

**Village of Royal Palm Beach
Village Council
Agenda Item Summary**

Agenda Item:

PUBLIC HEARING FOR SECOND READING AND ADOPTION OF ORDINANCE NO. 1010, AMENDING CHAPTER 16. BUSINESS TAX AND REGISTRATION; OTHER BUSINESS REGULATIONS. OF THE CODE OF ORDINANCES OF THE VILLAGE OF ROYAL PALM BEACH, TO ADD AN ENTIRELY NEW ARTICLE IV. MOBILE FOOD VENDORS. IN ORDER TO IMPOSE REQUIREMENTS ON SUCH VENDORS IN ACCORDANCE WITH CHAPTER 509, FLORIDA STATUTES; FURTHER PROVIDING THAT SECTIONS 16-65 THROUGH 16-70 SHALL BE RESERVED FOR FUTURE VILLAGE PURPOSES; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUB-SECTION OF CHAPTER 16. BUSINESS TAX AND REGISTRATION; OTHER BUSINESS REGULATIONS. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. BY VILLAGE MANAGER RAY LIGGINS.

Issue:

During the 2020 Legislative Session, the Florida Legislature adopted House Bill 1193, codified at Chapter 2020-160, Laws of Florida and effective July 1, 2020, which created new Section 509.102, Florida Statutes which partially preempt regulation of food trucks.

In accordance with Section 509.102, Florida Statutes, the Village may:

1. Require food truck vendors to show their licenses from the State, and verify that said licenses are current and active; and
2. Require food truck vendors to obtain a business tax receipt (“BTR”) from the Village, as BTR is not interpreted to be a license, registration or permit.
3. Impose new regulations on such vendors in accordance with Chapter 509, Florida Statutes.

However, the Village may not:

1. Require food truck vendors to register with the Village or obtain any other license or permit from the Village in order to operate within the Village’s jurisdictional

Initiator:	Village Manager	Agenda Date	Village Council
Village Manager	Approval	2-18-2021	Action

boundaries other than the Department of Business and Professional Regulation (“DBPR”) license;

2. Require a separate fee beyond those established by DBPR as a condition for the food truck to operate within the Village; or
3. Prohibit food trucks from operating within the entirety of the Village.

Ordinance No. 1010 amends Chapter 16. Business Tax and Registration. of the Village’s Code of Ordinances to create an entirely new article in order to impose new regulation on mobile food trucks and specify where these vendors can operate within the Village. Specifically, Ordinance No. 1010 does the following:

- Establishes definitions and classifies mobile food trucks into three (3) classes,
- Imposes new regulations on all mobile food trucks, including:
 - establishing when special event permits are required for operation;
 - specifying which health and safety regulations are applicable;
 - requiring a Village business tax receipt requirement;
 - imposing consent requirements from adjacent property owners;
 - limiting where food vending can occur and when alcohol sales can occur;
 - providing distance separation requirements from existing food establishments;
 - specifying conduct near Village-sponsored events and in public rights-of-ways;
 - restricting the number of operating days; and
 - limiting the use of designated parking spaces, hours of operations, noise and signage.
- Specifies the specific zoning districts that each class of mobile food truck can operate within the Village and under what circumstances, and
- Establishes the process for enforcement of violations of the Village’s food truck regulations.

Recommended Action:

Upon Council review, staff recommends a motion to approve Ordinance No. 1010 on second reading.

Initiator:	Village Manager	Agenda Date	Village Council
Village Manager	Approval	2-18-2021	Action

ORDINANCE NO. 1010

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, AMENDING CHAPTER 16. BUSINESS TAX AND REGISTRATION; OTHER BUSINESS REGULATIONS. OF THE CODE OF ORDINANCES OF THE VILLAGE OF ROYAL PALM BEACH, TO ADD AN ENTIRELY NEW ARTICLE IV. MOBILE FOOD VENDORS. IN ORDER TO IMPOSE REQUIREMENTS ON SUCH VENDORS IN ACCORDANCE WITH CHAPTER 509, FLORIDA STATUTES; FURTHER PROVIDING THAT SECTIONS 16-65 THROUGH 16-70 SHALL BE RESERVED FOR FUTURE VILLAGE PURPOSES; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUB-SECTION OF CHAPTER 16. BUSINESS TAX AND REGISTRATION; OTHER BUSINESS REGULATIONS. SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village of Royal Palm Beach, Florida (the “Village”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, mobile food vendors have existed in various forms over several centuries, distinguished as much by their physical characteristics, as their operational requirements; and

