



**CITY OF MEXICO BEACH
PLANNING AND ZONING MEETING
PUBLIC WORKS BUILDING
MONDAY, APRIL 1, 2024 AT 6:00 P.M.**

**Julie Gardner – Post 1
Lee Ellzey – Post 2
Jack Kerigan – Chair – Post 3**

**Rock Kries – Post 4
Steve Cox – Post 5
Alternate 1 - Open
Alternate 2 – Open**

Clint McCahill, City Attorney

Chris Hubbard, City Administrator

Tammy Brunson, City Clerk

This meeting will be live streamed on the City of Mexico Beach Government Facebook Page. If you have any questions/comments on the agenda, please email them up to 2 hours prior to the meeting to city@mexicobeachfl.gov

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- I. ROLL CALL**
 - II. CONSENT AGENDA**
 - 1. Minutes – January 8, 2024
 - III. ELECT CHAIRPERSON FOR P&Z BOARD**
 - IV. STATE MANDATED ETHICS TRAINING ON JULY 17, 2024 – Mandatory for P&Z members.**
 - V. ACCESSORY USES AND ACCESSORY STRUCTURES – Allara Mills Gutcher**
 - a. Open Public Discussion
 - b. Close Public Discussion
 - c. Discussion
 - d. Recommendations
 - VI. DISCUSSION OF LANGUAGE REGARDING FOOD TRUCKS IN LDC – Allara Mills Gutcher**
 - VII. ADJOURNMENT**
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Emailed to interested parties and posted on the website on: DATE: 04/01/2024

Note: Copies of the Agenda items are posted on the City's Website mexicobeachfl.gov This meeting will be recorded and on the website.

*You are hereby notified that in accordance with Florida Statutes, you have a right to appeal any decision made by the Council with respect to any matter considered. You may need to ensure that a verbatim record of the proceedings is made which may need to include evidence and testimony upon which the appeal is based. Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Tammy Brunson, City Clerk, at 201 Paradise Path, Mexico Beach, Florida 32456; or by phone (850) 648-5700 at least five calendar days prior to the meeting. If you are hearing or speech impaired, and you possess TDD equipment, you may contact the City Clerk using the Florida Dual Party Relay System, which can be reached at 1-800-955-8770 (TDD)

City of Mexico Beach

Planning & Zoning Meeting Minutes

MONDAY, JANUARY 6, 2024 – 6:00 PM

The City of Mexico Beach Planning & Zoning Board met in a regular meeting on Monday January 6, 2024, at 6:00 pm at the Public Works Building in Mexico Beach. Board members present were Lee Ellzey, Rock Kries, Julie Gardner, Steve Cox and Chairman Jack Kerigan. Also present were City Administrator, Chris Hubbard, City Clerk, Tammy Brunson and City Attorney, Clint McCahill.

I. **Call to order:** Mr. Kerigan called the meeting to order at 6: 00 pm.

II. **Consent Agenda:** Mrs. Gardner motioned, and Mr. Kries seconded to approve the meeting minutes from December 4, 2023. Motion passed unanimously.

III. **Regular Agenda:**

1. City Clerk swore in members Lee Ellzey, Post 2 and Rock Kries, Post 4 for another term.
2. ***Variance – Gulf View Motel*** – Open public discussion at 6:06 pm. Allara Mills Gutcher presented the variance request at 1404 Hwy 98 to install a pergola on a deck with 2 swings at the corner of the motel. Site plans were submitted. Applicant wanted to rebuild previous swing and pergola that existed prior to the storm. Ms. Gutcher presented photos of swing before the storm and stated that they were not given enough information to do an adequate review for the variance and site plan did not depict the setbacks that they were asking for. Unclear of how much of a setback they were requesting. The determination could not fully be made due to criteria in LDC not being clearly met and due to this, the recommendation was to deny the request since an adequate review could not be made. Open public comments at 6:06pm. Mr. Kerigan reminded the citizens that this board only made recommendations to the City Council and the City Council would make the final decision. Charles Smith, owner of Gulf View Motel stated he is wanting to put exact swing back in the same area before the storm, but it is back further and closer to the motel. He questioned if there was not a setback on that corner where his swing would go. He said he was going to build back exactly as it was before and that there was a deck on it but it was covered with sand and then gravel but it was so close to the ground that it stayed covered up. He said what more can he do to get his swing, and stated it is just a swing. Ms. Gutcher stated she received a site plan with a pen mark drawing where swing was going to go but had no measurements and she could not make a proposal due to the regulations. Mr. Smith stated that it was approximately 7ft from the side of the building and that the front is within the setback. Ms. Gutcher stated she needed something in writing with the measurements. Mr. Kries stated that he went and took pictures. Mr. Smith said he spoke with Greg at EPCI and he had no problem with the swing and that Code Enforcement was not sure about the setback. He stated he talked to several people and never could get a definite answer. Mr. Kries went and took pictures and measured and he compared with the older pictures and it looks exactly the same. Mr. Kerigan asked about the motel sign and if it was in the same place and Mr. Smith said he didn't have to replace the pole that it was in the same place. Mr. McCahill stated that this could be grandfathered in since it was there before the storm in the same footprint as before. Lisa Logan stated Ord 739 was original ordinance that people could build back in the same footprint and it expired but was extended with Ord 775 and it expired Oct 26, 2023. Mr. Smith started building on Oct 1, 2023 and was well within his rights putting swing back.

City of Mexico Beach

Planning & Zoning Meeting Minutes

MONDAY, JANUARY 6, 2024 – 6:00 PM

Mr. McCahill make recommendation to council to grandfather in. Mr. Smith stated that EPCI told him he needed to get a permit to build the deck and the swing and to present this variance to P&Z.

Mr. Cox made a motion to recommend to council to grandfather this building of this swing and pergola in reference to Ordinance 775 as it was before the hurricane. Mr. Kries seconded the motion. Motion passed unanimously.

