



**EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
ADMIN EAST BUILDING
ROOM 118
2201 SECOND STREET, FORT MYERS**

**WEDNESDAY, NOVEMBER 10, 2021
2:00 P.M.**

AGENDA

1. Call to Order/Review of Affidavit of Publication
2. Approval of Minutes – July 14, 2021
3. LDC Amendments – Food Trucks (Mobile Food Vendors)
4. Adjournment
Next Meeting date: January 12, 2022

To view a copy of the agenda, go to www.leegov.com/dcd/calendar.

For more information, contact Debbie Carpenter, (239) 533-8345 or DCarpenter@leegov.com.

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**MINUTES REPORT
EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
(EROC)
Wednesday, July 14, 2021
2:00 p.m.**

Committee Members Present:

Randal Mercer, Chairman
Tracy Hayden, Vice Chair
Matthew Roepstorff
Michael Reitmann

Mike Roeder
Jim Ink
Tim Keene

Excused / Absent:

Victor DuPont
Sam Hagan
Buck Ward
Carl Barraco Jr.

Ian Moore
Bob Knight
Bill deDeugd
Bill Ennen

Lee County Government Staff Present:

David Loveland, Director, Community Development
Commissioner Kevin Ruane
Joe Adams, Assistant County Attorney
Amanda Swindle, Assistance County Attorney
Dirk Danley, Jr., Sr. Planner, Zoning
Mikki Rozdolski, Manager, Planning
Tyler Griffin, Planner, Planning
Deborah Carpenter, DCD Admin, Recorder

Outside Consultants/Members of the Public Present:

David Mintz, Captiva Community Panel
Ken Gooderman, Captiva Community Panel

CALL TO ORDER AND AFFIDAVIT:

The meeting was held in the Admin East Building, Room 118, 2115 Second Street, Fort Myers, Florida. Mr. Randal Mercer, Chair called the meeting to order at 1:59 p.m.

Mr. Joe Adams reviewed the Affidavit of Publication and found it legally sufficient as to form and content.

APPROVAL OF MINUTES – MARCH 10, 2021

Ms. Tracy Hayden made a motion to approve the March 10, 2021 minutes. Mr. Michael Reitmann seconded. The motion was called and carried unanimously.

CAPTIVA LDC AMENDMENTS

Ms. Tyler Griffin, DCD Planning Section, introduced the Captiva Amendments stating they were being proposed by the Captiva Community Planning Panel. In June, the Board of County Commissioners recommended that the amendments be reviewed by Committees. The Land Development Code Advisory Committee (LDCAC) reviewed the amendments on 7/9/21 and had a couple of technical comments and asked for clarification of definitions in a couple of sections, but otherwise, moved for approval. She said Mr. David Mintz representing the Captiva Community Planning Panel was present to answer any questions about the proposed amendments.

Mr. Mintz provided background information and gave an overview of the amendments and said he was available for questions, as was Mr. Ken Gooderman, the administrator of the Captiva Community Panel.

Mr. Mercer asked how many members were on the Captiva Panel and which other committees had looked at the amendments so far. Mr. Mintz said there were 11 panel members. The LDCAC reviewed the amendments on July 9th (2021) and had 2 suggestions, one was grammatical, the other was to define Florida Friendly in connection with plants that are not exotics or invasive. He said the term has been adopted by the State and although that terminology is currently used by County staff it is not defined in the LDC. Staff agreed to look at adding that definition.

Mr. Matthew Roepstorff had two questions in connection with Division 3. The first was about Sec 33-1638(a)(3) and the change from lock-off *units* to *accommodations*. Ms. Mikki Rozdolski, Planning Manager, explained that this was to maintain consistency with density as defined elsewhere in Chapter 34. Mr. Dirk Danley explained that lock-off unit is not a defined term in the Code whereas lock-off accommodation is defined in Sec 34-2. In Chapter 33, lock-off accommodation is counted as a dwelling unit. Elsewhere, it may be considered an accessory apartment, in Ch34 this is a defined term.

