

ORDINANCE NO. 1674

AN ORDINANCE OF THE CITY OF CRESTVIEW, FLORIDA, PROVIDING FOR AUTHORITY; PROVIDING FOR THE AMENDMENT OF CHAPTER 102 OF THE CODE OF ORDINANCES, CITY OF CRESTVIEW, FLORIDA, BY ADDING ARTICLE XXIV, ITINERANT VENDORS, MOBILE FOOD VENDORS, PEDDLERS & SOLICITORS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES TO THE EXTENT OF SUCH CONFLICT; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF CRESTVIEW, FLORIDA, AS FOLLOWS:

WHEREAS, Article VIII, Section 2, *Constitution of the State of Florida*, authorizes the City of Crestview to exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, Sections 163.3202, 166.021 *Florida Statutes*, provides that the City of Crestview shall adopt and enforce land development regulations for the purposes of implementing its comprehensive plan and protecting the public's health, safety, and general welfare; and

WHEREAS, the City Council of the City of Crestview finds it is in the best interest and welfare of the citizens of the City to enact this ordinance; and

WHEREAS, the City of Crestview has complied with all requirements and procedures of 166.041 Florida Statutes and Florida law in processing and advertising this Ordinance; and

WHEREAS, the City of Crestview seeks to encourage business development, for small-business owners and entrepreneurs; and

WHEREAS, it is necessary to avoid the creation of adverse traffic, pedestrian and public health and safety conditions, particularly on routes where the dominant function is the safe movement of vehicular traffic; and

WHEREAS, it is necessary to regulate the level and intensity of Vendor activities on roads and other public places to ensure that the site is retained for its primary purpose; and

WHEREAS, the City of Crestview seeks to accommodate appropriate Vendor activities in order to provide services that enhance the visitor/resident experience.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRESTVIEW, FLORIDA:

SECTION 1. AUTHORITY. The authority for enactment of this ordinance is contained in Chapter 166.021, F.S. and Section 1.01, City Charter.

SECTION 2. That Chapter 102 of the Code of Ordinances, City of Crestview, Florida, is hereby amended by adding Article XXIV, Itinerant Vendors, Mobile Food Vendors, Peddlers & Solicitors, which said Article shall read as follows:

ARTICLE XXIV.
**ITINERANT VENDORS, MOBILE FOOD VENDORS, PEDDLERS &
SOLICITORS**

Sec. 102-600. Purpose and Intent.

- (a) The purpose of this Article is to establish regulations for the location, approval and permitting of Itinerant Vendors, Mobile Food Vendors, Peddlers & Solicitors. These administrative regulations are intended to provide orderly and effective management of temporary land use.
- (b) The Intent of this Article is multifaceted and seeks to address the many concerns associated with Itinerant Vending. The following objectives apply:
 - (1) To aid and encourage small business development and entrepreneurialism, while protecting the interests of established “brick and mortar” businesses.
 - (2) To ensure that itinerant Vending locations are appropriate and will not create any unsafe or unsanitary condition nor put undue strain on nearby “brick and mortar” establishments.
 - (3) To ensure that the parking of Vending vehicles or the placement of equipment, merchandise and any wares, will not adversely affect the public amenity and/or the aesthetics and functionality of the streetscape area.
 - (4) To protect the health, safety, and welfare of all citizens of and visitors to Crestview.

Sec. 102-601. Definitions.

The following words, terms and phrases when used in this Article, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning:

Commissary – A public food service establishment licensed by the division or a food establishment permitted by the Department of Agriculture and Consumer Services, which is utilized by a mobile food dispensing vehicle for the purpose of providing all required support services, including potable water and wastewater disposal that are not available on the mobile food dispensing vehicle. (61-C-0001 FAC).

Division – refers to the Division of Hotels and Restaurants of the Florida Department of Business and Professional Regulations.