3. **Proposed LDC Revision – Adding lodging establishments to general commercial zoning district** – Allara Mills Gutcher with the Planning Collaborative presented proposal. She stated this brings consistency with the City's Comprehensive Plan and cleans up the language. Mr. Kries asked about the 3 hotels that do not fall under this requirement prior to the LDR. The Comp Plan already allows lodging establishments in general commercial and is the over riding document and if there is any inconsistency they always turn to the comprehensive plan and bringing to the table to make consistent with each other. Opened public discussion at 6:26 pm. John Harrell, 1st Street – Asked what happens when we annex property and what zoning is assigned to that property. Mr. Kries asked where this was in the comp plan. Ms. Gutcher stated it was in 1.1.4 part D list the tourist commercial uses and part 5 has the allowable uses listed and what is allowed in tourist commercial is allowed in general commercial. Mr. Kries stated the problem was there is no more commercial, and everything is turning into residential. Ms. Gutcher stated this was discussed in 2018 when she was updating the comp plan and that you really don't want to have residential allowed in concerned categories. Mr. Kries asked Mr. Hubbard when the LDC and Comp Plan will be able for an update. Mr. Hubbard stated that it starts with the P&Z Board. Ms. Gutcher did recommend that both LDR and Comp Plan be updated. Mr. Kerigan asked how to start this process. This will have to be a budgeted item. Lisa Logan – Maryland Ave – Stated that a \$75,000 grant has been awarded to the City and updating the Comp Plan and LDR is included in this and that the City Council needs to get started with the process. Ms. Gutcher stated that a public Visionary Workshop is scheduled for January 22nd. Mr. Kerigan asked if there was a motion to recommend approval or denial. Mr. Kries made a motion to deny recommending to council adding lodging establishments to general commercial until LDC and Comp Plan is updated. Motion died for lack of a second. Mr. Ellzey motioned recommending to the city council to add lodging establishments to general commercial zoning district. Motion died for lack of a second. Mr. Kerigan asked Mr. McCahill what the next step would be since motion failed. It will not move to the City Council. Mr. Cox stated he did not feel that they were doing their job as the P&Z Board, and he feels that Mr. Ellzey needed to restate motion again. Mr. Ellzey motioned to recommend to the city council to add lodging establishments to general commercial zoning district. Mr. Cox seconded the motion. Motion carries 4-1. Mr. Kries with no vote.

Ms. Gutcher reviewed the agenda for the Visionary Workshop and that is scheduled for January 22, 2024. Mr. Kerigan asked when final date of grant application. Ms. Gutcher stated May 31, 2024 with a draft.

Mr. Hubbard stated it is the plan to have monies in the budget in the next year to update both the LDR and Comprehensive Plan. Ms. Gardner asked what the cost of updating these that was submitted to Doug. Ms. Gutcher stated the low end of updating the LDR was \$80,000 and he wanted to split it into two fiscal years.

City of Mexico Beach Planning & Zoning Meeting Minutes

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IV. **Adjournment:** Mr. Kerigan adjourned the meeting at 6:43 pm.

By: _____

Chair, Jack Kerigan

Attest: _____

City Clerk, Tammy Brunson

EVENT DETAILS

Florida League of Cities



State-Mandated Continuing Education in Ethics Live Webinar

- **Dates:** 17 – 17 Jul, 2024
- **Time:** 10:00 AM to 3:30 PM

The class contains a morning and afternoon session to cover all 4 hours with a lunch break in-between. It meets the state requirement and maybe, just maybe, enjoy doing it!

Session 1: 10:00 a.m. - 12:00 p.m. - Florida Ethics Law (Chapter 112)

BREAK

Session 2: 1:30 p.m. - 3:30 p.m. - Florida Public Records and Public Meetings Law

Participating in the FULL four hours of this webinar meets the state requirement for annual ethics training. We hope to see you there!

PLEASE NOTE: Attendees for this class are required to both log-in and have audio access to be awarded credit. Instructors use both slides and verbal information/illustrations throughout the course. No audio-only attendance will count toward completion of the course. If you are registering multiple people, each one must have a different email address. Attendance cannot be tracked if the same email address is used for multiple individuals.

Click here to register:

https://us02web.zoom.us/webinar/register/WN_wJ_VA7ZSR26OXzORb5cIWw



the planning collaborative

April 1, 2024

Memorandum for Record

To: Planning and Zoning Board
City of Mexico Beach

From: Allara Mills-Gutcher, AICP

RE: Accessory Structures – Section 2.04.00

Analysis of Section 2.04.00 “Accessory Structures”

Generally

- Recommend that the definition of principal structure be revised for clarity.
- There are two separate sections, one for a use and one for a structure. Retain the separate sections and limit the definition of a use and a structure to the respective section.

Applicable Information

Article II Section 2.04.00 regulates the installation, configuration, and use of accessory structures.

The Section provides the following definitions:

- “Principal structure: The principal structure shall be construed to mean the dwelling unit, house, or commercial use located on the lot that contains the principal use.
- Principal Use: The primary use on a lot as allowed by the Zoning District within which the lot is located.
- Accessory structure: A structure of a nature incidental and subordinate to the principal structure. Accessory structures shall be located on the same lot as the principal structure to which they are accessory. Unless otherwise provided, if on the same premises where a building is attached to the principal building, it shall be considered a part thereof, not an accessory building.
- Accessory use: A use of a nature customarily and/or functionally incidental and subordinate to the principal use on a lot.”

As written, this Section allows accessory structures if the following requirements are met:

1. The parcel has a permitted principal development that meets all standards and requirements of the Code. No accessory structure shall be permitted until the principal structure is complete. A variance from this provision is not allowed.
2. The accessory structure will not be located in a required buffer, landscape area, or minimum building setback area.

3. The accessory structure is included in all calculations of impervious surface and stormwater runoff.
4. Accessory structures shall be shown on any concept development plan with full supporting documentation of compliance with Articles II and III of this Code.
5. The maximum size of the accessory structures on a lot shall not exceed seventy-five percent (75%) of the square footage of the primary structure. The combined square footage of both the primary structure and accessory structure may not exceed the allowable densities and intensities within each Zoning District as stated in Article II Section 2.02.02 of this Code.
6. Vehicles, including manufactured housing and mobile homes, shall not be used as accessory structures.
7. All accessory structures shall comply with the following standards:
 - a. Twelve (12) feet maximum height in residential Zoning Districts, twelve (12) feet in commercial Zoning Districts and sixteen (16) feet for garages/carports and boatsheds.
 - b. No noise, glare, odor, vibration, or fume shall be produced by the accessory structure itself or activities performed within the structure.
8. All accessory structures must satisfy the requirements of 2.01.02 of this Code. [Please note that there is currently not a Section 2.01.02 of the Code].
9. All accessory structures shall comply with standards pertaining to the principal use unless exempted or superseded elsewhere in this Code.

Analysis

Accessory structures must be located on a parcel with a permitted principal development that meets all standards and requirements of the Code. Only after the principal structure is completed are accessory uses permitted.

In order to more effectively implement these requirements, the definition of principal structure should be considered for revision due to its significance in determining allowable accessory structures. As written, the definition provided for principal structure includes “dwelling unit, house, or commercial use”. The term commercial use is misleading in this definition of a “structure” because it implies that you can have a principal structure with solely the presence of a commercial use. Essentially, the code language intermixes the usage of the terms “structure” and “use”.

The use of the term “permitted principal use” should also be replaced or defined for consistency in implementation.

The maximum size of accessory structures is currently limited to exceed seventy-five percent (75%) of the square footage of the primary structure. This requirement prevents the accessory use from exceeding the size of the principal use on the property. This is a high ratio comparatively.

