

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA,
AMENDING CHAPTER 122 OF THE CODE OF ORDINANCES
ENTITLED "FOOD TRUCK ESTABLISHMENT REGULATIONS"
BY ADDING DIVISION 15 TO CHAPTER 122, SECTIONS
122-1554 TO 122-1560 TO PROVIDE FOR THE
REGULATION OF ESTABLISHMENTS LOCATED WITHIN
LICENSED VEHICLES AND TRAILERS AND TO FURTHER
REGULATE PUSHCARTS AND CARTS SERVING FOOD IN A
READY TO EAT STATE; PROVIDING FOR SEVERABILITY;
PROVIDING FOR REPEAL OF INCONSISTENT
PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, the City of Key West finds that mobile food vending units, generally and collectively known as "Food Trucks" have existed in various forms over several centuries, distinguished as much by their physical characteristics as their operational requirements and have recently experienced growing popularity with the public. The purpose of this Division and sections of the Land Development Regulations is to: 1) recognize this specialized market segment; 2) classify the types of permitted mobile food trucks, trailers, pushcarts, and carts; and 3) establish appropriate standards allowing for the typical range of activities while mitigating any associated, undesirable impacts.; and

WHEREAS, an amendment to Sections 122-1554 to 122-1560 of the Land Development Regulations ordinance to regulate the vending of food from trucks, trailers, pushcarts and carts will promote the health, safety and welfare of the citizens of and visitors to the City of Key West.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST,
FLORIDA:

Section 1: That Division 15, Sections 122-1554 through
122-1560 of the Code of Ordinances is hereby added as follows:

Division 15. Food Truck Vending Establishments

Sec. 122-1554. Food Truck Vending Establishments - Purpose.

Mobile food vending units, generally and collectively known as
"Food Trucks" have existed in various forms over several centuries,
distinguished as much by their physical characteristics as their
operational requirements and have recently experienced growing
popularity with the public. The purpose of this Division and
sections of the Land Development Regulations is to: 1) recognize
this specialized market segment; 2) classify the types of permitted
mobile food trucks, trailers, pushcarts, and carts, whether
motorized or non-motorized, whether used in a readily mobile
fashion or used as though affixed or as a structure and 3)
establish appropriate standards allowing for the typical range of
activities while mitigating any associated, undesirable impacts.

Sec. 122-1555. Definitions

The following words, terms and phrases, when used in this article,
shall have the meanings ascribed to them in this section, except

where the context clearly indicates a different meaning:

Food Truck Vendor (FTV): means vehicle, trailer or a portable push cart mounted food service establishment designed to be readily movable and approved by law to travel highways, roadways, and/or waterways in the state of Florida, are self-contained on the truck, vehicle, trailer, pushcart or cart and may be equipped with permanently mounted fresh water holding tanks and waste holding tanks as permitted by the Florida Department of Health. Food Truck Vendors of all types and classifications shall be placed solely on private property and not on a city, county, state or federally owned parcel or right of way and are classified as one of the Following:

Class I - Mobile Kitchens. In addition to the vending of products allowed for Class II and Class III Food Truck Vendors, these motorized vehicles or non-motorized trailers may cook, prepare and assemble food items on or in the unit and serve a full menu.

Class II - Canteen Trucks. These motorized vehicles or non-motorized trailers vend fruits, vegetables, pre-cooked foods, pre-packaged foods and pre-packaged drinks. No preparation or assembly of foods or beverages may take place on or in the vehicle, however, the heating of pre-cooked foods is allowed. A cooking apparatus or

grill top for the heating of pre-cooked foods is permitted so long as it complies with state Department of Health, and/or Department of Business and Professional requirements. These vehicles are limited to providing catering services to employees at a specific location and do not advertise for customers, except as may be allowed by a city issued permit.

Class III - Ice Cream Trucks. These motorized vehicles vend only pre-packaged frozen dairy or frozen water-based food products, soft serve or hand-dipped frozen dairy products.

Class IV - Carts or Pushcarts. These motorized or non-motorized vehicles may be licensed to travel on the highways and streets of the state of Florida or may be unlicensed carts, scooters, bicycles, or pushcarts. All must have at least two wheels and be capable of being moved immediately from one location to another, and shall not be affixed to the ground or buildings.

If a food service establishment is not one of the these four classifications or a Mobile Vendor authorized by Chapter 18, Article VI, for the purposes of the Land Development Regulations it shall be considered a Restaurant. If a food service establishment preparing and serving food in a ready to consume state on premises, with single serve or re-useable service utensil items, with or

without seats, is not a Restaurant, nor a Mobile Vendor, nor a Food Truck vendor, nor an affixed structure selling food in a ready to consume state with a certificate of occupancy, it is not permitted in the City of Key West.

Food Truck Vending Use Permit: means the City Of Key West issued document that authorizes Food Truck Vending on private property in a particular location or locations.

