ORDINANCE NO. 2011-19-261

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING CHAPTER 4, ARTICLE II, SECTION 4-40 OF THE CODE OF ORDINANCE TO CREATE REGULATIONS RELATING TO *MULTIPLE TENT SALES*; AMENDING CHAPTER 4, ARTICLE II OF THE CODE OF ORDINANCE TO CREATE A NEW SECTION 4-45 RELATING TO *REGULATIONS FOR FOOD TRUCKS*; RENUMBERING THE EXISTING SECTION 4-45 TO 4-46; AMENDING CHAPTER 34, ARTICLE VII SECTION 34-288(13) OF THE LAND DEVELOPMENT REGULATIONS RELATING TO *BOX LUNCHES, TRANSIENT CATERING TRUCKS*; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the food truck phenomenon has proliferated throughout the county, and expanded its foothold in the South Florida region, and

WHEREAS, as reported in the Wall Street Journal, New York Times, and the Miami Herald, the mobile food vendors have gained popularity and municipalities are attempting to regulate these activities, and

WHEREAS, food trucks, also known as mobile food facilities or culinary trucks, prepare unpackaged food and sell them at retail from pushcarts, trailers, trucks, and carts, and

WHEREAS, In an effort to adapt to the growing needs of the marketplace, Councilman Oliver Gilbert is recommending an amendment to Ordinance 2011-10-252, Article II Special Events Regulations, which was adopted by the City Council on April 27, 2011 to regulate food trucks, and

WHEREAS, the amendment will allow existing licensed businesses in the City of Miami Gardens to set up multiple tents for retail sale of merchandise, rather than limiting the owner or operator to one tent structure for each event, and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AS FOLLOWS:

Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

Section 2. AMENDMENT: Chapter 4, Article II, Section 4-40 of the Code of Ordinance is hereby amended as follows:

Section 4-40. Special Requirements.

(a) *In general.* Businesses located in the Agricultural (AU), Planned Corridor Development (PCD), Neighborhood Commercial (NC) and Industrial (I1 and I2) zoning districts, holding a current business tax receipt and certificate of use, shall be permitted to engage in the retail sale of new merchandise from tents, subject to the following limitations and requirements:

(1) *Limitations.* The hours of operation of a tent sale for retail merchandise, other than the sale of Christmas trees and fireworks as provided elsewhere, shall not extend beyond three consecutive days, from 9:00 a.m. to 8:00 p.m. daily, for each permit issued. The hours of operation may not be extended for any circumstance or reason. A permit may not be extended to expand the hours of operation. Other than a Christmas tree and a firework sale, no more than two additional tent sales may be conducted at the same location during the calendar year. The same location extends to the boundary lines of the property or shopping center. Tent sales shall be conducted within the boundary lines of the same property or shopping center where the business of the permit holder is located. The permit holder shall not operate more than one tent sale at the same location during the calendar year, and must have current business tax receipts at the location of application. Used, second-hand or discarded merchandise or wholesale merchandise shall not be sold or offered for sale from tents. The tent sale shall be conducted within the required setbacks of the property, although setback and parking requirements may be waived by the planning and zoning

department if the tent sale is conducted within an area reserved for parking. Such waiver shall be based on whether there is sufficient and adequate parking to allow for the tents sale in the parking area.

(2) *Requirements.* Retail sales from tents are allowed only by issuance of a permit by the city. Prior to the issuance of a permit, the applicant must pay the applicable permit fee, provide proof of insurance, written authorization of the property owner if the applicant is not the property owner and a certification by the Miami-Dade County fire marshal that the tent has been inspected and is in compliance with applicable fire safety regulations.