Exhibit "A"

2.02.02 Zoning Districts

A. Residential Low Density

1. District Intent				2. Allowable Location	
This zoning district allows for single family residential at a maximum density of 6 dwelling units per acre and non-residential development as defined below.				The Residential Zoning District is allowed within the Residential Future Land Use Category.	
3. Principal Uses		4. Uses Allowed With Council Approval		5. Prohibited Uses	6. Accessory Uses
a. Residential single family b. Outdoor recreational uses, including arboretums, hiking trails, golf courses, playgrounds, ball fields, outdoor ball courts, outdoor swimming pools, c. Water-related or water-dependent uses, including boat ramps and fishing docks and piers d. Similar outdoor recreational uses, whether public or private. e. Educational facilities (public or private) f. Public buildings and grounds g. Pre-school and day care facilities (public or private) h. Churches i. Residential care facilities, j. Group homes k. Other similar institutional uses.		a. Docks, piers, wharves, and similar structures in City Waters.		a. Mobile homes b. RV parks c. Landfills. d. Hazardous waste collection and handling centers. e. Borrow pits. f. Pastures, forestry, feed lots, and buildings which are an accessory to these agricultural uses. g. Junkyards and salvage yards. h. Firing ranges i. Marinas j. Miniature golf courses k. Race tracks l. Medical marijuana treatment center	a. Allowed: Pole barns, toolsheds, garages, greenhouses, storage sheds, pools and hot tubs, gazebos, private recreational facilities (tennis, basketball, etc.), doghouses, bathhouses, and other customary uses not restricted or prohibited either specifically or by nature of performance below. b. Restricted: Playhouses (100 square feet maximum). c. Prohibited: All other uses.
7. 6. Development Standards					
Setbacks				Impervious Surface Ratio	Max Height
Front	Side	Rear	Corner		
20 feet	7.5 feet	10 feet	10 feet	0.40	32 feet

B. Residential General

1. District Intent	2. Allowable Location
This zoning district allows for single family and multi-family residential at a maximum density of 6 dwelling units per acre and non-residential development as defined below.	The Residential General Zoning District is allowed within the Residential General Future Land Use Category.

3. Principal Uses	4. Uses Allowed With Council Approval	5. Prohibited Uses	6. Accessory Uses
a. Residential single family b. Multi-family c. Outdoor recreational uses, including arboretums, hiking trails, golf courses, playgrounds, ball fields, outdoor ball courts, outdoor swimming pools, d. Water-related or water-dependent uses, including boat ramps and fishing docks and piers e. Similar outdoor recreational uses, whether public or private. f. Educational facilities (public or private) g. Public buildings and grounds h. Pre-school and day care facilities (public or private) i. Churches j. Residential care facilities, k. Group homes l. Other similar institutional uses.	a. Condominiums b. Docks, piers, wharves, and similar structures in City Waters.	a. Mobile homes b. RV parks c. Landfills. d. Hazardous waste collection and handling centers. e. Borrow pits. f. Pastures, forestry, feed lots, and buildings which are an accessory to these agricultural uses. g. Junkyards and salvage yards. h. Firing ranges i. Marinas j. Miniature golf courses k. Race tracks l. Medical marijuana treatment center	a. Allowed: Pole barns, toolsheds, garages, greenhouses, storage sheds, pools and hot tubs, gazebos, private recreational facilities (tennis, basketball, etc.), doghouses, bathhouses, personal service businesses where the service is performed on an individual to individual basis and other customary uses not restricted or prohibited either specifically or by nature of performance below. b. Restricted: Playhouses (100 square feet maximum). c. Prohibited: All other uses.

~~7.~~ 6. Development Standards

Setbacks				Impervious Surface Ratio	Max Height
Front	Side	Rear	Corner		
20 feet	7.5 feet	10 feet	10 feet	0.40	32 feet

C. High Density Residential

1. District Intent		2. Allowable Location	
This zoning district allows for single family and multi-family residential at a maximum density of 8 dwelling units per acre and non-residential development as defined below.		The High Density Residential Zoning District is allowed within the High Density Residential Future Land Use Category.	
3. Principal Uses	4. Uses Allowed With Council Approval	5. Prohibited Uses	6. Accessory Uses

a. Residential single family b. Multi-family c. Outdoor recreational uses, including arboretums, hiking trails, golf courses, playgrounds, ball fields, outdoor ball courts, outdoor swimming pools, d. Water-related or water-dependent uses, including boat ramps and fishing docks and piers e. Similar outdoor recreational uses, whether public or private. f. Educational facilities (public or private) g. Public buildings and grounds h. Pre-school and day care facilities (public or private) i. Churches j. Residential care facilities, k. Group homes l. Other similar institutional uses.	a. Condominiums b. Docks, piers, wharves, and similar structures in City Waters.	a. Mobile homes b. RV parks c. Landfills. d. Hazardous waste collection and handling centers. e. Borrow pits. f. Pastures, forestry, feed lots, and buildings which are an accessory to these agricultural uses. g. Junkyards and salvage yards. h. Firing ranges i. Marinas j. Miniature golf courses k. Race tracks l. Medical marijuana treatment center	a. Allowed: Pole barns, toolsheds, garages, greenhouses, storage sheds, pools and hot tubs, gazebos, private recreational facilities (tennis, basketball, etc.), doghouses, bathhouses, personal service businesses where the service is performed on an individual to individual basis and other customary uses not restricted or prohibited either specifically or by nature of performance below. b. Restricted: Playhouses (100 square feet max.). c. Prohibited: All other uses.
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7. 6. Development Standards

Setbacks				Impervious Surface Ratio	Max Height
Front	Side	Rear	Corner		
20 feet	7.5 feet	10 feet	10 feet	0.50	32 feet

D. Townhome District

1. District Intent		2. Allowable Location	
This zoning district is created to specifically allow common wall townhomes within the City. This district allows for single family attached and multi-family attached residential dwelling units at a maximum density of 8 dwelling units per acre.		The Townhome District is allowed within the High Density Residential Future Land Use Category.	
3. Principal Uses	4. Uses Allowed With Council Approval	5. Prohibited Uses	6. Accessory Uses
a. Residential single family, attached b. Multi-family c. Residential care facilities, d. Group homes	a. Docks, piers, wharves, and similar structures in City Waters.	a. Mobile homes b. RV parks c. Landfills. d. Hazardous waste collection and handling centers.	a. Allowed only if the impervious surface is less than the maximum allowed: Sheds, detached garages, greenhouses, pools and hot tubs,

		e. Borrow pits. f. Pastures, forestry, feed lots, and buildings which are an accessory to these agricultural uses. g. Junkyards and salvage yards. h. Firing ranges i. Marinas j. Miniature golf courses k. Race tracks l. Medical marijuana treatment center	gazesbos, doghouses, bathhouses, personal service businesses where the service is performed on an individual to-individual basis and other customary uses not restricted or prohibited either specifically or by nature of performance below. b. Prohibited: All other uses.
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~~7.~~ 6. Development Standards

Setbacks				Impervious Surface Ratio	Max Height
Front	Side ¹	Rear	Corner		
20 feet	0 feet	10 feet	10 feet	0.85	32 feet

¹ For any parcel that shares a side boundary with a parcel is not zoned Townhome District, that Townhome District parcel must comply with a 7.5 foot side setback on that shared side boundary.

