

City of Titusville
"Gateway to Nature and Space"

REPORT TO COUNCIL

To: The Honorable Mayor and City Council
From: William S. Larese, City Manager
Subject: **Ordinance No. 22-2015 - Relating to Mobile Vendors in Downtown Mixed Use (DMU) Zoning Classification**
Department/Office: Community Development

Recommended Action:

Conduct the first reading and first public hearing of Ordinance No. 22-2015 amending the Code of Ordinances related to licensing of mobile vendors; by amending Chapter 11 "Licenses and Business Regulations", Article VIII "Mobile Vendors, Special Event Vendors, Seasonal Sales" Section 11-332 "Mobile Vendors" relating to locations for mobile vendors; providing for severability, repeal of conflicting ordinances, an effective date and incorporation into the code. **(This is the first reading and the first public hearing. The second reading and final public hearing is scheduled for June 9, 2015.)**

Summary Explanation & Background:

Currently mobile vendors (including food trucks) cannot be located in the Downtown Mixed Use zoning district, except as part of a special event. Trey Gordon, President of Hope for North Brevard, has requested Council consider permitting mobile vendors within the area. His specific request is to permit a mobile vendor to provide goods and services at Marina Park for people utilizing the skatepark. The attached ordinance is written to permit such a use.

As part of the development of the ordinance, staff queried downtown merchants to obtain input on whether mobile vendors should be permitted in the downtown. Three (3) responses have been received - two (2) in favor of mobile vendors, and one (1) who prefers the prohibition remain. The ordinance has been advertised broadly enough that it could be amended to permit mobile vendors within the entirety of the Downtown Mixed Use district, if this is Council's preference.

Alternatives:

1. Conduct the first reading and first public hearing on the ordinance as presented.
2. Conduct the first reading and first public hearing, and direct staff to change the ordinance language.
3. Do not conduct the first reading and first public hearing of the ordinance.

Item Budgeted:

Source/use of funds/Budget Book Page:

Strategic Plan:

No. 1 – Quality of Life No. 2 – Economic Development

Strategic Plan Impact:

ATTACHMENTS:

	Description	Upload Date	Type
<input type="checkbox"/>	Ordinance No. 22-2015	5/18/2015	Backup Material
<input type="checkbox"/>	Ad no. 1	5/19/2015	Backup Material

ORDINANCE NO. 22-2015

AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE CODE OF ORDINANCES RELATED TO LICENSING OF MOBILE VENDORS; BY AMENDING CHAPTER 11 "LICENSES AND BUSINESS REGULATIONS", ARTICLE VIII "MOBILE VENDORS, SPECIAL EVENT VENDORS, SEASONAL SALES" SECTION 11-332 "MOBILE VENDORS" RELATING TO LOCATIONS FOR MOBILE VENDORS; PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES, AN EFFECTIVE DATE AND INCORPORATION INTO THE CODE.

WHEREAS, the Titusville City Council desires to expand the areas in which mobile vendors may be permitted to order to provide additional economic opportunities within the City,

BE IT ENACTED BY THE CITY OF TITUSVILLE, FLORIDA:

SECTION 1: That Chapter 11, "Licenses and Business Regulations" Article VIII. "Mobile Vendors, Special Event Vendors, Seasonal Sales", Section 11-332 "Mobile Vendors" of the Code of Ordinances of the City of Titusville is hereby amended to read as follows:

Sec. 11-332. - Mobile vendors.

- (a) *Business tax receipt required.* It shall be unlawful for any mobile vendor to engage in such business within the city without first obtaining a business tax receipt in compliance with the provisions of this article.
- (b) *Off-loading prohibited.* No business tax receipt shall be required by this article of any person for the privilege of engaging in the selling of farm, grove, horticultural, floricultural, tropical piscicultural or tropical fish farm products or products manufactured therefrom, except intoxicating liquors, wine or beer, when such products were grown or produced by such person in the state. No off-loading of any merchandise from mobile vehicles will be permitted.
- (c) *[Signed sworn application.]* Applicants for a business tax receipt under this section shall file a written sworn application signed by the applicant, if an individual, by a partner, if a partnership, and by an authorized officer or agent if a corporation, with the administrator, showing:
 - (1) The name of the persons having the management or supervision of applicant's business during the time that it is proposed that it will be carried on in the city.
 - (2) The local address or addresses of such persons while engaged in such business.
 - (3) The permanent addresses of such persons.
 - (4) The capacity in which such persons will act (that is, whether as proprietor, agent or otherwise).
 - (5) The name and address of the person for whose account the business will be carried on, if any.
 - (6) If a corporation, under the laws of the state it is incorporated.