His other question was about heritage trees and who makes the decision with respect to preserving or relocating trees. Mr. Mintz responded that this is not a new provision; the language was moved here from Chapter 34, however, he suspected that anything of this nature would be reviewed during the development review process.

Mr. Tim Keene referred to lighting standards in **Sec. 33-1623**. He was concerned that the proposed language in subsection **(a)(5)** would be hard to enforce unless terminology such as “shine, shining” and “immediately” were better defined or a numeric value added, as well as outlining what penalties would be applied if not corrected. Mr. Mintz explained that following adoption of this language, the Panel would provide a summary of the changes which would be sent to property owners, real estate developers and rental agencies asking for voluntary compliance. If there is a complaint, a formal code enforcement complaint will be filed and Code Enforcement will determine if there is a violation. If a violation is filed, normal code enforcement procedures and penalties will follow. Staff agreed to look at clarifying the language and get rid of ambiguity.

Mr. Jim Ink agreed with Mr. Keene about the lighting standards because he too deals with that issue on a fairly common basis.

Mr. Mercer reviewed the amendments page by page and asked for Committee comments as necessary.

Mr. Roepstorff asked about the size requirements for the unpermitted signs and Mr. Mintz said the size of the signs had actually been increased to make them more readable.

Mr. Mercer reviewed the recommended changes/clarifications – staff will look at adding a definition for Florida Friendly, and will look at clarifying the lighting standards to include language or definitions of the terminology “shine, shining, Illumination and immediately” .

Mr. Roepstorff made a motion to move the amendments forward with proposed changes as noted. Mr. Keene seconded. The motion was called and passed unanimously.

There was no other business. Mr. Mercer asked if there were any public comments; hearing none, he adjourned the meeting at 2:26 p.m.

The next meeting was tentatively scheduled for September 8, 2021.

DRAFT

MEMORANDUM
FROM
THE DEPARTMENT OF
COMMUNITY DEVELOPMENT

TO: Executive Regulatory
Oversight Committee

DATE: October 27, 2021

FROM: Anthony R. Rodriguez, AICP
Zoning Manager

RE: LDC Amendments
Food Trucks (Mobile Food Vendors)

The attached Land Development Code amendments, scheduled for consideration at the November 10, 2021 meeting, have been prepared to establish County-wide food truck regulations as part of the biennial Land Development Code amendment cycle. Staff seeks input and a recommendation as to whether the proposed amendments should be adopted by the Board of County Commissioners (BoCC).

BACKGROUND

On February 2, 2021 the Board of County Commissioners (BoCC) directed staff to proceed with the regular two-year update cycle for the Land Development Code (LDC). The first package of LDC revisions, characterized as “clean-up” changes, was adopted by the BoCC on June 1, 2021. One topic area of the many under consideration is the establishment of County-wide regulations for food truck operations, which currently are only authorized in Lehigh Acres through their community planning regulations. On October 5, 2021, the Board of County Commissioners authorized the crafting of food truck regulations that could be applied County-wide. Staff developed the attached draft regulations, working from regulations from other jurisdictions and from Lehigh Acres, while attempting to be consistent with recent state legislative limitations on local regulation of food trucks.

SUMMARY

Currently, the County does not have regulations related to food truck operations for most of the unincorporated County area. The only regulations that exist are for Lehigh Acres, and established as part of the community plan regulations in Land Development Code Chapter 33 (Secs. 33-1422 and 33-1423). These regulations limit the permitted locations to commercial and industrial areas, and require the vehicles to be moved every night in accordance with approved hours of operation. However, the regulations also require an annual temporary permit from the County, a process that has now been precluded by State law (Sec. 509.102, Florida Statutes). The statute specifically prohibits local governments from requiring licenses, permits, or permit fees for food trucks and prohibits local governments from completely barring food trucks within their boundaries. However, the statute does allow local governments to establish locational criteria and operational parameters for food trucks.