E. General Commercial

1. District Intent		2. Allowable Location	
This zoning district allows for single family residential at a maximum density of 18 dwelling units per acre and commercial land uses as defined below.		The General Commercial Zoning District is allowed within the General Commercial Future Land Use Category.	
3. Principal Uses	4. Uses Allowed With Council Approval	5. Prohibited Uses	6. Accessory Uses

<ul style="list-style-type: none"> a. Community centers and fraternal lodges. b. Commercial or trade schools such as dance and martial arts studios c. Department stores and other retail sales stores, such as shoe stores, clothing stores, pharmacies, florists, and book stores. d. Funeral homes, cemeteries, and mortuaries. e. Farm and garden supply, building supply, and vehicle parts and accessories (including vehicle sales/service/repair). f. Grocery stores, supermarkets (including convenience stores), and specialty food stores (such as meat markets and bakeries). g. Hospitals h. Service businesses such as blueprint, printing, catering, tailoring, travel agencies, upholstery shops, laundries/dry cleaners, and light mechanical repair stores (such as camera, TV, or bicycle repair shops). i. Restaurants including open air cafes. j. Shopping centers (but not regional malls or centers). 	<ul style="list-style-type: none"> a. Condominiums b. Docks, piers, wharves, and similar structures in City Waters. 	<ul style="list-style-type: none"> a. Landfills. b. Hazardous waste collection and handling centers. c. Borrow pits. d. Pastures, forestry, feed lots, and buildings which are an accessory to these agricultural uses. e. Junkyards and salvage yards. f. Medical marijuana treatment center 	<p>Restricted:</p> <ul style="list-style-type: none"> a. Areas and sheds for outside storage shall be enclosed by opaque fencing of at least six (6) feet in height. b. No accessory buildings used for industrial storage of hazardous, incendiary, noxious, or pernicious materials shall be located nearer than one hundred (100) feet from any property line. <p>Prohibited:</p> <ul style="list-style-type: none"> c. All other uses.
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3. Principal Uses	4. Uses Allowed With Council Approval	5. Prohibited Uses	6. Accessory Uses
<ul style="list-style-type: none"> k. Theaters and auditoriums. l. Plant nurseries. m. Veterinary offices and animal hospital with outside kennels. n. Wholesale and retail businesses for storing and/or distributing goods. o. Mobile home parks, recreational vehicle, and travel trailer parks. p. Arcades, billiards/pool parlors, bowling alleys, indoor recreational centers, and gymnasiums/spas/health clubs. q. Small taverns and bars. r. Residential Single Family s. Multi-family 			

t. Educational facilities (public or private) u. Public buildings and grounds v. Pre-school and day care facilities (public or private) w. Churches x. Cemeteries without funeral homes, y. Residential care facilities, z. Group homes aa. Other similar institutional uses. bb. Personal service businesses where the service is performed on an individual-to-individual basis, including barber shops, beauty shops, boutiques, studios, or other similar uses. cc. Professional offices dd. Medical offices or clinics			
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3. Principal Uses	4. Uses Allowed With Council Approval	5. Prohibited Uses	
Government offices Financial institutions Temporary uses, as defined in in this Code.			

~~7.~~ 6. Development Standards

Setbacks				Impervious Surface Ratio	Max Height
Front	Side	Rear	Corner		
12 feet	0 feet if attachment easement is in place; 5 feet if abutting residential property	10 feet	12 feet	0.90	48 feet

F. Tourist Commercial

1. District Intent	2. Allowable Location
This zoning district allows for single family residential at a maximum density of 18 dwelling units per acre and commercial land uses as defined below.	The Tourist Commercial Zoning District is allowed within the Tourist Commercial Future Land Use Category.
3. Principal Uses	4. Uses Allowed With Council Approval
a. Boutiques b. Souvenir shops c. Restaurants and open air cafes d. Small hotels and small motels e. Marinas f. Single family dwellings g. Multi-family dwellings	a. Condominiums b. Docks, piers, wharves, and similar structures in City Waters.
5. Prohibited Uses	6. Accessory Uses
a. Mobile homes b. RV Parks c. Landfills. d. Hazardous waste collection and handling centers. e. Borrow pits.	Restricted: a. Areas and sheds for outside storage shall be enclosed by opaque

h. Gasoline sales and service i. Gasoline sales combined with small food marts n. Outdoor recreational uses, including arboretums, hiking trails, golf courses, playgrounds, ball fields, outdoor ball courts, outdoor swimming pools, o. Water-related or water-dependent uses, including marinas, boat ramps, fishing docks and piers p. Similar outdoor recreational uses, whether public or private. q. Educational facilities (public or private) r. Public buildings and grounds s. Pre-school and day care facilities (public or private) t. Churches u. Cemeteries without funeral homes, v. Residential care facilities, w. Group homes		f. Pastures, forestry, feed lots, and buildings which are an accessory to these agricultural uses. g. Junkyards and salvage yards. h. Firing ranges i. Miniature golf courses j. Race tracks k. Medical marijuana treatment center	fencing of at least six (6) feet in height. b. No accessory buildings used for industrial storage of hazardous, incendiary, noxious, or pernicious materials shall be located nearer than one hundred (100) feet from any property line. Prohibited: e. All other uses.
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3. Principal Uses		4. Uses Allowed With Council Approval		5. Prohibited Uses	
x. Other similar institutional uses. y. Personal service businesses where the service is performed on an individual-to-individual basis. z. Temporary uses, as defined in Section XX.					
7. <u>6.</u> Development Standards					
Setbacks				Impervious Surface Ratio	Max Height
Front	Side	Rear	Corner		
12 feet	0 feet if attachment easement is in place; 5 feet if abutting residential property	10 feet	12 feet	0.80	32 feet

G. Public/Institutional

1. District Intent		2. Allowable Location	
This zoning district allows for public and institutional uses.		The Public/Institutional Zoning District is allowed within the Public/Institutional Future Land Use Category.	
3. Principal Uses	4. Uses Allowed With Council Approval	5. Prohibited Uses	6. Accessory Uses

a. Educational facilities (public or private) b. Public buildings and grounds c. Pre-school and day care facilities (public or private) d. Churches e. Cemeteries without funeral homes, f. Residential care facilities, g. Group homes h. Other similar institutional uses.	a. Condominiums b. Docks, piers, wharves, and similar structures in City Waters.	a. Landfills. b. Hazardous waste collection and handling centers. c. Borrow pits. d. Pastures, forestry, feed lots, and buildings which are an accessory to these agricultural uses. e. Junkyards and salvage yards. f. Firing ranges g. Miniature golf courses h. Race tracks i. Medical marijuana treatment center	Restricted: a. Areas and sheds for outside storage shall be enclosed by opaque fencing of at least six (6) feet in height. b. No accessory buildings used for industrial storage of hazardous, incendiary, noxious, or pernicious materials shall be located nearer than one hundred (100) feet from any property line. Prohibited: c. All other uses.
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7. 6. Development Standards