(3) *Multiple tents for retail sales.* This section does not prevent an applicant from requesting a permit to erect multiple tents for retail sales of merchandise, food, and refreshments on private or public property. However, sales from motor vehicles, carts, and food trucks are prohibited at tent sale events. The applicant shall meet the following requirements:

a) Detailed layout of the event site including tent placement, number of tents, tent size, restroom facilities, portable fire extinguishers and parking area.

b) Building permit, including approval from other agencies when necessary, for the installation and placement of temporary structures and accessories (e.g. tents larger than 120 square feet, portable toilets, lighting, etc.).

c) Vendor information related to each tent.

d) Payment of permit fee for each tent to be erected on-site.

e) Additional information and/or documentation as required by the City.

(b) *Display of permit.* Before the offer of sale or sale of any retail merchandise from a tent, the city permit shall be prominently displayed on the premises.

Section 3. AMENDMENT: Chapter 4, Article II of the Code of Ordinance is hereby amended to create a new section 4-45 as follows:

Section 4-45. Special requirements for temporary mobile food facilities

(a) Temporary *Mobile food facilities.* Such uses are exempt from the provisions of Section 34-288(13) of the code of ordinances regarding *box*

lunches, transient catering trucks, distribution,, but such uses are subject to the following:

1. For the purpose of this section, the following definitions for terms used herein shall apply:

a. *Commissary* is an approved food facility that provides support services for specific functions of mobile food facilities. The commissary has space for storage of food vehicles and is equipped to provide for the daily cleaning, servicing, and has space for food storage and food preparation. A restaurant or market may also act as a mobile food facility commissary when approved by the Florida Department of Agriculture and Consumer Services. It is against the law to store or prepare food and/or beverages or any food related items at a private home or unapproved structures.

b. *Mobile food dispenser* means any person who, by traveling from place to place upon the public ways, serves prepared and enclosed or wrapped individual portion food, or coffee, milk, milk products, frozen desserts, soft drinks, or beverages from a wheeled vehicle.

c. *Mobile food facilities*, commonly known as a food truck or food cart, is any vehicle used in conjunction with a commissary or other permanent food facility upon which food is prepared, cooked, sold or distributed at retail. A mobile food facility does not include a transporter used to transport packaged food from a facility, or other approved source to the consumer.

d. *Mobile support unit* is a vehicle, used in conjunction with a commissary that travels to, and services, mobile food facilities as needed to replenish supplies, including food and potable water, clean the interior of the unit, or dispose of liquid or solid wastes.

e. *Mobile food facilities special event* is a special event consisting of a concentration of three (3) or more mobile food facilities at a specific location.

2. *Mobile food facilities* special events shall be permitted subject to the following:

a. Such uses shall be permitted to operate in the Agriculture (AU), Neighborhood Commercial (NC), Planned Corridor Development (PCD), and Planned Development (PD), zoning districts.

b. No operator of a mobile food facility shall park or stand such vehicle:

1. On any private property without the express consent of the owner or lessee of such property and unless such written consent is kept in the mobile food facility at all times when the facility is on the property; and

2. On properties of the City of Miami Gardens, or on any public right-of-way without the express written consent of the City of Miami Gardens.

c. Mobile food facility special events are limited to four (4) days per calendar year, at the same location, and each event shall operate no longer than five (5) hours each day.

d. The sale of alcoholic beverages shall be prohibited.

e. The following operational requirements during the operation of a mobile food facility must also be met:

1. No food shall be stored, displayed, or served from any place other than the mobile food facility. The use of tables, benches, and other such devices to display or serve items for use is prohibited;

2. Food condiments shall be protected from contamination. Food condiments provided for customer self-service shall be prepackaged or shall be from approved dispensing devices;

3. Utensils and equipment shall be handled and stored to be protected from contamination. Single-service utensils shall be obtained from sanitary containers or approved sanitary dispensers, stored in a clean, dry place until used, handled in a sanitary manner, and used only once;

4. Only a mobile food facility shall be permitted to dispense unpackaged foods.

5. All mobile food facility vehicles shall be required to provide proof of State licenses, including a valid Mobile Food Establishment permit issued by the Florida Department of Agriculture and Consumer Services (FDACS) and Commissary Letter of Agreement (FDACS form 14223), for

each individual mobile food facility in order to temporarily operate in the City of Miami Gardens

f. Mobile food facility special events site organizers shall be required to complete a special event permit application, and obtain a special event permit from the Department of Building and Code Compliance for each mobile food facility special event site. A separate application is required for each event. The application for a special event permit shall include, but not limited to the following:

1. The maximum number of mobile food facilities, which may be present at the mobile food facility special event. The maximum number shall be indicated on the special event permit.