The proposed County-wide regulations are intended to set some locational and operational parameters for “mobile food vendors” (which includes the term food trucks) consistent with state statute. The proposed regulations will:

- Allow mobile food vendors to operate largely within commercial and industrial areas, as well as within recreational amenity areas in residential developments;
- Prohibit mobile food vendors from operating within street rights-of-way, landscape buffers, and preserve areas;
- Require compliance with setbacks from roads, residential lots and business entrances for mobile food vendors;
- Mitigate safety hazards and nuisance-related impacts resulting from the operation of a mobile food vendor; and
- Prohibit the establishment of any semi-permanent or permanent mobile food vending operation.

COMMITTEE REVIEW COMMENTS TO DATE

The Local Planning Agency (LPA) reviewed the attached amendments at its October 25, 2021 meeting. The LPA found the proposed amendments consistent with the Lee Plan and provided technical comments as noted in the attached document. Staff has revised the proposed amendments, where appropriate, to address the LPA’s comments.

cc: Roger Desjarlais, County Manager
Glen Salyer, Assistant County Manager
David Loveland, AICP, Director, Department of Community Development
Michael Jacob, Deputy County Attorney
Amanda L. Swindle, Assistant County Attorney
Mikki Rozdolski, Manager, Community Development Operations, Planning
Jessica Sulzer, PE, Manager, Community Development Operations, Development Services
Kevin Ruane, District One Commissioner
Cecil L. Pendergrass, District Two Commissioner
Ray Sandelli, District Three Commissioner
Brian Hamman, Chairman, District Four Commissioner
Frank Mann, District Five Commissioner

EROC ORDINANCE EVALUATION GUIDELINES

Proposed Ordinance:

1. **What is the public interest that the Ordinance is designed to protect?**
This ordinance is intended to establish County-wide food truck regulations in a manner that preserves public health, safety, and welfare while allowing mobile food vendors to operate in appropriate areas of the County.
2. **Can the identified public interest be protected by means other than legislation (e.g., better enforcement, education programs, administrative code in lieu of ordinance, etc.)? If so, would other means be more cost effective?**
No. The County's current mobile food vending regulations are outdated as a result of recent changes to state statute.
3. **Is the regulation required by State or Federal law? If so, to what extent does the County have the authority to solve the problem in a different manner?**
Yes. Section 509.102, F.S. preempts local governments from requiring permits for mobile food vending operations and prohibits local governments from enacting jurisdiction-wide bans on mobile food vending operations. Amending the Land Development Code to repeal existing regulations and establish new regulations is the most appropriate avenue to assure compliance with State law.
4. **Does the regulation duplicate State or Federal programs? If so, why?**
No.
5. **Does the regulation contain market-based incentives? If not, could that be used effectively?**
No.
6. **Is the regulation narrowly drafted to avoid imposing a burden on persons or activities that are not affecting the public interest?**
Yes.
7. **Does the regulation impose a burden on a few property owners for the benefit of the public as a whole? If so, does it provide any form of compensation?**
No.

8. **Does the regulation impact vested rights?**
No.
9. **Does the regulation provide prompt and efficient relief mechanisms for exceptional cases?**
Yes. The proposed regulations are broadly permissive, and non-compliance through code enforcement can be accomplished quickly and efficiently.
10. **Even though there is an interest to be protected, is it really worth another regulation?**
Yes. This use is already regulated in the Land Development Code, and the proposed regulations will broaden where this use is permitted in a manner that is compliant with state statute.
11. **Has this approach been tried in other jurisdictions? If so, what was the result? If not, what are the reasons?**
Yes. Other local governments are currently enacting similar regulations to assure compliance with state statute.
12. **If this regulation is enacted, how much will it cost on an annual basis, both public and private? If this regulation is not enacted, what will be the public and private cost?**
There are no costs associated with enacting these regulations. The cost of an annual temporary permit will be eliminated by the proposed regulations, thereby resulting in a cost reduction to mobile food vendors.

CHAPTER 16 – FOOD AND FOOD ESTABLISHMENTS

ARTICLE II. – MINIMUM STANDARDS FOR FOOD ESTABLISHMENTS

Sec. 16-21. Mobile, vessel, roadside, and temporary food vendors.