Setbacks				Impervious Surface Ratio	Max Height
Front	Side	Rear	Corner		
20 feet	7.5 feet	10 feet	20 feet	0.90	32 feet

H. Recreation

1. District Intent		2. Allowable Location	
This zoning district is intended to provide limited active and passive recreation areas open to the public.		The Recreation Zoning District is allowed within the Recreation Future Land Use Category.	
3. Principal Uses	4. Uses Allowed With Council Approval	5. Prohibited Uses	6. Accessory Uses
a. Areas for outdoor recreational activity such as picnicking, jogging, cycling, and hiking b. Arboretums c. Golf courses d. Playgrounds e. Ball fields f. Outdoor ball courts g. Outdoor swimming pools h. Boat ramps i. Fishing docks and piers j. Marinas k. Similar outdoor recreational uses		a. Landfills. b. Hazardous waste collection and handling centers. c. Borrow pits. d. Pastures, forestry, feed lots, and buildings which are an accessory to these agricultural uses. e. Junkyards and salvage yards. f. Firing ranges g. Miniature golf courses h. Race tracks i. Medical marijuana treatment center	Restricted: a. Areas and sheds for outside storage shall be enclosed by opaque fencing of at least six (6) feet in height. b. No accessory buildings used for industrial storage of hazardous, incendiary, noxious, or pernicious materials shall be located nearer than one hundred (100) feet from any property line.

					Prohibited: e. All other uses.
7. <u>6.</u> Development Standards					
Setbacks				Impervious Surface Ratio	Max Height
Front	Side	Rear	Corner		
20 feet	7.5 feet	10 feet	20 feet	0.80	32 feet

I. Preservation

1. District Intent		2. Allowable Location	
This zoning district is intended to protect and preserve natural resources and locally designated environmentally sensitive resources.		The Preservation Zoning District is allowed within the Preservation Future Land Use Category.	
3. Principal Uses	4. Uses Allowed With Council Approval	5. Prohibited Uses	6. Accessory Uses
Passive recreational activities such as those relating to beach activities, beach re-nourishment, and dune crossover boardwalks.		a. Landfills. b. Hazardous waste collection and handling centers. c. Borrow pits. d. Pastures, forestry, feed lots, and buildings which are an accessory to these agricultural uses.	

		e. Junkyards and salvage yards. f. Firing ranges g. Marinas h. Miniature golf courses i. Race tracks j. Medical marijuana treatment center	
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7. 6. Development Standards

Setbacks				Impervious Surface Ratio	Max Height
Front	Side	Rear	Corner		
None	None	None	None	0.2	None

Development within this district is restricted to that which is created to preserve, enhance, or mitigate previous development of natural hazard activities which have degraded the natural state. All City-owned access to beach dunes and beach areas shall be preserved without exception.

J. Tourist Mixed Use

1. District Intent		2. Allowable Location	
This district provides for an integrated mix of resort uses that are predominantly tourist-oriented and seasonal in nature; development will be designed to encourage connectivity among the uses and clustered to the extent practicable to provide open space and to protect environmentally sensitive areas. This zoning district allows for single family residential and multi-family at a maximum density of 2 dwelling units per acre and commercial land uses as defined below.		The Tourist Mixed Use Zoning District is allowed within the Tourist Mixed Use Future Land Use Category.	
3. Principal Uses	4. Uses Allowed With Council Approval	5. Prohibited Uses	6. Accessory Uses
a. Single family b. Multi-family, and any ancillary uses; c. Hotel, motel, and other temporary lodging units; d. Neighborhood and community-scale commercial; e. Beach clubs and other recreational uses; f. Public and private uses such as offices and services; g. Religious institutions; h. Marinas and water related facilities; i. Infrastructure j. Entertainment facilities.	a. Condominiums b. Docks, piers, wharves, and similar structures in City Waters.	a. Mobile home parks b. Landfills. c. Hazardous waste collection and handling centers. d. Borrow pits. e. Pastures, forestry, feed lots, and buildings which are an accessory to these agricultural uses. f. Junkyards and salvage yards. g. Medical marijuana treatment center	Restricted: a. Areas and sheds for outside storage shall be enclosed by opaque fencing of at least six (6) feet in height. b. No accessory buildings used for industrial storage of hazardous, incendiary, noxious, or pernicious

			materials shall be located nearer than one hundred (100) feet from any property line. Prohibited: e. All other uses.
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7. 6. Development Standards					
Setbacks				Impervious Surface Ratio	Max Height
Front	Side	Rear	Corner		
12 feet	0 feet if attachment easement is in place; 5 feet if abutting residential property	20 feet	12 feet	0.70	48 feet
8. Development Restrictions					
<p>A. In the Tourist Mixed Use Zoning District at least three principal uses must be developed on the subject property, one of which is required to be a residential use. No principal use shall be less than 10% of the total land area.</p> <p>B. Where practicable, native vegetation will be used for residential lots and common open spaces. Native vegetation to be used can be identified from Waterwise Florida Landscape as produced by Florida's water management districts.</p> <p>C. Connection to central water and sanitary sewer systems shall be required prior to any certificate of occupancy being issued.</p> <p>D. The Tourist Mixed Use Zoning District may be implemented through the Planned Unit Development process as defined in this Code.</p> <p>E. A property must be under single ownership or under unified control at the time the Tourist Mixed Use category is assigned.</p>					

2.04.00 ACCESSORY STRUCTURES

It is the purpose of this Article to regulate the installation, configuration, and use of accessory structures in order to ensure that they are not harmful to residents and cause safety issues to surrounding areas.

Definitions

~~The principal structure shall be construed to mean the dwelling unit, house, or commercial use located on the lot that contains the principal use.~~

Principal Structure: the main building or other structure on a lot that is utilized for the property's principal use.

Accessory structure:

A structure of a nature incidental and subordinate to the principal structure. Accessory structures shall be located on the same lot as the principal structure to which they are accessory.

(Ord. 711, passed 2-5-2019)

2.04.01 General Standards and Requirements

Any number of different accessory structures may be located on a parcel, provided that the following requirements are met:

- A. There shall be a permitted principal development structure on the parcel, located in full compliance with all standards and requirements of this Code. No accessory structure shall be permitted until the principal structure is complete. A variance from this provision is not allowed.
- B. Accessory structures shall not be located within any easement, required buffer, landscape area, minimum building setback area, in the front yard of the principle structure, or within required parking areas.
- C. Accessory structures shall be included in all calculations of impervious surface and stormwater runoff.
- D. Accessory structures shall be shown on any concept development plan with full supporting documentation of compliance with Articles II and III of this Code.
- E. Maximum size of accessory structures
 - 1. The total square footage for all accessory structures on a lot shall not exceed **seventy-five percent** (75%) of the square footage of the primary structure.
 - 2. A combination of square footage of both the primary structure and accessory structure may not exceed the allowable densities and intensities within each Zoning District as stated in Article II Section 2.02.02 of this Code.
- F. Personal vehicles, manufactured housing, and mobile homes shall not be used as accessory structures
- G. Standards
 - All accessory structures shall comply with the following standards:
 - 1. Twelve (12) feet maximum height in any zoning district that only allows single-family dwellings, twenty-four (24) feet in all other zoning districts.
 - 2. No noise, glare, odor, vibration, or fumes shall be produced by or emitted from the accessory structure itself or due to activities performed within the accessory structure.
- ~~H. All accessory structures must satisfy the requirements of 2.01.02 of this Code.~~
- I. All accessory structures shall comply with standards pertaining to the principal use, unless exempted or superseded elsewhere in this Code.
(Ord. 711, passed 2-5-2019)