WHEREAS, the Florida Legislature recently passed Senate Bill 1193 – Deregulation of Professions and Occupations, which was signed into law by the Governor on June 30, 2020, which became effective on July 1, 2020, and which amends Section 509.102, Florida Statutes, as it relates to mobile food dispensing vehicles; and

WHEREAS, pursuant to Section 509.102, Florida Statutes, the Village cannot require “mobile food dispensing vehicles” to obtain a separate license, registration, or permit, or pay related fees for such licenses, registrations, or permits beyond those established by the State Department of Business and Professional Regulation (“DBPR”) as a condition for the mobile food dispensing vehicle’s operation within the Village; and

WEREAS, pursuant to Section 509.102, Florida Statutes, the Village further cannot prohibit mobile food dispensing vehicles from operating within the entirety of the Village’s jurisdiction; and

WHEREAS, Section 509.102, Florida Statutes, does not prohibit the Village from enforcing its other regulations against mobile food dispensing vehicles, including, but not limited to, its zoning regulations, except as stated above; and

WHEREAS, the Village Council desires to recognize this specialized mobile food vendor market segment; classify the types of permitted mobile food trucks; and establish appropriate standards allowing for the typical range of activities while mitigating any associated, detrimental impacts to the community at large; and

WHEREAS, the Village of Royal Palm Beach has held all required public hearings and has provided public notice in accordance with applicable State statutes and Village ordinances; and

WHEREAS, the Village Council of the Village of Royal Palm Beach has determined that the proposed revisions to Chapter 16. are in the best interests of the general welfare of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, THAT:

Section 1: Chapter 16. Business Tax and Registration; Other Business Regulations. of the Code of Ordinances of the Village of Royal Palm Beach is hereby amended to add an entirely new Article IV. Mobile Food Vendors. in order to impose requirements on such vendors in accordance with Chapter 509, Florida Statutes; further providing that sections 16-65 through 16-70 shall be reserved for future Village purposes; providing that new Article IV. Mobile Food Vendors. shall hereafter read as follows:

ARTICLE IV. – MOBILE FOOD VENDORS.

Sec. 16-61. - Definitions.

As used in this article, the following terms shall be defined as follows:

Mobile food truck shall mean any vehicle that is self-propelled or otherwise movable from place to place, and is used to vend food and beverage products. Mobile food trucks shall be classified as one of the following:

Class I – Mobile kitchens. In addition to the vending of products allowed for class II and class III mobile food trucks, these vehicles may cook, prepare and assemble food items on or in the unit, and serve a full menu. Customers may be notified of the vehicle’s location by social media or other forms of advertising. These vehicles may be classified as “mobile food dispensing vehicles,” as defined by section 509.102, F.S., if they include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

Class II – Canteen trucks. These vehicles vend fruits, vegetables, hot dogs, pre-cooked foods, pre-packaged foods and pre-packaged drinks. No preparation or assembly of foods or beverages may take place on or in the vehicle. However, the heating of pre-cooked foods is allowed. A cooking apparatus or grill top for the heating of pre-cooked foods is permitted so long as it complies with state regulations. These vehicles are limited to providing catering services to employees at a specific location. These vehicles may be classified as “mobile food

dispensing vehicles,” as defined by section 509.102, F.S., if they include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

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. These vehicles may be classified as “mobile food dispensing vehicles,” as defined by section 509.102, F.S., if they include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

Mobile service base shall mean a place for food storage, the cleaning of the equipment, the filling of water tanks and proper disposal of waste water and grease, and shall not include the use of a private home as a mobile service base.

Property owner shall mean the owner of real property on which the mobile food truck operates.

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

Vend shall mean to sell or offer to sell products from a mobile food truck.

Village-issued special-event permit shall mean a permit issued by the village for special events per the requirements of chapter 16 of village code.

Sec. 16-62. – Requirements applicable to all mobile food trucks.