Food Code – This term as used in Chapters 61C-1, 61C-3 and 61C-4, F.A.C., means paragraph 1-201.10(B), Chapter 2, Chapter 3, Chapter 4, Chapter 5, Chapter 6, Chapter 7, and Sections 8-103.11 and 8-103.12 of the Food Code, 2009 Recommendations of the United States Public Health Service/Food and Drug Administration including Annex 3: Public Health Reasons/Administrative Guidelines; Annex 5: Conducting Risk-based Inspections), herein adopted by reference. A copy of the Food Code, as adopted by the division, is available on the division’s Internet website www.MyFloridaLicense.com/dbpr/hr. A copy of the entire Food Code is available on the U.S. Food and Drug Administration Internet website. Printed copies of the entire Food Code are available through the National Technical Information Service, 5301 Shawnee Road, Alexandria, VA 22312.

Food establishment – As utilized in the Food Code, this term shall apply to public lodging establishments and food service establishments as defined in Chapter 509, F.S., according to the context of the applicable rule language.

Itinerant Vendor means any and all persons, firms and corporations, as well as their agents and employees, who engage in the temporary and/or transient business which offers services, merchandise, wares, goods, and/or other articles for purchase from one or more stationary or mobile locations and who, for the purpose of carrying on such business may rent, lease, hire, or otherwise occupy a space in any building, structure or occupy any area on a lot or parcel of land or who occupies a vehicle, self-propelled or otherwise, through which any services, merchandise, wares, goods, and/or other articles, may be traded, bartered, sold, offered for sale, or exhibited for sale within the City.

Itinerant Vending Operations – is a term used in this Article that generally refers to the Itinerant Vending categories as a whole with respect to certain site requirements or components of an Itinerant Vending use.

Mobile Food Vendor means any Itinerant Vendor, which travels by self-propelled or non-self-propelled vehicle, trailer, wagon, or any other conveyance, from place to place, or from street to street, carrying, conveying or transporting edible goods, such as meats, fish, vegetables, fruit, or other, which are sold, offered for sale, and/or exhibited for sale. The term Mobile Food Vendor includes but is not limited to the terms lunch wagon, cart, ice cream truck, mobile food truck and others.

Peddler means any person who carries from place to place any goods wares or merchandise which may be sold, is exhibited for sale, and may or may not be immediately delivered, or bartered the same, shall be deemed to be a Peddler. All persons who do not keep a regular place of business, open at all times during regular business hours and at the same place, who shall offer for sale goods, wares and merchandise, shall be deemed Peddlers under this Article. All persons who keep a regular place of business, open at all times in regular business hours and at the same place, who shall, elsewhere than at such regular place of business, personally or through their agents, offer for sale or sell and, at the time of such offering for sale, deliver goods, wares and merchandise, shall also be deemed Peddlers as above.

Premises – The public food service or lodging establishment and the contiguous land or property under the control of the operator. The property may include all yards, alleys, driveways, sidewalks, and other exterior portions of the licensed premises.

Public food service establishments, as defined in Section 509.013(5), F.S., are licensed in accordance with the following classifications and requirements:

Non-seating -

- a) Permanent – Permanent non-seating establishments are classified as those fixed public food service establishments for which the sole service provided is intended as take-out or delivery, or which do not otherwise provide accommodations for consumption of food by guests on the premises, or premises under the control of the operator. For the purposes of this section, establishments located at food courts and malls are classified in this manner as long as seating is not provided within the premises of the establishment itself.
- b) Mobile food dispensing vehicle – Mobile food dispensing vehicles are classified as any vehicle mounted public food service establishments which are self-propelled or otherwise movable from place to place and include self-contained utilities, such as gas, water, electricity and liquid waste disposal.
- c) Caterer – Caterers are classified as any public food service establishments where food or drink is prepared for service elsewhere in response to an agreed upon contract for a function or event. The term includes catering kitchens. For the purpose of this rule, the term “caterer” does not include those establishments licensed pursuant to chapter 500 or 381, F.S., or any other location where food is provided or displayed for sale by the individual meal. A licensed public food service establishment that also provides catering services is not required to hold a separate catering license from the division. Caterers

must meet all applicable standards of a public food service establishment as provided in rules 61C-1.004, 61C-4.010 and 61C-4.023, F.A.C. Separate independent caterers utilizing the equipment or premises of a licensed public food service establishment are deemed operators as defined by section 509.013(2), F.S., of such public food service establishment and subject to all applicable requirements of law and rule.

Temporary public food service establishments and vendors.

- a) Temporary public food service establishments are classified as those establishments operated at temporary food service events as defined in section 509.013(8), F.S. If upon inspection the temporary public food service establishment does not meet minimum sanitation standards as provided in chapters 61C-1 and 61C-4, F.A.C., food service operations shall be discontinued until corrections are complete and verified by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.
- b) Public food service establishments that have a current license may operate one facility at a temporary event as part of the existing license. Each additional facility operated by the same licensee must acquire a separate temporary food service event license.

Self-sufficient mobile food dispensing vehicle – A public food service establishment classified as a mobile food dispensing vehicle that contains, as part of the vehicle, a three compartment sink for washing, rinsing, and sanitizing equipment and utensils; a separate hand wash sink; adequate refrigeration and storage capacity; full provision of power utilities including electrical, LP gas, or a portable power generation unit; a potable water holding tank; and a liquid waste disposal system in accordance with Subparts 5-3 and 5-4 of the Food Code.

Solicitation means a request, directly or indirectly, for money, property, financial assistance, or any other thing of value on the plea or representation that such money, property, financial assistance, or other thing of value or a portion of it will be used for a charitable or sponsor purpose or will benefit a charitable organization or sponsor. The term includes, but is not limited to, the following methods of requesting or securing the promise, pledge, or grant of money, property, financial assistance, or any other thing of value:

- a) Making any oral or written request;
- b) Making any announcement to the press, on radio or television, by telephone or telegraph, or by any other communication device concerning an appeal or campaign by or for any charitable organization or sponsor or for any charitable or sponsor purpose;
- c) Distributing, circulating, posting, or publishing any handbill, written advertisement, or other publication that directly or by implication seeks to obtain any contribution; or
- d) Selling or offering or attempting to sell any advertisement, advertising space, book, card, coupon, chance, device, magazine, membership, merchandise, subscription, sponsorship, flower, admission, ticket, food, or other service or tangible good, item, or thing of value, or any right of any description in connection with which any appeal is made for any charitable organization or sponsor or charitable or sponsor purpose, or when the name of any charitable organization or sponsor is used or referred to in any such appeal as an inducement or reason for making the sale or when, in connection with the sale or offer or attempt to sell, any statement is made that all or part of the proceeds from the sale will be used for any charitable or sponsor purpose or will benefit any charitable organization or sponsor.

A solicitation is considered as having taken place regardless of whether the person making the solicitation receives any contribution. A solicitation does not occur when a person applies for a grant or an award to

the government or to an organization that is exempt from federal income taxation under s. 501(a) of the Internal Revenue Code and described in s. 501(c) of the Internal Revenue Code and is duly registered with the department.

Solicitor means any person, firm, or corporation as well as their agents and employees, who engage in any means of request, directly or indirectly, for money, property, financial assistance, or any other thing of value on the plea or representation that such money, property, financial assistance, or other thing of value or a portion of it will be used for a charitable purpose or will benefit a charitable organization or sponsor. The term shall also include, but is not limited to, taking or attempting to take orders for the sale of goods, wares or merchandise, subscriptions or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of such sale or whether he is collecting advance payments on such sale or not; distributing, circulating, posting, or publishing any handbill, written advertisement, or other publication that directly or by implication seeks to obtain any contribution shall also be included in this term.

Temporary food service event – Any event of 30 or fewer consecutive days in duration, advertised and recognized in the community, where food is prepared, served, or sold to the general public.

Sec. 102-603. Itinerant Vendor, Peddler, Solicitor Compliance Certificate – Required.

- (a) It shall be unlawful for any person, firm, or corporation, to engage in the business activities of Itinerant and/or Mobile Vending, Peddling or Solicitation, within the City of Crestview, without first registering with the City by obtaining an Itinerant Vendor, Peddler, and Solicitor Compliance Certificate.
 - (1) Any Itinerant Vendor, Peddler, a Solicitor wishing to engage in the business activities of itinerant and/or Mobile Vending, Peddling or Solicitation, within the City of Crestview, shall make application to the Growth Management Department on forms provided by the department.
 - (2) The Growth Management Department of the City of Crestview shall issue to any itinerant Vendor, Peddler, or Solicitor, a Compliance Certificate authorizing such Itinerant Vendor, Peddler, or Solicitor, to sell, exhibit for sale or offer for sale, in the City of Crestview, any goods, wares and merchandise only after such itinerant Vendor, Peddler, or Solicitor shall have fully complied with the provisions of this Article.
- (b) The Itinerant Vendor, Peddler, and Solicitors Compliance Certificate shall be valid from October 1st to September 30th of the following year and shall be based on the type of Vending, Peddling, and/or soliciting each applicant is proposing and the time of year in which application is made. A base annual registration fee shall be established with regards to the following categories:
 - (1) Itinerant Vending Categories.
 - a. *Itinerant Auto Oriented Sales/Events* – This category includes the itinerant sales of self-propelled vehicles and non-self-propelled vehicle trailers, to include but not be limited to cars, trucks, fifth-wheel trailers, trailers, campers, off-road vehicles, motorcycles, dirt bikes, boats, ski-dos, jet-skis, and others. This category includes temporary auto consignment lots. This category does not include the one-time sale of a single vehicle by a resident of the City.
 - b. *Tent Sales* – This category includes itinerant sales of both seasonal and non-seasonal items which involve semi-mobile or stationary, temporary sales and sales events to include but not be limited to Christmas tree lots, firework stands,

home mercantile product sales, used merchandise, garage type sales (offsite of a parcel land on which the primary use is residential in nature), farmer's markets, and others. This does not include those temporary sales events conducted on the premises, including the parking lot, of established commercial enterprises, performed exclusively by the owner and/or operator of the commercial enterprise or with the expressed permission from said owner or operator by a commercial Vendor of new products which are sold within the commercial enterprise on the premises, within 15 feet of the primary structure.

- c. *Mobile Vending Truck/Trailer* – This category specifically refers to those Itinerant Vendors that travel by either self-propelled vehicle or are otherwise pulled or moved by a self-propelled vehicle. This category also includes Mobile Food Dispensing Vehicles (MFDV's) including trucks and trailers which utilize either a water and sewer connections or a commissary at another location and ice cream trucks.
- d. *Mobile Food Cart* – is synonymous with push cart, hand cart, hand-drawn cart, and hot dog stand/cart and are a class of MFDV. Push carts are any variety of small, light, non-motorized, self-propelled units, which are moved by hand and are used exclusively for the retail sales of flowers, plant, fruits, vegetables, beverages, pre-packaged food stuffs, hot dogs, sausages, and ice cream.

(c) Back Ground Investigation.

- (1) Each applicant for an Itinerant Vendor, Peddler, and Solicitor Compliance Certificate shall agree, when making application, to submit to a limited background investigation. Upon receipt of such application, a copy shall be transmitted to the Chief of Police who shall make the following type investigations:
 - a. *Commercial activities.* The Chief of Police or designee shall cause an investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public health, safety, and welfare. The applicant shall include any and all employee information as deemed necessary by the Chief of Police.
 - b. A copy of all Vendor's, Solicitor's or Peddler's application must be submitted to the Chief of Police for approval.

(d) Applicants for a Compliance Certificate under this Article must file with the Growth Management Department a signed application which shall give the following information:

- (1) Name of the applicant and of each person who owns 10 percent or more of the outstanding stock or equity interest in the licensed activity.
- (2) A valid driver's license.
- (3) The applicants' vehicles' make, model, color and tag number if applicable.
- (4) Permanent home address, valid telephone number and email address of the applicant.
- (5) The applicant shall provide their federal employer identification number and sales tax identification number.
- (6) The address or parcel identification number of the planned Vending site, including the property owner's name and telephone number.
- (7) A notarized statement from the property owner(s) that the temporary use is allowed on the property. The statement must include the temporary use dates (including setup and

take-down), location, description type and the name of the business and representative designated by the property owner.

- (8) A brief description of the nature of the business and the goods, food or beverages to be sold.
- (9) The address of the commissary, if applicable.

Sec. 102-602. Temporary Vending Permit – Required.

It shall be unlawful for any person, firm, or corporation, to engage in the business activities of Itinerant and/or Mobile Vending, Peddling or Solicitation, within the City of Crestview, without first obtaining a Temporary Vending Permit.

- (a) A Temporary Vending Permit shall be issued upon such conditions as the Growth Management Department may reasonably require, assuring compliance with the City of Crestview’s Code of Ordinances.
 - (1) All applications received for a particular location will be processed on a first come first serve basis. Any subsequent applications received may be issued once the prior applicant has vacated the premises.
 - (2) A Compliance Certificate shall have been obtained prior to issuance of a Temporary Vending Permit.
 - (3) All Vendors must adhere to all applicable State and Local laws.
- (b) Applicants for permit under this Article must file a signed application with the Growth Management Department. The application shall provide sufficient information to determine if the proposed site and temporary activity comply with this Article and other provisions of the Code of Ordinances.
- (c) In addition to the application, all applicants shall submit:
 - (1) Copies of all applicable State licenses.
 - (2) Insurance.
 - a. Proof of general liability insurance, such proof in a form acceptable to the City, issued by an insurance company that is licensed to do business in the State of Florida, protecting the applicant from all claims for damages to property or bodily injury, which may arise from operations under or in connection with the Vendor’s activity.
 - b. For all motorized Mobile Vending units, proof of auto liability insurance, such proof in a form acceptable to the City, issued by an insurance company that is licensed to do business in the State of Florida, protecting the applicant from all claims for damages to property or bodily injury, which may arise from the use of a motor vehicle in connection with Mobile Vending and shall be in an amount no less than \$1,000,000 per occurrence.
 - c. A signed and notarized hold-harmless agreement (form to be provided by City).
 - (3) A Site plan, accurate drawing or pictorial representation of the property to be used, rented, or leased for the temporary Vending use, which shall include the following:
 - a. All existing and proposed structures on-site,
 - b. The structural dimensions and locations in relation to property lines,

- c. The zoning district setback lines,
 - d. Locations of temporary sanitary facilities (Port-o-lets) and waste disposal,
 - e. Parking areas,
 - f. Signage, and
 - g. The means of ingress and egress for vehicular and pedestrian traffic;
 - h. Any additional information necessary to accurately portray the property and to identify the area to be utilized for the event; and
 - i. A description of the proposed use.
 - j. Mobile Food Carts are exempt from this requirement.
- (d) Door to Door Solicitors and Peddlers, in addition to Items 102-602(a) through 102-602(c) above, must provide:
- (1) If employed, the name and address of the employer, together with credentials establishing the exact relationship.
 - (2) A valid driver's licenses for all drivers and related proof of insurance.
 - (3) The length of time and location for which the Solicitation or Peddling shall occur.
 - (4) A signed and notarized hold-harmless agreement (form to be provided by City).
- (e) Itinerant Vending Permit Time-Frames.
- (1) All applicable licensure, certificates and permits must be obtained prior to the installation of any temporary structures, lighting, signage, etc.
 - (2) The application for a Temporary Vending Permit for all uses shall be filed no less than twenty-one (21) days prior to the date on which the permit is to take effect.
 - (3) Duration of Temporary Vending Permit (TVP) by Itinerant Vendor Category.
 - a. Itinerant Auto Oriented Sales/Events - A TVP issued to an Itinerant Auto Oriented Sales/Event use, shall be valid for a maximum of fifteen (15) consecutive days, two (2) times per calendar year. Each 15-day period shall be separated by at least 30 days within the same calendar year. Dates of operation will include dates to assemble and dismantle equipment and/or structures.
 - b. Tent Sales - A TVP issued to an Itinerant Tent Sales use, shall be valid for a period not to exceed fifteen (15) consecutive days, three (3) times per calendar year. Dates of operation will include dates to assemble and dismantle equipment and/or structures.
 - c. Mobile Vending Truck/Trailer – A TVP issued to an Itinerant Mobile Vendor Truck/Trailer use, shall be valid for period of time not to exceed one year (365 days) from the date of issuance.
 - d. Mobile Food Cart – A TVP issued to an Itinerant Mobile Food Cart use, shall be valid for a period of time not to exceed one year (365 days) from the date of issuance.
 - e. Solicitors – A TVP issued to a Solicitor shall be valid for a period of time not to exceed one year (365 days) from the date of issuance.

Sec. 102-103. Regulations, Requirements, Site Restrictions.

(a) Use Restrictions.

- (1) Temporary Vending operations and events shall only occur within Commercial (C-1 and C-2), Industrial (M-1) and Downtown Mixed Use (DMU) Zoning Districts.
- (2) At no time shall any temporary Vending operations disrupt the flow of vehicular or pedestrian traffic on or off-site.
- (3) Itinerant Auto Oriented Sales shall not be located on vacant and/or unimproved lands.
- (4) Itinerant Auto Oriented Sales/Events and Tent Sales shall be limited to one temporary Vending permit per parcel of land at any given time.
- (5) Itinerant Auto Oriented Sales/Events and Tent Sales, when located on any parcel of land or lot of record, with an existing primary use building or structure, shall be limited to one temporary Vending permit at any given time.
- (6) Mobile Vending Trucks and trailers shall not be located on vacant and/or unimproved lands.
- (7) There shall not be more than three Mobile Vending trucks and/or trailers on one parcel of land at any given time.
- (8) Mobile Food Carts shall not be required to maintain the applicable zoning district yard regulations but at no time shall any Mobile Food Cart become stationary within any public right-of-way, obstruct any vision triangle, and/or obstruct or detract from any vehicular or pedestrian traffic flow.

(b) Site Requirements.

- (1) At no time shall a Mobile Vending truck or trailer be closer than 10 feet to one another Mobile Vending truck or trailer on the same parcel of land.
- (2) All Itinerant Vending operations shall maintain the applicable Zoning District setback standards, for the zoning district in which they are located.
- (3) At no time shall any component of an itinerant Vending operation be located within 10 feet of any permanent structure onsite.

(c) Parking.

- (1) At no time shall any temporary Vending operations restrict the number of parking spaces to a level below what is required by this Land Development Code for the permanent primary use onsite.
- (2) Adequate parking areas, consistent with current zoning requirements for similar uses shall be maintained during such temporary Vending uses.
 - a. Parking spaces required to fulfill the minimum requirements of a principal use, on site or adjacent to the itinerant Vending use, as per section 102-151 of this Code may not be used by any Itinerant Vendor operation.
 - b. Parking shall only be allowed on designated parking areas identified on the approved site plan.
- (3) No parking will be allowed on any public right-of-way.

(d) Traffic.

- (1) Traffic generation shall not adversely impact the flow of traffic on an adjacent roadway.

- (2) The use of any existing access drives on or connected to the property, parcel, or lot on which the itinerant Vending use is located is required.

(e) Temporary Structures.

- (1) Only one temporary structure is allowed per permitted Itinerant Vending operation.
 - a. Itinerant Auto Oriented Sales/Events and Tent Sales shall be limited by the following:
 1. The temporary structure may be a tent or a trailer that has been built as an office trailer.
 - i. Temporary structures do not include motor homes, camp trailers or the like.
 2. The temporary structure may require a building permit to be obtained and subsequently require an inspection by the building and the fire department prior to operation.

(f) Sanitation.

- (1) The Site shall be kept clean of all debris, trash, waste, or other unsightly condition.
- (2) Temporary sanitary facilities (Port-o-lets), shall be kept in a clean and working order.

(g) Signage.

- (1) Any Temporary signage shall be installed and maintained in compliance with Chapter 102 - Land Use Regulations, Article XVI Signs.

(h) Utilities.

- (1) New temporary electrical poles shall not be provided. If one exists onsite it may be utilized for the temporary Vending operation, provided it meets the following requirements:
 - a. Any use of power from the main structure onsite shall be in accordance with the Florida Building and Life Safety Codes and
 - b. The use of electrical cords is prohibited.

(i) Additional Mobile Food Cart Requirements.

- (1) Location.
 - a. Mobile Food Carts shall be permitted to operate in Commercial or Downtown Mixed Use zoning districts in the Downtown area, bounded by Bowers Avenue West to the south, by Ferdon Blvd. to the east, by James Lee Blvd. West to the north, and by Wilson Street to the west.
 - b. Mobile Food Carts shall only be located on properties where there is an existing use that is non-residential in nature.
 - c. Mobile Food Carts shall not be placed on an unimproved surface during the course of business.
 - d. Mobile Food Carts selling food and/or beverages shall not stop and conduct business within 100 feet of any indoor and/or outdoor eating establishment including another food cart.

- e. No more than two (2) Mobile Food Carts shall be located on any block face at any given time except during organized and permitted events.
- f. At no time, shall placement of a Mobile Food Cart impede pedestrian or vehicular traffic.
- g. At no time, shall placement of a Mobile Food Cart deteriorate any pedestrian or vehicular site triangle.
- h. At no time, shall Mobile Food Carts placement be in front of a buildings entrance, a fire hydrant, or emergency exit.
- i. All applicable permits must be obtained prior to the installation of any temporary structure, lighting, signage, etc.

Sec. 102-604. Administration.

- (a) Application shall be made to the Growth Management Department, on forms provided by the department, for a Compliance Certificate and a Temporary Vender Permit prior to any Itinerant Vending operation setup within the City limits.
- (b) Upon approval of the Compliance Certificate application for operating as an Itinerant Vendor within the City limits, the applicant may submit a temporary use permit application for the specific location and timeframes for said operation.
- (c) The Growth Management Department shall review the application the duration of the permit and specifying such conditions as to, location, parking, traffic, access and any other conditions of the activity that may be required for permit issuance.

Sec. 102-605. Denial or Revocation of Itinerant Vendor Compliance Certificate and/or Temporary Vending Permit.

- (a) The Growth Management Department may revoke, suspend, or deny the issuance of any Itinerant Vending Compliance Certificate or Temporary Vending Permit if it is determined that an applicant has:
 - (1) Been convicted of or entered a plea of guilty or nolo contendere to, a crime against the laws of this state or any other state of the United States, involving moral turpitude, fraudulent or dishonest dealing, or the illegal use or sale of a controlled substance.
 - (2) Has obtained a permit by fraud, false statement, misrepresentation, or failure to truthfully answer any question in the required permit application.
 - (3) Has failed to obtain required approvals from the state or obtain any applicable permits or licenses.
 - (4) Upon finding imminent and hazardous threats to public health and safety caused by any use, the Growth Management Department may take reasonable steps to prevent public access thereto and to eliminate such hazard and may revoke or suspend a certificate permit.
 - (5) Not later than 10 days after the filing of a completed application for a Vendor's certificate, the applicant shall be notified by the Growth Management Department of the decision on the issuance or denial of the license. If the issuance of the license is approved, the Growth Management Department may issue a temporary use permit upon review of an application for said permit.

- (6) If the temporary use permit is denied, the applicant shall be provided with a statement of the reasons therefor, which reasons shall be entered in writing on the application.

Sec. 102-606. Prohibitions.

- (a) No Temporary Vending Permit shall be issued for any Itinerant Vendor operation in a Residential Zoning District.
- (b) No Solicitor, Peddler or Vendor shall enter into any house, building or other structure or upon any land, parcel, lot, or property, without the prior consent of the owner or occupant thereof where there is placed or posted on the premises in a conspicuous position at or near the usual means of ingress or visible from such location, a sign or other form of notice stating or indicating that the owner or occupant thereof forbids or otherwise does not desire persons engaged in such or similar activity to enter upon the premises.
- (c) No Solicitor or Vendor shall conduct themselves or their business in an unlawful manner or in such manner as to constitute a breach of peace, is offensive to public decency or can be considered menacing to the health, safety or general welfare of the public.
- (d) It shall be unlawful for any person to sell or attempt to sell any commodity by means of Vending such commodity upon any street, sidewalk, public area, public right of way or private property in the City, without first obtaining a Compliance Certificate with the City and securing the required temporary Vending permit(s).

Sec. 102-607. Exemptions.

- (b) The following activities are exempt from the provisions of the Article:
 - (1) Salesmen representing wholesale houses or distributors who sell to local retail merchants from catalogues or samples.
 - (2) Sales of goods, wares, food, or merchandise at festivals, carnivals, celebrations or other special events sponsored and/or permitted by the appropriate governing body or authority.
 - (3) The sale of privately owned and used merchandise, at garage or yard sales conducted on the privately owned or rented premises used as a residence by the seller of such goods.
 - (4) The sale of farm, aqua cultural, grove, horticultural, floricultural, tropical porciculture, or tropical fish farm products, or other products manufactured there from, except intoxicating liquors, wine, or beer.
 - (5) Sales of goods or merchandise purchased with donated funds or donated by the owners thereof, the proceeds whereof are to be applied to any charitable, not-for-profit, or philanthropic purpose.
 - (6) Minors conducting home Solicitation sales under the supervision of an adult, or Solicitors, salespersons, or agents making calls or soliciting orders on behalf of a religious, charitable, scientific, educational, or veterans' institution or other not-for-profit organization are exempt from this Article.
 - (7) Any public or nonprofit school which operates a carnival, fair, or other celebration, by whatever name known, which is in operation for 3 days or less and which includes the sale and preparation of food and beverages must notify the local county health department of the proposed event and is exempt from any temporary food service regulations with respect to the requirements for having hot and cold running water; floors which are constructed of tight wood, asphalt, concrete, or other cleanable material;

enclosed walls and ceilings with screening; and certain size counter service. A school may not use this notification process to circumvent the license requirements of this chapter.

Sec. 102-608 Appeals.

Appeals may be filed as provided elsewhere within the land development code. A permit may be reinstated provided that the applicant has met all conditions and requirements.

Sec. 102-609. Compliance Certificate and/or Permit Nontransferable.

Neither the certificate nor the permit provided for in this Article shall be transferable, nor give authority to more than one location, unless provided for by this Article, by any person to sell or exhibit goods or merchandise.

Sec. 102-610. Display of Certificate and Permit.

Both the Itinerant Vending Compliance Certificate and the Temporary Vending Permit shall be displayed in a conspicuous place on the premises where the sale or exhibit is being conducted and shall remain displayed so long as any goods or merchandise are being sold or exhibited.

Sec. 102-611. Prerequisite for issuance of municipal or county occupational license.—

A municipality or county may not issue an occupational license to any business coming under the provisions of this chapter until a license has been procured for such business from the division.

Sec. 102-612. Penalties.

- (a) Any person or business violating any provision of this Article or any rule, order, or regulation made pursuant to this Article shall be subject to a civil penalty in an amount not to exceed five hundred dollars (\$500.00). Each day the violation exists shall be considered a separate violation. The penalty provided for herein is cumulative to other remedies or enforcement processes the City may have, including those available under F.S. Ch. 162, section 1-11 of this Code.
- (b) For the purposes of this Article, a separate offense shall be deemed committed for each day a violation of this Article exists, such time commencing on the day the offender is notified of the violation.
- (c) No person or business shall be in violation of this Article for catering activity, temporary sales of food, or vending machine activity in accordance with F.S. Ch. 509, and Rule 61C-1.002(5) (a), Florida Administrative Code, so long as such person or business is not required to procure a license from the Florida Department of Business and Professional Regulation and/or the Department of Agriculture, for service of food to the public as a Mobile Food Dispensing Vehicle.

Sec. 102-613. Reference

Florida Statutes: Chapters 500 Food Products and 509 Lodging and Food Service Establishments; Department of Business and Professional Regulations, Division of Hotels and Restaurants, Public Lodging and Food Service Establishments, Administrative Rules (Sept. 2018) Chapter 61C-1 Florida Administrative Code and Chapter 61C-4 Public Food Service Establishments; US Department of Health and Human Services, FDA US Food and Drug Administration, Food Code 2017.

Secs. 102-614. - 102-630. Reserved.

SECTION 3. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. SEVERABILITY. If any word, phrase, sentence, paragraph or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption.

**PASSED AND ADOPTED ON SECOND READING BY THE CITY COUNCIL OF CRESTVIEW,
FLORIDA ON THE _____ DAY OF _____, 2018.**

ATTEST:

**J B WHITTEN
Council President**

**ELIZABETH M. ROY
City Clerk**

APPROVED BY ME THIS _____ DAY OF _____, 2018.

**DAVID CADLE
Mayor**