2.04.02 Swimming Pools, Hot Tubs, and Similar Structures

- A. Swimming pools shall be permitted only in side and rear yards and shall not encroach into any required building setback.
 - B. Enclosures for pools shall be considered a part of the principal structure and shall comply with standards for minimum distance between buildings, yard requirements, and other building location requirements of this Code.C.
 - D. Excavations for pools to be installed for existing dwellings shall not exceed a 2:1 slope from the foundation of the house, unless a trench wall is provided.
(Ord. 711, passed 2-5-2019)

2.04.03 Fences

- A. All fences to be built shall comply with the Florida Building Code. The posts of each fence must be resistant to decay, corrosion, and termite infestation. The posts must also be pressure-treated for strength and endurance.
- B. Fences or hedges may be located in all side and rear yard setback areas. No fence located in the side and rear yard setbacks shall exceed the height of six (6) feet. Hedges located in front yards shall not exceed three (3) feet in height.
- C. No fences shall be placed in front yards (the yard abutting a road or public right-of-way and defined by extending the line of the front wall of the principal structure to the side property lines) except as provided in section 2.04.03.I.2. below.
- D. The waterfront side of any property shall conform to the same fence type and placement standards as the front yard of any property.

- E. In areas where the property faces two (2) roadways or is located in any other area construed to be a corner lot, no fence or hedge exceeding two (2) feet shall be located in the vision triangle, as required by Article VI.
- F. Any fence shall be placed with the finished side facing outward from the property.
- G. No fence or hedge shall be constructed or installed in such a manner as to interfere with drainage on the site.
- H. Fences shall require permits subject to standards that include but are not limited to fence design (type), height, material, and placement as specified by the Mexico Beach City Council and this Code.
- I. Exemptions
 - 1. A fence required for safety and protection of hazard by another public agency may not be subject to the height limitations above. Approval to exceed maximum height standards may be given by the Planning and Zoning Board upon receipt of satisfactory evidence of the need to exceed height standards.
 - 2. Non-opaque decorative fences used strictly for landscape purposes and not exceeding three (3) feet in height may be placed in front yards (as defined above). A chain-link fence, for example, even if less than three (3) feet in height, does not constitute a decorative landscape fence.
- J. Materials [Reserved]

(Ord. 711, passed 2-5-2019)

2.05.00 ACCESSORY USES

The purpose of this Section is to establish standards for accessory uses to ensure that they do not disrupt otherwise allowable uses within the related zoning district.

Definitions

Principal Use

The primary use or activity on a lot as allowed by the Zoning District within which the lot is located.

Accessory use

A use customarily and/or functionally incidental and clearly subordinate to the principal use on a lot or parcel. The activity occurring must be dependent upon the primary or principal use.

2.05.01 Generally

Accessory uses are permitted in all districts, and only when the accessory use is a nature customarily incidental and clearly subordinate to a permitted or permissible principal use and, unless otherwise provided, these uses are located on the same lot or parcel as the principal use.

Accessory uses shall not involve operations or structures not in keeping with the character of the district where its located.

2.05.02 Home Occupations as an Accessory Use

A. Purpose

To provide peace, quiet, and domestic tranquility within all residential neighborhoods within the City, and to guarantee to all residents freedom from excessive noise, traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential areas. A home occupation shall be allowed as an accessory use in a bona fide dwelling unit subject to the requirements of this section.

- B. No person other than those persons residing on the premises shall be engaged in such occupation and such person must have a valid business license issued by the City of Mexico Beach.

- C. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.
- D. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one (1) sign not exceeding one (1) square foot in area, non-illuminated, mounted flat against the wall of the principal building at a position not more than two (2) feet from the main entrance of the residence.
- E. No traffic shall be generated by such occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a front yard required pursuant to this Code.
- F. No equipment, tools, or process shall be used in such a home occupation which creates interference to neighboring properties due to noise, vibration, glare, fumes, odors, or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, telephone, or television receivers off the premises or causes fluctuations in line voltage off the premises.
- G. Fabrication of articles commonly classified under the terms arts and handicrafts may be deemed a home occupation, subject to the other terms and conditions of this definition, and providing no retail sales are made at the home.
- H. Outdoor storage of materials shall not be permitted.
- I. The following shall not be considered home occupations, and shall be treated as commercial uses: band instrument instruction, studio for group instruction, public dining facility or tea room, antique or gift shops, outdoor repair, food processing, retail sales, nursery school or kindergarten with greater than five children.
- J. At no time shall any home occupation generate the need for more than two (2) parking spaces at once, in addition to the two (2) spaces required for a dwelling unit.
- K. At no time shall any home occupation become a nuisance to neighboring properties through generation of noise, odor, fumes, vehicular traffic generation, eyesore, or any other manner.
- L. The giving of individual instruction to one (1) person at a time such as an art or piano teacher, shall be deemed an acceptable home occupation; individual instruction as a home occupation for those activities listed in paragraph I above shall be prohibited.
- M. Day care shall be considered a home occupation when limited to five (5) children at any given time and subject to the provisions of paragraph K above.
- N. There shall be no entrance or exit way specifically provided in the dwelling or on the premises for the conduct of the home occupation thereon.
- O. The owner(s) and other individual(s) primarily responsible for the home occupation shall live within the dwelling unit where said home occupation is located.
- P. Deliveries from commercial suppliers may not be made more than once each week and the deliveries shall not restrict traffic circulation nor cause nuisances of any kind.
- Q. The lists of home occupations that are allowed or prohibited in this section are by no means comprehensive, but instead are intended to serve as examples of acceptable and unacceptable home occupations.
- R. A home occupation shall be subject to all applicable city/county occupational licensing requirements, fees, and other business taxes.
- S. Any violation the standards and requirements set forth in this section may result in the permanent termination of the home occupation or for a period to be determined by the Mexico Beach City Council.

(Ord. 711, passed 2-5-2019)



the planning collaborative

October 19, 2023

Memorandum for Record

To: Mr. Chris Hubbard, City Administrator
City of Mexico Beach
From: Carly Hanson
Through: Allara Mills-Gutcher, AICP
RE: Accessory Structures – Section 2.04.00 – Memo 4 of 4

Analysis of Section 2.04.00 “Accessory Structures”

Generally

- Recommend that the definition of principal structure be revised for clarity.

Applicable Information

Article II Section 2.04.00 regulates the installation, configuration, and use of accessory structures.