The following requirements shall apply to all mobile food truck operations within the village:

- (a) *Food truck special event requirements.* Gatherings of two (2) or more class I, class II, and/or class III mobile food trucks on a property at any given time shall be classified as a food truck special event. In order for such events to occur, the property owner shall be required to obtain a special event permit from the village prior to the event taking place. Applications for special event permits shall be made by the property owner to the village in accordance with the requirements of chapter 16 of village code.
- (b) *Health and safety regulations; display of state license.* A mobile food truck shall comply with all federal, state, and local health and safety regulations and requirements, and shall obtain and maintain any and all licenses required by any other health organization or governmental organization having jurisdiction over the same. The license under which the mobile food truck is operating shall be firmly attached and visible on the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.
- (c) *Business tax receipt requirements.* A mobile food truck shall comply with all state and local business tax requirements. A copy of such business tax receipt shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.

- (d) Written consent of property owner. A mobile food truck shall not operate on any private property without the written consent of the property owner. A copy of such written permission shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.
- (e) Stock-in-trade; outsides storage; and patron seating. All materials, equipment, and stock-in-trade, including, but not limited to, tables, chairs, or other furniture for patron seating, shall be stored entirely within the mobile food truck, unless the property owner has obtained a special-event permit from the village.
- (f) Food vending. Food vending shall only be conducted from the mobile food truck, unless the property owner has obtained a special-event permit from the village.
- (g) Alcohol sales. A mobile food truck shall not sell alcoholic beverages, unless the property owner has obtained a special-event permit from the village.
- (h) Conducting business near existing food service establishments. A mobile food truck shall not be located within 200 feet of any existing food service establishment during such establishment's hours of operation without the prior written permission from the food service establishment. A copy of such written permission shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.
- (i) Conducting business near village-sponsored or village-sanctioned special event. A mobile food truck shall not be located within 200 feet of any village-sponsored or village-sanctioned special event, unless the mobile food truck is permitted by the village to operate at such event.
- (j) Conducting business in public right-of-way. A mobile food truck, except for ice cream trucks, shall not conduct business or operate in the public right-of-way, unless the adjacent property owner has obtained a special-event permit from the village. Where mobile food trucks are authorized to operate, such trucks may stop, stand or park in designated parking areas on the property.
- (k) Conducting business near street intersections or pedestrian crosswalks. A mobile food truck shall not be located within fifteen (15) feet of any street intersection or pedestrian crosswalk, unless the property owner has obtained a special-event permit from the village.
- (l) Interference with vehicular and pedestrian traffic. A mobile food truck shall not impede the flow of vehicular traffic, sidewalks, the ingress or egress of other businesses, building entrances, or emergency exits, unless the property owner has obtained a special-event permit from the village.
- (m) Limitations on number of operating days. A mobile food truck shall not operate on a given property more than two (2) consecutive days per calendar month, and further shall not operate on a given property more than ten (10) days in total per calendar year, unless the property owner has obtained a special-event permit from the village.

- (n) Use of designated parking spaces. At properties where mobile food trucks are authorized to operate, such food truck shall stop, stand or park only in designated parking spaces on said property. A mobile food truck shall not occupy more than ten (10) percent of the designated parking spaces on a given property if there are thirty (30) parking spaces or less on said property. If there are more than thirty (30) parking spaces on said property, then a mobile food truck shall not occupy more than five (5) percent of the designated parking spaces on said property. A property owner may apply for a special-event permit with the village to deviate from these requirements.
- (o) Hours of operation. A mobile food truck shall operate only between the hours of 7:00 a.m. to 9:00 p.m., unless the property owner has obtained a special-event permit from the village.
- (p) Storage of mobile food trucks. Mobile food trucks, when not in active operation, may only be parked/stored in a location where onsite storage of vehicles is a permitted use and shall be parked/stored to the rear of the onsite building(s) in areas not visible from any public rights-of-way.
- (q) Noise limitations. Except for class III ice cream trucks, a mobile food truck shall not make sounds, announcements, or amplify music to call attention to its vending or products either while traveling on public or private rights-of-way, or when stationary. All mobile food trucks, including, but not limited to, class III ice cream trucks, shall comply with the village's noise ordinance contained in section 26-101 of village code. A property owner may apply for a special-event permit with the village to deviate from these requirements.
- (r) Restroom facility. Mobile food trucks operating on a property for a duration of more than three (3) hours shall have a written agreement with the property owner that confirms the food truck employees have access to a flushable restroom within 400 feet of the vending location during the hours of operation. A copy of such written permission shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.
- (s) Waste disposal. Mobile food trucks shall provide a waste receptacle for public use. The area shall be kept neat and orderly at all times and garbage or trash shall be removed prior to departure of the mobile food truck each day. Class I mobile food trucks further shall have a current written agreement, with a state or local licensed facility, for the proper disposal of grease. A copy of such written agreement shall be maintained in the mobile food truck at all times, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand.
- (t) Signage. No more than two (2) A-frame signs shall be permitted during approved special events so long as all requirements of section 20-75 of village code are met. During all other times, menu boards shall be affixed to the mobile food truck. When in operation, section 20-41(11) of the village code shall not apply to mobile food trucks.

Sec. 16-63. – Vending locations by zoning district.

A mobile food truck shall be permitted to operate only on the properties designated below, unless the property owner has obtained a special-event permit from the village allowing for a deviation from these requirements.

(a) Class I – Mobile food trucks.

(1) Residential zoning districts.

- a. Individual single-family lots only if there is a written contractual agreement between a mobile food truck and the property owner for catering services. A copy of such written agreement shall be maintained in the mobile food truck at all times during the event, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand. The term “catering services” shall not include the vending of products from the mobile food truck itself during a catered event, and does not include events that are open to the public.
- b. Properties owned by homeowners associations or property owners associations.
- c. Rental apartment complexes.

(2) Nonresidential zoning districts and mixed-use districts. Class I mobile food trucks shall be permitted on any nonresidential or mixed-use property where retail sales and restaurants are a permitted use under the applicable zoning regulations.

(3) Public ownership districts. The vending of products from a class I mobile food truck on properties zoned as public ownership shall be allowed only on designated grassed parking areas, unless the property owner has obtained a special-event permit from the village.

(b) Class II – Canteen trucks. Class II canteen trucks are prohibited in all zoning districts except to provide catering to employees on-site at locations within clearly delineated boundaries of the site. Boundaries shall be delineated through the use of fencing or other materials enclosing a construction site, where there is a currently valid construction permit.

(c) Class III – Ice cream trucks.

(1) Residential zoning districts.

- a. Individual single-family lots only if there is a written contractual agreement between a mobile food truck and the property owner for catering services. A copy of such written agreement shall be maintained in the mobile food truck at all times during the event, and shall be produced to a law enforcement officer, or village code enforcement officer upon demand. The term “catering services” shall not include the vending of products from the

mobile food truck itself during a catered event, and does not include events that are open to the public.

d. Properties owned by homeowners associations or property owners associations.

e. Rental apartment complexes.

(2) Nonresidential zoning districts and mixed-use districts. Class III ice cream trucks shall be permitted on any nonresidential or mixed-use property where retail sales and restaurants are a permitted use under the applicable zoning regulations.

(3) Public ownership districts. The vending of products from a class III ice cream truck on properties zoned as public ownership shall be allowed only on designated grassed parking areas, unless the property owner has obtained a special-event permit from the village.

(4) Rights-of-way. A class III ice cream truck shall not stop, stand or park for more than ten (10) minutes, unless there are customers waiting in line to buy products.

Sec. 16-64. – Penalties for violations.

It shall be unlawful for any person to violate any of the provisions of this section. This section may be enforced by any means allowed by law, including, but not limited to, code enforcement citation under F.S. ch. 162, and chapter 2 of village code, or legal action. If the citation method is used to punish violators, the violation shall be treated as a civil infraction, and fines shall be set forth in the schedule of fees and charges adopted by resolution of the village council and such fines may then be revised from time to time by resolution of the village council; however, any fine amount set forth in such resolution of the village council shall not to exceed five hundred dollars (\$500.00) per offense. Each day a violation occurs shall constitute a separate offense and shall be punishable hereunder as a separate offense.

Secs. 16-61 65—16-70. - Reserved.

Section 2: Each and every other Section and Sub-section of Chapter 16. Business Tax and Registration; Other Business Regulations. shall remain in full force and effect as previously enacted.

Section 3: All Ordinances or parts of Ordinances in conflict be and the same are hereby repealed.

Section 4: Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

Section 5: Specific authority is hereby granted to codify this Ordinance.

Section 6: This Ordinance shall take effect immediately upon passage.

FIRST READING this 21st day of January, 2021.

SECOND AND FINAL READING this 18th day of February, 2021.

VILLAGE OF ROYAL PALM BEACH

MAYOR FRED PINTO

ATTEST:

(Seal)

DIANE DISANTO, VILLAGE CLERK