Commissary Kitchen or Mobile Service Base is a place for food storage, the cleaning of the equipment, the filling of water tanks and proper disposal of waste water and grease and does not include the use of a private home as a mobile service base.

Employee means the permit holder, person in charge, person having supervisory or management duties, person on the payroll, family member, volunteer, person performing work under contractual agreement, or other person working with a Food Truck Vendor.

Person means an individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

Sec.122-1556 General Regulations

All classes of Food Truck Vendors shall comply with all applicable rules and regulations pertaining to food establishments set forth by the regulatory authority of the Florida Department of Business and Professional Regulation and will be held in compliance by that body.

All classes of Food Truck Vendors, their vehicles and employees shall abide by the following regulations.

A. Food Truck Vendors may apply for a business tax license and Food Truck Vendor Use Permit after first obtaining a Florida Department of Business and Professional Regulation Permit.

B. Food Truck Vendors must renew their Food Truck Vendor Use Permit every calendar year not later than September 30 and pay the Annual Fees as provided in Section 122-1558.

C. Food Truck Vendors must at all times have proof of sales tax and Food Truck Vendor (FTV) Use Permit available for review by the City and City Manager designee.

D. Food Truck Vendors must post their permit in the window or display prominently on the vehicle. This permit shall be visible to inspectors. FTVs must also display all other required state and local permits and/or licenses as required by that regulatory authority in plain view for customers and inspectors.

E. Food Truck Vendors must provide menu, photo of vending unit, dimensions, vehicle registration, photos of proposed location, and proposed days and hours of operation as a part of the business tax license and Food Truck Vendor Use Permit application. The Chief Building Official and Chief Licensing Official may issue the Use Permit if a complete application is submitted, all fees are paid, and proof of state licensing and approval of the City Fire Marshall is verified. The Chief Licensing Official shall from time to time establish the application requirements and appropriate forms to enable the application process.

F. Food Truck Vendors must have a fixed-base central preparation facility known as a Commissary Kitchen or Mobile Service Base appropriately licensed by the City of Key West or by another governmental jurisdiction with 25 miles of the corporate limits of the City of Key West, or a notarized statement from the owner of a central food preparation facility/Commissary Kitchen stating the Food truck Vendor uses the facility as its base of operations. All

central food preparation facilities/Commissary Kitchens must be approved by the Florida Department of Business and Professional Regulation. These Mobile Service Bases/Commissary Kitchens must be located on property within a commercially zoned Land Use District and not on a lot containing a residential use.

G. At the time of application for Food Truck Vendor Use Permit, the applicant must provide written proof that the vehicle has been inspected and approved by the City of Key West Fire Marshall. In the event that the Fire Marshall determines that the Food Truck Vendor vehicle poses a risk to the public, the Fire Marshall may order the immediate cessation of the operation of the Food Truck Vendor vehicle. The authority granted herein is supplemental to any other authority vested in the Fire Marshall or the Chief Building Official pursuant to any other provision of law.

H. No Food Truck Vendor vehicle may exceed a size of eight (8) feet by twenty (20) feet, nor a height of eleven (11) feet measured from the ground.

I. Any Food Truck vendor proposing to operate or be located within any Historic Land Use District shall obtain approval from the City of Key West Historic District Planner or from the Historic

Architectural Review Commission (HARC) prior to receiving a Food Truck Vending Permit.

Section 1222-1557 - Operations Rules and Regulations

A. Food Truck Vendors shall not dispense any food or drink when parked within the right-of-way of any public street in the City of Key West or on any city owned property without written consent and licensure from the city, nor shall FTVs operate on County, State or Federally owned property.

B. Food Truck Vendors shall operate any day between the hours of 10 am to 2 pm and from 4pm to 8pm.

C. Food Truck Vendors shall be designated to conduct business only in Land Use Districts zoned CG, CL, HCT, HNC-1 and HRCC-1 and must have notarized written permission from the property owner at the time of FTV Use Permit Application. Class II - Canteen Trucks may deliver to a construction site with active construction authorized by a City of Key West Building Permit in any Land Use District in the city. Total time at the construction site shall not exceed three hours per day. Canteen Trucks shall not be parked on the Rights of Way of the City, County or state of Florida.

D. Food Truck Vendors may conduct business in metered or unmetered privately owned parking spaces. Vendors shall use not more than one space for longer than four consecutive hours during designated operation hours, which are from 10am to 2pm and 4pm to 8pm.

E. If at one location for more than two hours, Food Truck Vendors must show proof of permission from a business within 150 feet for employees to have use of restrooms (or other facilities as approved by the Health Department) during hours of operation. Proof of access to bathrooms must be presented at time of FTV Use Permit application.