The Section provides the following definitions:

- “Principal structure: The principal structure shall be construed to mean the dwelling unit, house, or commercial use located on the lot that contains the principal use.
- Principal Use: The primary use on a lot as allowed by the Zoning District within which the lot is located.
- Accessory structure: A structure of a nature incidental and subordinate to the principal structure. Accessory structures shall be located on the same lot as the principal structure to which they are accessory. Unless otherwise provided, if on the same premises where a building is attached to the principal building, it shall be considered a part thereof, not an accessory building.
- Accessory use: A use of a nature customarily and/or functionally incidental and subordinate to the principal use on a lot.”

As written, this Section allows accessory structures if the following requirements are met:

1. The parcel has a permitted principal development that meets all standards and requirements of the Code. No accessory structure shall be permitted until the principal structure is complete. A variance from this provision is not allowed.
2. The accessory structure will not be located in a required buffer, landscape area, or minimum building setback area.
3. The accessory structure is included in all calculations of impervious surface and stormwater runoff.
4. Accessory structures shall be shown on any concept development plan with full supporting documentation of compliance with Articles II and III of this Code.

5. The maximum size of the accessory structures on a lot shall not exceed seventy-five percent (75%) of the square footage of the primary structure. The combined square footage of both the primary structure and accessory structure may not exceed the allowable densities and intensities within each Zoning District as stated in Article II Section 2.02.02 of this Code.
6. Vehicles, including manufactured housing and mobile homes, shall not be used as accessory structures.
7. All accessory structures shall comply with the following standards:
 - a. Twelve (12) feet maximum height in residential Zoning Districts, twelve (12) feet in commercial Zoning Districts and sixteen (16) feet for garages/carports and boatsheds.
 - b. No noise, glare, odor, vibration, or fume shall be produced by the accessory structure itself or activities performed within the structure.
8. All accessory structures must satisfy the requirements of 2.01.02 of this Code. [Please note that there is currently not a Section 2.01.02 of the Code].
9. All accessory structures shall comply with standards pertaining to the principal use unless exempted or superseded elsewhere in this Code.

Analysis

Accessory structures must be located on a parcel with a permitted principal development that meets all standards and requirements of the Code. Only after the principal structure is completed are accessory uses permitted.

In order to more effectively implement these requirements, the definition of principal structure should be considered for revision due to its significance in determining allowable accessory structures. As written, the definition provided for principal structure includes “dwelling unit, house, or commercial use”. The term commercial use is misleading in this definition of a “structure” because it implies that you can have a principal structure with solely the presence of a commercial use. Essentially, the code language intermixes the usage of the terms “structure” and “use”.

The use of the term “permitted principal use” should also be replaced or defined for consistency in implementation.

A food truck permanently located on a property is considered development because its placement on the property creates a material change in the use of the land, as specified in Florida Statute. As a part of the permitting and development process of a principal development, all standards and requirements including parking standards, landscaping, impervious surface ratios, and setbacks are reviewed in order to ensure they are consistent with the Comprehensive Plan and Land Development Code.

Because food trucks are not considered a permitted permanent structure, they are not subject to development and site condition requirements review. Neither are food trucks considered as an accessory structure unless they are exempt pursuant to Section 509.102, Florida Statutes.

The maximum size of accessory structures is currently limited to exceed seventy-five percent (75%) of the square footage of the primary structure. If food trucks were revised to be considered the primary structure

on the parcel, this Section would currently restrict the size of the accessory structure to 75% of the square footage of the food truck. This requirement prevents the accessory use from exceeding the size of the principal use on the property.

Because food trucks, defined as mobile food dispensing vehicles by Section 509.102, F.S. are “fully able to drive from place to place throughout the state”, the mobility of an establishment makes it temporary to the property it operates on and therefore is not deemed a permanent structure.

Potential Food Truck Topics For Discussion:

1. Safety issues
2. Parking Requirements/dedicated parking
3. Number of food trucks/trailers per lot
4. Tightening zoning requirements to decrease acceptable areas for locating
5. Setback requirements
6. Utilities
7. Restricting allowable number of trucks/trailers based upon density



the planning collaborative

April 1, 2024

Memorandum for Record

To: Planning and Zoning Board
City of Mexico Beach

From: Allara Mills-Gutcher, AICP

RE: Food Trailers and Food Trucks – Section 2.08.08

Analysis of Section 2.08.08 A. “Food trailers prohibited” and Part B. “Food Trucks”

Generally

- Recommend renaming the section with a header that better identifies the subject matter, such as “Mobile Food Dispensing Vehicles”.
- Recommend providing a clear and concise definition of what constitutes a food truck and/or trailer, and referring to both as “mobile food dispensing vehicle” or similar since both are essentially identical uses. Recommend using the Florida State Statutory definition.

Applicable Information

Article II Section 2.02.08 *Specific Restrictions* describes food trailers and food trucks.

Food trailers are prohibited within the City while food trucks are allowable in zoning districts that allow restaurants and open-air cafes or neighborhood and community-scale commercial (General Commercial, Tourist Commercial, Tourist Mixed Use). This potentially creates an inequitable implementation for a type of use that is essentially identical. Florida Statutes do not differentiate between the two types of vehicles.

Food trailers are defined as “any structure or vehicle, fixed or mobile, used for the purpose of selling food or beverages or producing food or beverages for commercial purposes, and which is not:

- A building compliant with the Florida Building Code and this Land Development Code;
- A home occupation compliant with this Land Development Code and the Florida Building Code;
- A Food Truck, as defined by subsection B. of this Section [provided below]; or
- A food or beverage vending structure, vehicle, or cart operated for a maximum of seventy-two (72) hours and only as part of a festival or special event not prohibited by the City. To qualify for this exception, at the end of the seventy-two (72) hour period, the vending structure, vehicle, or cart must either be removed from the City or placed into storage not visible from a public right-of-way and in compliance with this Land Development Code.”

For those food trailers that were operational prior to the effective date of Ordinance 779 adopted on 1-11-2022 and holding a local business tax receipt validly issued by the City Clerk shall be considered a nonconforming use that is permitted to continue as governed by the rules for structures provided by Section 7.12.00, which is the provisions for Non-Conforming Uses and Structures. Nonconforming food trailers shall otherwise comply with the Land Development Code and shall be considered restaurants for purposes of parking, landscaping, and other instances when requirements vary depending on the use of the property.

Alternatively, in Section 2.02.08 subsection B *Food Trucks*, food trucks have the same definition as "mobile food dispensing vehicle" pursuant to F.S. § 509.102, as amended. In summary, food trucks are classified accordingly if they meet all of the following criteria:

- Any vehicle that is a public food service establishment
- Is self-propelled or otherwise movable from place to place
- Includes self-contained utilities including, but not limited to, gas, water, electricity, or liquid waste disposal
- Must hold an active and valid mobile food dispensing vehicle license from the Florida Division of Hotels and Restaurants and a copy of such license must be kept inside of the licensed vehicle at all times while it is located in the City

If a "food dispensing vehicle" does not meet the above requirements, it is considered a food trailer, which is not allowable unless it has been continually operated prior to January 11, 2022, and holds a local business tax receipt

In essence, food trucks are classified accordingly when they are an independently movable vehicle, such as one with an incorporated motor, and meet the other requirements noted above. They can only be located within Mexico Beach when: 1) they have written approval from the property owner, and; 2) they have a state license to operate. Another allowance is when they are operated within the Recreation zoning district on publicly-owned property and have written permission from the appropriate government agency.