Staff note: This section of the Code of Ordinances is being amended to remove the requirement to obtain a certificate of zoning compliance and to require such food vendors to receive a local business tax receipt. Time periods are also amended to coincide with the periods identified under Subordinate and Temporary Uses.

Committee comments: The LPA questioned whether permits would be required given the proposed amendments to Chapter 34 and the need to maintain compliance with state statute, which precludes requiring permits for mobile food vending operations. Staff has modified the proposed amendments accordingly.

Mobile and roadside food vendors within Lee County are required to obtain a certificate of zoning compliance, if required from the local governmental agency having jurisdiction, prior to the issuance of a health department permit local business tax receipt, if required, from the entity authorized to collect the tax. Mobile, vessel and roadside food vendors must affiliate with a health department approved commissary as their base of operations required by Chapter 61C-4, F.A.C., as amended. Operating a mobile or food commissary business within Lee County from a private residence is prohibited.

Temporary permits may be issued to allow a vendor to sell foods at a public gathering which is sponsored by an organization or the community. Temporary permits shall be valid only for the specific gathering for which it is issued and shall not exceed eighteen (18) days allowed for the periods prescribed in Land Development Code Sections 34-3041 through 34-3052.

CHAPTER 33 – PLANNING COMMUNITY REGULATIONS

ARTICLE V. – LEHIGH ACRES PLANNING COMMUNITY

DIVISION 3. – SPECIFIC USE STANDARDS

Sec. 33-1422. – Reserved. Food vending cart signs.

Staff note: Delete section. Mobile Food Vendors are now regulated under LDC Section 34-3052.

~~Individual identification signs including sandwich signs are prohibited as well as signs listed as prohibited in this section; however, advertising signs may be permitted on the temporary food vending cart but may not extend beyond the cart.~~

Sec. 33-1432. – Reserved. Food vending carts.

Staff note: Delete section. Mobile Food Vendors are now regulated under LDC Section 34-3052.

~~(1) *Applicability.* The following regulations apply to food vending carts:~~

- ~~(a) Food vending carts may be permitted in conventional zoned commercial and industrial properties; commercial and industrial planned developments; mixed use planned developments on the commercial or industrial portions; and on properties developed with a religious facility with a place of worship, as defined in section 34-2.~~
- ~~(b) Temporary permits for food vending carts will be issued in accordance with section 34-3041.~~
- ~~(c) A food vending cart must be located on private property and not be placed within the public right-of-way.~~
- ~~(d) The temporary use permit for food vending carts will be valid for a period of one year from the date of issuance. At the end of one year, the applicant must apply for a new permit.~~
- ~~(e) Responsibility for restroom facilities for employees lies with the occupational license holder and must be detailed in the application for a temporary use permit.~~
- ~~(f) Food vending carts must be approved by the County Health Department with proof of approval provided at the time of request for a temporary use permit as well as compliance with the following conditions:~~
 - ~~(1) The applicant must provide a notarized letter from the property owner giving permission for the use of the property.~~
 - ~~(2) Food vending carts must be in compliance with applicable building codes and must be located in an area which does not~~

~~detract from visibility at intersections, block any driveway, fire lane or fire hydrant, or cause parking problem associated with the use or patronage of the food vending cart.~~

- ~~(3) A site plan must be submitted showing the layout of the property, including the location of existing building(s), the food vending cart, parking spaces, aisle ways for pedestrians and any seating area. Food vending carts must be located on an asphalt or concrete surface. Minimum setbacks from all applicable property lines must be shown as follows:
 - ~~(a) Street setback: 50 feet for arterials and collectors; 25 feet for local.~~
 - ~~(b) Side setback: 15 feet.~~
 - ~~(c) Rear setback: 25 feet.~~~~
- ~~(4) Temporary permits will be issued for individual carts at specified locations and will be nontransferable. Change in ownership of a cart or location requires application and applicable fees for a new permit.~~
- ~~(5) There must be no more than one temporary food vending cart located within one mile of another temporary food vending cart.~~
- ~~(6) Food vending carts must not exceed 200 square feet in floor area.~~
- ~~(7) No alcoholic beverages are to be sold or consumed from temporary vending carts.~~
- ~~(8) Food vending carts must not be left unattended and must be removed each evening in accordance with approved hours of operation.~~
- ~~(g) For the purposes of this section, a food vending cart is synonymous with a van, or trailer serving food.~~
- ~~(h) Vending carts used for, but not limited to, the sale of flowers, souvenirs, goods, or paintings, that are not part of a permitted temporary special event, are prohibited.~~