2. If the mobile food facility special event is operating in a manner not consistent with the representations made in the application package provided to the Department, or if the person in charge of the event fails to comply with the provisions of this section, the Director shall have the authority to revoke the special event permit immediately.

g. Mobile food facilities shall be managed in accordance with the following policies:

1. The quiet, safety, and cleanliness of the mobile food facilities special event site and its adjacent area shall be maintained.

2. Proper and adequate storage and disposal of debris and garbage shall be provided.

3. Noise and odors shall be contained within immediate area of mobile food facility special event site so as not to be a nuisance to neighbors.

4. Notices shall be prominently displayed urging patrons to leave the mobile food facility special event site and neighborhood in a quiet, peaceful, and orderly fashion and to please not litter or block driveways in the neighborhood.

5. Employees of mobile food facilities shall walk a 100-foot radius from the mobile food facility special event site within 30

minutes after closing and shall pick up and dispose of any discarded beverage containers and other trash left by patrons

3. Each vehicle shall meet the following facility requirements related to sinks, refuse receptacles, and restrooms:

a. Unless the mobile food facility serves only prepackaged and non-perishable food, any mobile food facility shall be equipped with a hand-washing sink, a three compartment ware-washing sink, and an adequate supply of running hot water.

b. Mobile food facilities shall be equipped with a suitable, tight, non-absorbent washable receptacle for refuse. The owner or operator of the mobile food facility shall be responsible for sanitation of the environs of the place of operation. The refuse receptacle shall be adjacent to, but not an integral part of, the mobile food facility.

c. Mobile food facility license holders shall, by a written agreement with other business establishments, arrange for the availability of a restroom and hand-washing sink that may be used by employees working in the mobile food facility when the facility is parked in the same place for more than two hours. The restroom and hand-washing sink must be within 200 feet of the mobile food facility. The copy of the agreement shall be kept in the facility at all times and shall be made available for inspection by the police department, department of building and code compliance, and any other regulatory agency.

4. Notwithstanding any other provision of this section, the City may from time to time prohibit the issuance of additional mobile food facility special event permits in specified areas of the City in the interest of preserving public health and safety or avoiding traffic congestions.

5. No permit shall be transferable except with the written consent of the City Manager or his/her designee, such consent and approval shall not be unreasonably withheld. The application for such transfer shall contain the same information as requested herein for an initial application for such a permit and shall be accompanied by the same filing fees as for an initial application. Upon approval of said transfer, the transferee shall retain the original permit granting date and all of the transferor's rights under this section.

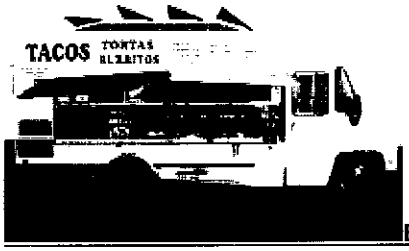
6. If the Director determines that the permittee has exceeded the scope of the permit, either in terms of duration or area, determines any other violation of the permit terms or conditions has occurred, the Director shall order the permittee to correct the violation within a specified time period. If any person has occupied public right-of-way without a permit, the Director shall immediately order the violator to vacate an occupied area. The Director may require that any

permittee vacate an occupied area if it is deemed to be in the best interest of the City.

7. Failure to pay any fee assessed under these provisions shall constitute good cause for immediate revocation of the permit or removal of unpermitted obstructions.