Food trucks shall also:

- Meet all setback requirements or be at least 10 feet from all property lines, whichever is greater.
 - "Food Trucks shall be considered an accessory structure for the purposes of determining setbacks."
- Be required to immediately comply with any request by law enforcement and/or code enforcement officers relating to safety
- Provide trash and recyclable receptacles and, at a minimum, emptied daily. All trash is to be removed from the site daily.
- Obtain a local business tax receipt from the City.

There are two separate types of non-permanent food vending establishments as regulated by the state:

- A mobile food establishment is essentially defined as "the use of selling foods, other than fresh fruits and vegetables, from trucks, trailers or similar self-propelled conveyances, or non-fixed

structures such as tables, booths, or kiosks.” (Source: Department of Agriculture and Consumer Services).

- A mobile food dispensing vehicle (MFDV) is regulated by the Florida Department of Business and Professional Regulation. This type of use is “fully able to drive from place to place throughout the state. The menu items are limited to what the equipment on the vehicle can prepare” (Source: Department of Business and Professional Regulation). MFDV license holders can offer catering services and may operate a 1-3 day temporary event.
 - ✓ A self-sufficient MFDV can perform all food activities inside the vehicle, like storing food, preparing food, and dishwashing.
 - ✓ Licensees are required to pass a sanitation and safety inspection prior to opening.
 - ✓ Once licensed, operators must meet and maintain all applicable standards of a public food service establishment as provided in rule, code, and Florida statute.
- Only hot dog carts and mobile food dispensing vehicles are licensed by the Department of Business and Professional Regulation.
- Basic requirements to be classified as a MFDV are that the vehicle must have a VIN#, and be a mobile (movable) vehicle. It also must:
 - ✓ Have protection from the elements (walls, ceiling, floor).
 - ✓ Have a solid sliding service window.
 - ✓ Have dishwashing capacity (a three compartment sink).
 - ✓ Have a separate hand sink.
 - ✓ Have equipment to keep food at safe temperatures.
 - ✓ Have power to keep the equipment running.
 - ✓ Have a plumbing system that allows you to wash dishes and hands while operating.
 - ✓ Have either a commercial water/sewer location or a “commissary”.

Florida Statutes do not differentiate between a “truck” and a “trailer”.

Analysis

The intent of this section is not clear. The section attempts to differentiate between a “trailer” and a “truck”, where Florida Statutes and state regulatory departments do not.

Section 2.02.08 Part B defines a “food truck” as the statutes do, as a Mobile Food Dispensing Vehicle (MFDV).

Part A of the same section attempts to differentiate a food trailer, but does so by defining a food trailer as a list of criteria which it is not. It also includes an exemption that captures all food trucks in place for less than 72 hours as part of a festival. The description, exemption location, and overall organization are difficult to interpret consistently for fair implementation of the regulation.

In order to clarify Section 2.02.08, it is recommended that the Section be renamed with a header that better identifies the subject matter, such as “Mobile Food Dispensing Vehicles” and the Section be revised

to provide a clear and concise definition of what constitutes a food truck and/or trailer. It is recommended that Florida Statutes be used as the source definition.

With these revisions, the City can consider creating location criteria, further regulation of the use, and accessory uses and structures that are allowable on-site with food trucks and/or trailers.

509.102 Mobile food dispensing vehicles; temporary commercial kitchens; preemption.—

(1)(a) As used in this section, the term “mobile food dispensing vehicle” means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

(b) As used in this section, the term “temporary commercial kitchen” means any kitchen that is a public food service establishment used for the preparation of takeout or delivery-only meals housed in portable structures that are movable from place to place by a tow or are self-propelled or otherwise axle-mounted, that include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal. Such kitchens are subject to all provisions of this chapter except as may be provided herein. The term does not include a tent.

(2)(a) Regulation of mobile food dispensing vehicles, and temporary commercial kitchens, involving licenses, registrations, permits, and fees is preempted to the state. A municipality, county, or other local governmental entity may not require a separate license, registration, or permit other than the license required under s. 509.241, or require the payment of any license, registration, or permit fee other than the fee required under s. 509.251, as a condition for the operation of a mobile food dispensing vehicle or temporary commercial kitchen within the entity’s jurisdiction. A municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles or temporary commercial kitchens from operating within the entirety of the entity’s jurisdiction.

(b) Any mobile food dispensing vehicle or temporary commercial kitchen that is operated on the same premises as and by a separately licensed public food service establishment may operate during the same hours of operation as the separately licensed public food service establishment that operates such mobile food dispensing vehicle or temporary commercial kitchen.

(3)(a) A temporary commercial kitchen may be used in conjunction with a permanent food service establishment licensed under this chapter for the purpose of supplementing the kitchen operations of the licensed permanent food service establishment. A temporary commercial kitchen may operate in this capacity as follows:

1. On the premises of the licensed permanent food service establishment for 60 consecutive days. Upon request of the operator of a temporary commercial kitchen, the division may grant one extension of up to 60 additional consecutive days.

2. During a period of renovation, repair, or rebuilding, on the premises of the licensed permanent food service establishment or off the premises within the line of sight of, and not to exceed 1,320 feet from, the licensed permanent food service establishment for 120 consecutive days. The division may exercise discretion to grant an additional extension of time upon a reasonable and reliable demonstration by the licensed permanent food service establishment that additional time is needed to complete the renovation, repair, or rebuilding.

(b) If a permanent food service establishment licensed under this chapter, or the land upon which that establishment is sited, is rendered uninhabitable due to a natural disaster that is the subject of a declared state of emergency, a temporary commercial kitchen may operate on the premises of, or as near as reasonably practicable to, the location of the licensed permanent food service establishment. A temporary commercial kitchen may operate in this capacity only during the period of repair and rebuilding of the permanent establishment with which it is associated. The operators of a temporary commercial kitchen operating in this capacity must notify the division of the kitchen's location and renew the notification every 90 days for the duration of its operation.

(c) Except as authorized under paragraphs (a) and (b), a temporary commercial kitchen may not operate in one location for longer than 30 consecutive days. The operators of a temporary commercial kitchen must notify the division within 48 hours after commencing operation in a location.

(4) This section may not be construed to affect a municipality, county, or other local governmental entity's authority to regulate the operation of mobile food dispensing vehicles or temporary commercial kitchens other than the regulations described in subsection (2).

(5) This section does not apply to any port authority, aviation authority, airport, or seaport.

History.—s. 75, ch. 2020-160; s. 2, ch. 2023-48.

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