile food vendor.

(6). The mobile food vendor is convicted in any jurisdiction of any felony or crime of moral turpitude or pleads nolo contendere to such felony or crime.

(7). The mobile food vendor operates the mobile food unit in a manner that violates State or City traffic, parking, stopping and standing laws, code, ordinances, rules or regulations or otherwise creates or contributes to a potential safety or hazardous situation or condition on public or private property.

(b). The City Manager shall, in conjunction with the City Attorney, provide for a process which affords procedural due process to a mobile food vendor whose license has been revoked.

**Section 11. License expiration; renewals.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

(a). The mobile vendor license issued pursuant to this Ordinance will be valid for a period of one (1) year from the date of issuance.

(b). A renewal of a mobile vendor license may be issued using the procedures provided for in this Ordinance for the granting of a new license.

**Section 12. Violations, penalties and code enforcement.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

(a). It is prohibited and unlawful to violate the provisions of this Ordinance.

(b). The City may enforce the provisions of this Ordinance by any means of code enforcement as may be permitted under controlling law.

(c). The City shall not seek incarceration as a penalty for the violation of the provisions of this Ordinance.

**Section 13. Implementing administrative actions.**

A new section of the *City Code of the City of Sanford* is created to read as follows:

The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative rules.

**Section 14. Conflicts.**

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed; provided, however, that this Ordinance shall not affect any code or ordinance of the City which provides for a mechanism for enforcement of the City's codes and ordinances by the City.

**Section 15. Savings.**

The prior actions of the City of Sanford in implementation of its food and special event regulatory activities are hereby ratified and affirmed.

**Section 16. Severability.**

If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

**Section 17. Codification.**

This Ordinance shall be codified in the *City Code of the City of Sanford*; provided, however, that Sections 14, 15, 16, 17 and 18 shall not be codified. The Code Codifier is granted broad and liberal authority to change section numbers in the current *City Code* and take other appropriate actions as set forth in Section 1-10 of the *City Code*.

**Section 18. Effective Date.**

This Ordinance shall take effect immediately upon passage and adoption.

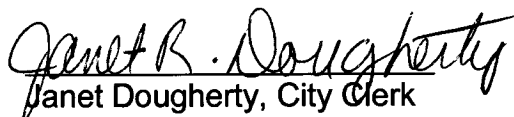
**Passed and adopted** this 8th day of June, 2009.

**City Commission of the City of  
Sanford, Florida  
Seminole County, Florida**



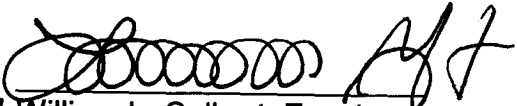
Linda Kuhn, Mayor

Attest:



Janet Dougherty, City Clerk

Approved as to form and  
legality:

  
William L. Colbert, Esquire  
City Attorney  