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- (7) The places in the city where it is proposed to carry on applicant's business, the dates during which the business shall be conducted and, if located on private property, written authorization from the property owner for the use of the property and a site plan.
 - (8) A mailing address at which notice of any city information pertinent to any business tax receipt under the section shall be considered received and binding upon the applicant on the fifth day after first class mail is posted to said address.
 - (9) A description of the business, including specification of the goods/services offered for sale and, if a mobile vendor, a description of the vehicle to be used in the business.
 - (10) If edibles are offered for sale, a written acknowledgment from the appropriate state or county agency that the business is licensed in conformity with applicable health codes, which acknowledgment shall have been issued.
 - (11) A site plan must be submitted showing the general location of the vehicle relative to streets, sidewalks, property boundaries and similar permanent businesses.
 - (12) No business tax receipt shall be issued for any person pleading no contest of being convicted of theft, consumer fraud, deceptive trade practices or sexual battery within the last five (5) years.
 - (13) One (1) sign per street frontage—Thirty-two (32) square feet maximum area of sign face. Sign can be double-sided.
 - (14) All signs, displays and associated uses must be removed daily.
 - (15) Cleanup of the property upon expiration of the business tax receipt shall be the responsibility of the business tax receipt holder and property owner equally.
 - (16) Such other reasonable information as to the identity or character of the person having the management or supervision of applicant's business or the method or plan of doing such business as the administrator may deem proper to fulfill the purpose of this article in the protection of the public good.
- (d) *Zoning districts.* Mobile vendors may be permitted within the Commercial Marine (CM), Shoreline Mixed Use (SMU), Community Commercial (CC), Regional Commercial (RC) and Light Industrial Services and Warehousing (M-1), and Industrial (M-2), zoning districts except no business tax receipt will be issued within the downtown mixed use land use designation except within publicly owned parks, (NOTE: See Future Land Use Map for official areas designated as downtown mixed use.) In general, this area encompasses Washington Avenue from Buffalo Road to the southern boundary of Titusville High School; Garden Street from North William Avenue to the F.E.C. Railroad tracks; and along South Street from the water tower to the railroad tracks. Within PID zoning districts mobile vendor lunch wagons shall be permitted.
- (e) *Distance requirements.* No mobile vendor shall locate within five hundred (500) feet, as measured from the property line, of any lawful permanent business which sells the same goods during the hours of operation of said business.
- (f) *Business tax receipt fee.* A mobile vendor's business tax receipt is a flat fee of one hundred and nine dollars and twenty cents (\$109.20) for each merchant, including one (1) vehicle; for the second and each additional vehicle, sixteen dollars and eighty cents (\$16.80) each. This fee is renewable per the timelines specified in section 11-54. Specifically excluded from this classification is any such store which has an established place of business in the

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City of Titusville holding a business tax receipt or any mobile vendor whose proceeds are used exclusively for charitable, religious, fraternal, youth, civic and service organizations.

- (g) *Exemption.* Farm, aquacultural, grove, horticultural, floricultural, tropical piscicultural, and tropical fish farm products are required to obtain a no-fee business tax receipt for the privilege of engaging in the selling of farm, aquacultural, grove, horticultural, floricultural, tropical piscicultural, or tropical fish farm products, or products manufactured herefrom, except intoxicating liquors, wine, or beer, when such products were grown or produced by such natural person in the state.
- (h) *Wholesale business tax receipt.* A wholesale farmer's produce market shall have the right to pay a business tax receipt fee of not more than two hundred dollars (\$200.00) for a business tax receipt that will entitle the market's stall tenants to engage in the selling of agricultural and horticultural products therein, in lieu of such tenants being required to obtain individual local business tax receipts to so engage. (F.S. Section 205.064)
- (i) *Transfer of business tax receipt.* A business tax receipt may be transferred to another owner provided all rules are followed as prescribed in section 11-47, change of ownership/change of name.
- (j) *Certification.* Written certification of where and by whom the farm, aquacultural, grove, horticultural, floricultural, tropical piscicultural, and tropical fish farm products are grown is required by the administrator.
- (k) *Hours of operation.* The hours and days of operation shall be the choice of the vendor, but cannot exceed five (5) days per week and must be specified on the application. Hours of operation shall be from sunup to sundown only. Vehicles must be removed from site during non-operational hours.
- (l) *Review of application.* Upon receipt of the application and fee, the city will review the application to determine compliance with the requirements; and if the application meets the code, a business tax receipt will be issued. Failure to meet the code will cause a business tax receipt to be denied.

SECTION 2: SEVERABILITY. If any provisions of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance.

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SECTION 3: REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances, and all resolutions and parts of resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

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SECTION 4: EFFECTIVE DATE. This Ordinance shall be in full force and effect upon adoption by the City Council in accordance with the Charter of the City of Titusville, Florida.

SECTION 5: INCORPORATION INTO CODE. This ordinance shall be incorporated into the City of Titusville Code of Ordinances and any section or paragraph, number or letter, and any heading may be changed or modified as necessary to effectuate the foregoing. Grammatical, typographical, and like errors may be corrected and additions, alterations, and omissions, not affecting the construction or meaning of this ordinance and the Code may be made.

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PASSED AND ADOPTED this day _____ of _____, 2015.

James H. Tulley Jr., Mayor

ATTEST:

Wanda F. Wells, City Clerk

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**CITY OF TITUSVILLE
NOTICE OF CITY COUNCIL
PUBLIC HEARINGS FOR
PROPOSED ENACTMENT OF
TITUSVILLE CITY ORDINANCES**

5/14/15

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PLEASE TAKE NOTICE that the Titusville City Council will hold public hearings to hear interested persons with regard to the following ordinances. The first public hearing for the proposed ordinances is scheduled for **Tuesday, May 26, 2015**. The second and final public hearing is scheduled for **Tuesday, June 9, 2015**. The public hearings will be held in the Council Chamber on the second floor of City Hall, 555 South Washington Avenue, Titusville, Florida 32796 commencing at **6:30 p.m.**

City Council Regular Meeting May 26, 2015 6:30 PM

REGULANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE CODE OF ORDINANCES RELATED TO LICENSING OF MOBILE VENDORS; BY AMENDING CHAPTER 11 "LICENSES AND BUSINESS REGULATIONS", ARTICLE VIII "MOBILE VENDORS, SPECIAL EVENT VENDORS, SEASONAL SALES" SECTION 11-332 "MOBILE VENDORS" RELATING TO LOCATIONS FOR MOBILE VENDORS; PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES, AN EFFECTIVE DATE AND INCORPORATION INTO THE CODE; and

AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 59 "ZONING", ARTICLE VI "SPECIAL DISTRICTS", DIVISION 6 "SHORELINE MIXED USE (SMU)", SECTION 59-702 "PERMITTED PRINCIPAL USES" TO INCLUDE DOCKS AS A PERMITTED USE; PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES, EFFECTIVE DATE AND INCORPORATION INTO THE CODE.

The Planning and Zoning Commission will hold public hearings on **Wednesday, June 3, 2015, at a meeting commencing at 6:00 p.m.**, to hear interested persons with regard to these matters for recommendation to the City Council. This meeting will also be held in the Council Chamber on the second floor of City Hall, 555 South Washington Avenue, Titusville, Florida 32796.

The proposed ordinances may be inspected by the public at the City Clerk's Office. All interested parties are hereby advised that they may appear at said meeting and be heard with respect to said ordinances.

Any person who decides to appeal any decision of the Planning and Zoning Commission or the City Council with respect to any matter being considered at these meetings will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The City desires to accommodate persons with disabilities. Accordingly, any physically handicapped person, pursuant to Chapter 286.26 Florida Statutes, should, at least 48 hours prior to the meeting, submit a request that the physically handicapped person desires to attend the meeting to the City Clerk's Office.

**Wanda F. Wells, MMC, City Clerk
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Titusville, Florida 32781-2806
Phone 321-567-3686
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