Exhibit A - Examples of Acceptable Mobile Food Facilities

Unpackaged Trucks/Trailers

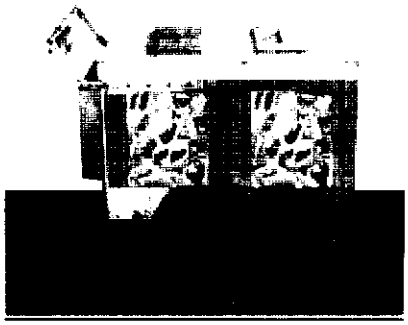


Examples: catering trucks, taco trailers, lunch trucks, hot trucks, chef trucks or any fully enclosed vehicle used for food preparation activities. All food preparation, cooking and storage must occur inside the vehicle or at an approved commissary.

Allowable Carts

Examples: carts selling churros, pretzels, popcorn, shaved ice, hot dogs and coffee/cappuccino. These carts can serve unpackaged food with limited food preparation.

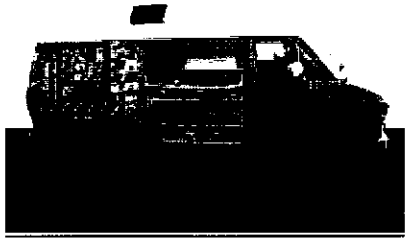
Allowable Carts



Examples: Carts selling prepackaged ice cream and chips. These types of carts are limited to selling of prepackaged foods only.

Exhibit B - Example of Prohibited Vehicles

Prepackaged Trucks



Examples: ice cream trucks and grocery trucks

Section 4:Chapter 4, Article II, Section 4-45 of the Code of Ordinance is hereby renumbered to Section 4-46.

Section 5. AMENDMENT: Chapter 34, Article VIII, Section 34-288(13) of the Code of Ordinance is hereby amended as follows:

Section 34-288 – Uses permitted with extra requirements

(13) *Box lunches, transient catering trucks, distribution.* No person shall distribute box lunches until such person has obtained a permit from the administrative official. Such permit shall be subject to the following restrictions:

a. No selling to be conducted on, or from, the public right-of-way and such sales to be made only from private property on which is located the use whose employees desire the service, and then only with the consent of the owner of such private property. (In the event active construction prevents access to private property, a temporary stop may be made on right-of-way.)

b. The uses to be served to be confined to industrial, commercial developments, and any development with an active building permit and under active construction.

c. Owners of the box lunch business to be responsible for the action of their drivers and salesmen, and that such drivers and salesmen to do everything possible to prevent and eliminate the scattering of food, cups, napkins, etc., at their stops.

d. That such business shall have a properly authorized and licensed place of business.

e. Vehicles are not permitted to park at any one location more than two hours.

Nothing contained herein shall prohibit temporary *Mobile food facilities* in accordance with Chapter 4, Article II, Section 4-45.

Section 6. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

Section 7. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion 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.

Section 8. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the

section of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

Section 9. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 27th DAY OF JULY, 2011.

PASSED ON SECOND READING ON THE 14th DAY OF SEPTEMBER, 2011.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 14TH DAY OF SEPTEMBER, 2011.

SHIRLEY GIBSON, MAYOR

ATTEST:

RONETTA TAYLOR, MMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ., CITY ATTORNEY

SPONSORED BY: COUNCILMAN OLIVER GILBERT, III

Moved by: Councilman David Williams Jr.
Second by: Councilwoman Davis

VOTE: 6-0

Mayor Shirley Gibson	_X_ (Yes)	_____ (No)
Vice Mayor Aaron Campbell, Jr.	_X_ (Yes)	_____ (No)
Councilman David Williams Jr	_X_ (Yes)	_____ (No)
Councilwoman Lisa Davis	_X_ (Yes)	_____ (No)
Councilman Oliver Gilbert, III	_X_ (Yes)	_____ (No)
Councilwoman Felicia Robinson	_X_ (Yes)	_____ (No)
Councilman Andre' Williams	___ (Yes)	_____ (No) (not present)

City of Miami Gardens
Agenda Cover Memo

Council Meeting Date:	September 14, 2011		**Item Type:** *(Enter X in box)*	**Resolution**	**Ordinance**	**Other**	
					X		
Fiscal Impact: *(Enter X in box)*	**Yes**	**No**	**Ordinance Reading:** *(Enter X in box)*		**1st Reading**	**2nd Reading**	
						x	
		X	**Public Hearing:** *(Enter X in box)*		**Yes** / **No**	**Yes**	**No**
						x	
Funding Source:	N/A		**Advertising Requirement:** *(Enter X in box)*		**Yes**	**No**	
					X		
Contract/P.O. Required: *(Enter X in box)*	**Yes**	**No**	**RFP/RFQ/Bid #:**		**N/A**		
		X					
Strategic Plan Related *(Enter X in box)*	**Yes**	**No**	**Strategic Plan Priority Area:**		**Strategic Plan Obj./Strategy:** *(list the specific objective/strategy this item will address)*		
	X		**Enhance Organizational** ☐ **Bus. & Economic Dev** ■ **Public Safety** ☐ **Quality of Education** ☐ **Qual. of Life & City Image** ☐ **Communication** ☐				
Sponsor Name	Councilman Oliver Gilbert, III		**Department:**		**Mayor and City Council**		

Short Title:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AMENDING CHAPTER 4, ARTICLE II, SECTION 4-40 OF THE CODE OF ORDINANCE TO CREATE REGULATIONS RELATING TO *MULTIPLE TENT SALES*; AMENDING CHAPTER 4, ARTICLE II OF THE CODE OF ORDINANCE TO CREATE A NEW SECTION 4-45 RELATING TO *REGULATIONS FOR FOOD TRUCKS*; RENUMBERING THE EXISTING SECTION 4-45 TO 4-46; AMENDING CHAPTER 34, ARTICLE VII SECTION 34-288(13) OF THE LAND DEVELOPMENT REGULATIONS RELATING TO *BOX LUNCHES, TRANSIENT CATERING TRUCKS*; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

Staff Summary:

Background

The food truck phenomenon has proliferated throughout the county, and expanded its foothold in the South Florida region. As reported in the Wall Street Journal, New York Times, and the Miami Herald, the

mobile food vendors have gained popularity and municipalities are attempting to regulate these activities. Food trucks, also known as mobile food facilities or culinary trucks prepare unpackaged food and sell them at retail from pushcarts, trailers, trucks, and carts. It is an inexpensive alternative for consumers to sample gourmet food outside the confinement of sit-down restaurants. Today, cities in Miami-Dade, Broward, and Palm Beach counties are encouraging this type of dining experience by allowing food trucks to congregate in a courtyard, festival, or other special events.

Current Situation

In an effort to adapt to the growing needs of the marketplace, Councilman Oliver Gilbert is recommending an amendment to Ordinance 2011-10-252, Article II Special Events Regulations, which was adopted by the City Council on April 27, 2011 to regulate food trucks that are migrating to Miami Gardens.

Additionally, the amendment will allow existing businesses that have a business license in the City of Miami Gardens to set up multiple tents for retail sale of merchandise, rather than limiting the owner or operator to one tent structure for each event. The business owner is only allowed one tent per year, and only in specified zoning districts. Below is s brief outline of the proposed amendments:

- Allows mobile food facilities and food truck special events to operate in the City with a special event permit.
- Defines food trucks as mobile food facilities, and requires them to have state licensure and a commissary.
- Requires a special event permit for mobile food facilities to congregate at any location, and limits the number of activities and hours of the event at each location.
- Requires each vehicle to be equipped with hand-washing sinks and refuse receptacles, as well as the availability of a restroom for the employees.
- Establishes a policy to ensure the event site, as well as the adjacent areas, are maintained in a safe and clean manner.
- Prohibits the sale of alcoholic beverages.
- Prohibits ice cream trucks and grocery trucks.

A separate resolution will set the fee schedule for food truck special events and “multi-tent” outdoor sale events.

Proposed Action:

Councilman Oliver Gilbert recommends the adoption of the attached Ordinance amending Article II, Special Events Regulations.

Attachment:

None.