F. Food Truck Vendors must supply, in a prominent location, trash containers sufficient in size to collect all waste generated by customers and staff of the Food Truck vending operation. All trash and debris generated by customers and staff shall be collected by the Food Truck Vendor and deposited in their trash container and removed from the site by the Food Truck Vendor at the close of business each day. All such trash and solid waste shall be delivered to the Commissary Kitchen/Mobile Service Base used by the Food Truck Vendor.

G. Food Truck Vendors shall not use stakes, rods, or any method of support that is required to be drilled, driven, or otherwise fixed, in asphalt pavement, curbs, sidewalks or buildings.

H. Food Truck Vendors shall not provide or allow any dining/seating area, including but not limited to tables, chairs, and booths, bar stools, benches and stand-up counters.

I. Food Truck Vendors shall not impede access to the entrance or driveway of any adjacent building.

J. Food Truck Vendors shall not obstruct line of sight distance for motorized vehicle drivers on public or private rights of way.

K. Food Truck Vendors are prohibited the use of Public Address systems, bells, whistles or amplified or un-amplified music or announcement, nor shall a Food Truck Vendor engage in hawking or off premise canvassing.

L. At the end of the last operating hour of the day the Food Truck Vendor and vehicle must be removed from the site of the operation, may not move to another operational location after this time, and must remove any accessories used in the operation of the business.

M. Food Truck Vendors shall not use any public or private trash receptacle other than that which can be placed in or on the Food Truck Vendor vehicle.

N. Food Truck Vendors shall not connect to water facilities provided by the Florida Keys Aqueduct Authority on private or public property, nor sewage or storm sewage facilities provided by the City of Key West on private or public property nor electric service provided by Keys Energy services on private or public property.

O. A Food Truck Vendor vehicle of any kind shall not be parked before, during or after operational hours on any residentially zoned property in the City. After hours parking of Food Truck Vendors vehicles shall not occur on any public right of way.

P. Not more than two Food Truck Vendors may operate on a single lot of record as defined in Section 86-9 of the Code of Ordinances of the City of Key West at any one (1) time.

Q. Food Truck Vendors shall not operate from private property in such a manner that the service of food or drink to customers occurs on public property or rights of way.

R. Food Truck Vendors may not operate within one hundred (100) feet of a licensed restaurant or other food service facility serving food in a ready to consume state. Such distance shall be measured by following the shortest route of ordinary fare from the nearest point of the property line of the place of business to the property line of the restaurant or other food service facility.

S. Food Truck Vendors shall only serve walk up customers, not customers in motor vehicles.

T. A Food Truck Vendor shall be located at least ten (10) feet from any Building.

U. Any electric generator of any kind, or compressed natural gas (propane) used to power Food Truck Vendor equipment shall be located on or in the Food Truck Vendor vehicle itself, not on any tow or auxiliary vehicle, nor on any separate vehicle or on the ground next to the vehicle.

V. All signage for the Food Truck Vendor establishment must be affixed to the vehicle itself. No other signage is permitted including folding or other signs placed on private or public property on or adjacent to the operational site of the Food Truck Vendor. The total sign area permitted is 12 square feet inclusive

of all signs. Flashing, moving or moving image signs are prohibited, and if the Food Truck Vendor is located in a Historic Land Use District, separate approval by the Historic District Planner or the Historic Architectural Review Commission is required at the time of Use Permit application.

W. The Food Truck Vendor vehicle must be manned by an employee as defined in Section 122-1555 when in operation at a licensed location.

X. Food Truck Vendors shall be prohibited from the sale of alcohol from the Food Truck vehicle, or from any area adjacent to the vehicle under the control of the Food Truck Use Permit holder or his/her employees.

Section 122-1558 - Annual Permit Fees

The Food Truck Vendor Use Permit fee shall be the following as may be adjusted from time to time if the actual cost of providing the services increases as determined by the City Manager.

1. Administrative Processing fees \$500.00
2. Solid Waste Collection Costs \$750.00

The fees shall be payable at the time of Food Truck vendor Use permit renewal which shall occur before September 30 of each year.

An applicant for a Food Truck Vendor Use Permit submitting an

application to the September 30 annual renewal date shall have the permit fees prorated based upon the date of application submission.

Section 122-1559-Regulatory Penalties

Regulatory penalties for any violation of this Division 15 shall be applied in the manner set forth in Section 18-288 of the Code of Ordinances of the City of Key West.

Section 122-1560- Insurance

The City shall require Insurance from the Food Truck Vendor Permit holder in a manner and minimum amounts provided for in Section 18-320 of the Code of Ordinances of the City of Key West.

Section 2: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 3: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 4: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2014.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2014.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2014.

Filed with the Clerk _____, 2014.

Mayor Craig Cates	_____
Vice Mayor Mark Rossi	_____
Commissioner Teri Johnston	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____
Commissioner Tony Yaniz	_____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK