



## CITY COUNCIL AGENDA STATEMENT

Meeting Date: May 11, 2021  
To: Honorable Mayor and City Council  
From: Brian Shea, Planning Director  
Through: George Garrett, City Manager

Agenda Item: **Ordinance 2021-13**, Amending Section 104.62, “Mobile Vendor Food Units”; Providing For The Repeal Of All Code Provisions And Ordinances Inconsistent With This Ordinance; Providing For Severability; Providing For Transmittal To The State Department Of Economic Opportunity; Providing For Inclusion In The Code; And Providing For An Effective Date.

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### **RECOMMENDATION:**

Staff recommends APPROVAL

### **REQUEST:**

The draft Ordinance seeks to update the Specific Use Regulations code sections pertaining to Mobile Vendor Food Units.

### **AUTHORITY**

#### **Section 102.26. Planning Commission Recommendation.**

A. *Authority:* The PC shall consider a proposed text amendment at the request of the Council.

B. *Review Criteria:* The PC shall review such proposed amendment, based upon the criteria listed below:

1. The need and justification for the change;
2. The consistency of the proposed amendment with the Comprehensive Plan; and
3. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.

C. *Findings:* The PC shall make a finding of whether the proposed amendment is consistent with the Comprehensive Plan and a recommendation shall be prepared and forwarded to the Council, indicating if the proposed amendment should be:

1. Approved as proposed;
2. Approved with amendments proposed by the PC; or
3. Denied

#### **Section 102.27. - Hearing(s) by Council.**

A. The decision to process a text amendment is within the sole discretion of the Council.

B. For any proposed text amendment, the Council shall hold a minimum of two (2) public hearings, conforming to the requirements of Fla. Stat. Ch. 166, before acting on the amendment.

#### **Section 102.28. - Action by Council.**

Following the public hearings, the Council shall make a finding of whether the proposed text amendment is consistent with the Comprehensive Plan and may approve, approve with changes, or deny the proposed amendment.

As noted, review of proposed LDR text amendments is to be made based on three basic criteria: need and justification for change, consistency with the adopted Comprehensive Plan, and whether the proposed amendment will further the purposes of the LDRs, other ordinances, and actions taken to further the implementation of the Comprehensive Plan. The Planning Commission, in reviewing the proposed amendment, may recommend approval as is, approval with changes, or denial to the City Council.

**ANALYSIS OF LAND DEVELOPMENT REGULATION TEXT AMENDMENTS:**

Section 102.26(B) of the Land Development Regulations requires that the following standards and criteria be considered for any proposed text amendment. Each criteria and explanation of relevance to this proposed amendment are listed below:

- A. The need and justification for the change;**  
Florida Statue 509.102 was adopted preempting regulation of mobile food dispensing vehicles involving licenses, registrations, permits, and fees to the state. The City of Marathon must amend our regulations to align with this preemption.
  
- B. The consistency of the proposed amendment with the Comprehensive Plan; and**  
This Ordinance is consistent with the goals, objectives or policies identified in the Comprehensive Plan.
  
- C. Whether the proposed change shall further the purposes of the LDRs and other City Codes, regulations and actions designed to implement the Comprehensive Plan.**  
The proposed changes further the goals of the Comprehensive Plan, LDRs, and support the intent of other Components of the City’s Code of Ordinances.

**CONCLUSION:**

Staff indicates that the proposed text amendments are consistent with the standards and tenants of Chapter 163 and 380 F.S., and the City’s Comprehensive Plan adopted under the requirements of these statutes and rules.

**RECOMMENDATION:**

Staff recommends APPROVAL.

**Sponsored by:** Garrett  
**Introduction Date:** May 11, 2021  
**Public Hearing Dates:** May 11, 2021

**Enactment Date:** XXX

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2021-13**

**AN ORDINANCE OF THE CITY OF MARATHON, FLORIDA;  
AMENDING SECTION 104.62, “MOBILE VENDOR FOOD UNITS”;  
PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND  
ORDINANCES INCONSISTENT WITH THIS ORDINANCE;  
PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL  
TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY;  
PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR  
AN EFFECTIVE DATE.**

**WHEREAS**, the Legislature of the State of Florida in Chapter 166 – Municipalities, Florida Statutes, confers upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, Florida Statute 509.102 Mobile food dispensing vehicles; preemption was adopted; and

**WHEREAS**, the City Council has determined it appropriate to adopt regulations that are consistent with the Florida Statute.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE  
CITY OF MARATHON, FLORIDA, AS FOLLOWS:**

**Section 1.** The above recitals are hereby confirmed and adopted.

**Section 2.** Land Development Code Chapter 104 Specific Use Regulations, Article 1. – General Provisions, is hereby amended by the following amendments:

**Section 104.62. - Mobile Vendor Food Units.**

The following regulations are established for non-motorized food vendor carts, which are small, lightweight, and often mounted on a single-axle (two-wheeled) chassis and mobile food units, which are vehicle mounted and are self-propelled, and designed to be movable from place to place. Sale of products other than food ~~under the license authorized in this section~~ is prohibited.

Mobile vendor food units (MVFU) are permitted pursuant to Table 103.15.1 as of right on developed private property in all commercial and industrial districts with the written consent of the property owner, subject to the following requirements:

~~A. Licenses for Mobile Vendor Food Units shall be issued by the City of Marathon Planning Department and generally be limited to a total of seven (7) licenses. An individual license shall not be utilized at two (2) locations (or vehicles) simultaneously. All licenses shall be subject to annual renewal and approval and shall not be transferable. The number of licenses and associated license fees may be modified by the City Council from time to time by affirmative Resolution of the City Council.~~

**B.A.** *MVFUs Utilizing Fixed Locations.*

1. *Location:* Mobile vendor food units shall be placed only on properties with a legally operating permanent business during that business's normal hours of operation and shall comply with the following location criteria:

a. The mobile vendor food units shall not be located within any required front or street side yard setback; and

b. The mobile vendor food units shall not interfere with vehicular and pedestrian movement or visibility, block required sight distances, or damage landscaped areas.

c. Shall be able to provide adequate additional parking spaces so parking spaces required for the host business location are not impacted.

2. *Limited Hours of Operation:* ~~An~~ an vendor licensed under 104.62 ~~B~~ **MV****FU** may only remain at an approved private property location (set out in Subsection 104.62 ~~B.A.~~ **1.**) for a period not to exceed eight (8) hours in a 24-hour period. ~~An~~ MVFU may be approved to operate at multiple locations during different time periods.

3. *Storage:* The food vendor shall remove the mobile vendor food unit from the point of sale or store the unit out of public view at the end of each business day.

4. *Trash Receptacles:* The food vendor shall provide receptacles for litter associated with the sales activity. The food vendor shall leave the site in a clean state at the end of each business day.

**C.B.** *MVFUs Utilizing Public Rights-Of-Way.*

1. The mobile vendor food units may operate within the City of Marathon rights-of-way so long as their activity does not disrupt the normal flow of vehicular traffic.

2. An MVFU licensee shall not remain at an individual location on the City's rights-of-way for a period longer than 15 minutes.

3. MVFUs ~~licensed under 104.62 C.~~ shall only be allowed to operate during daylight hours (dawn to dusk).

4. While stationary and conducting business, an MVFU shall turn off all music or other amplified noise.

*D. Exceptions.*

~~1. Hot Dog Carts may operate without a City license under this section as long as said unit is associated on the same property with a restaurant licensed by the State of Florida and is itself licensed by the State.~~

*E. Additional Permits and licenses.* All MVFUs ~~licensed under this Section~~ shall obtain all necessary permits, licenses, and inspections required by the Florida Department of Agriculture and Consumer Services, Florida Department of Health, and Florida Department of Business and Professional Regulation, prior to conducting any business approved under this Section.

**Section 4.** The Provisions of the Marathon Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**Section 5.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 6.** It is the intention of the City Council and it is hereby ordained the provisions of this Ordinance shall become and be made part of the Marathon Code, that sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

**Section 7.** This Ordinance shall become effective immediately upon adoption on second reading.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.**

**THE CITY OF MARATHON, FLORIDA**

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**Luis Gonzalez, Mayor**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(CITY SEAL)

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE  
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

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City Attorney  
Steven T. Williams