CHAPTER 34 – ZONING

ARTICLE I. – IN GENERAL

Sec. 34-2. – Definitions.

Staff note: Add overarching definition of *mobile food vendors* and attendant definitions for vehicles or temporary structures referenced in definition of mobile food vendor. Establish definition for *conveyance* to provide a “catch all” term for the variety of vehicles or temporary structures used by mobile food vendors. Add definition of *ice cream vehicle*, which is regulated separately.

Committee comments: The LPA recommended modifying the definition of “food vending cart” to include trailers. This definition has been modified accordingly.

Canteen vehicle means a self-propelled vehicle which is used for the temporary retail sale, display and accessory advertising of pre-cooked foods, pre-packaged foods and drinks, and prepared foods.

Conveyance means a food stand, a food vending cart, an ice cream truck, a canteen truck, or a mobile food dispensing vehicle as defined in Sec. 509.102, Florida Statutes.

Food stand means a temporary open air stand, kiosk or place for the retail sale, display and accessory advertising of pre-cooked food, pre-packaged food and drinks, and prepared foods. A food stand is portable and capable of being dismantled or removed from the sales site.

Food vending cart means any non-motorized cart, trailer, table, equipment, or apparatus which is not a structure, which is designed and intended so as to not be a permanent fixture on a lot, and which is used for the temporary retail sale, display, and accessory advertising of food. A food vending cart does not include a mobile food dispensing vehicle.

Ice cream vehicle means a self-propelled vehicle which is used for the temporary retail sale, display and accessory advertising primarily of pre-packaged frozen dairy or frozen water-based food products, soft serve or hand-dipped frozen dairy products or frozen water-based food products and pre-packaged beverages. At least seventy-five (75) percent of its inventory shall consist of ice cream products

or related frozen dessert products, as more particularly defined in Florida Statutes Chapter 503, as may be amended from time to time, and offer for sale no more than twenty-five (25) percent of other prepackaged products which are non-ice cream or non-related frozen dessert products.

Mobile food vendor means an operator offering the temporary retail sale, display and accessory advertising of fresh prepared food, pre-cooked food, pre-packaged food, and prepared food from mobile food dispensing vehicles as defined in Sec. 509.102, Florida Statutes, or from a similar self-propelled conveyances such as ice cream trucks or canteen vehicles, or non-fixed structure such as a food stand or food vending cart.

ARTICLE VII. – SUPPLEMENTAL DISTRICT REGULATIONS

Division 37. – SUBORDINATE AND TEMPORARY USES.

Sec. 34-3052. – Mobile Food Vending.

Staff note: Establish new section to regulate mobile food vending businesses. Provide for standards to regulate location on a specific property and prohibit operation within a right-of-way or street easement. Establish requirements related to signage, waste and grease collection and disposal. Prohibit outdoor seating within a public right-of-way and the sale or dispensing of alcoholic beverages as part of mobile food vending operations. Establish permitted and prohibited locations based on zoning districts or use of property subject to certain setbacks. Establish standards for ice cream vehicles, which are separate and distinct from mobile food vendors.

- (a) Applicability. The Lee County Board of County Commissioners recognizes that mobile food vending is temporary and mobile in nature. These regulations are intended to define locations and provide standards to allow mobile food vendors to operate while mitigating impacts to the location in which they operate, as well as adjacent properties and rights-of-way. These regulations also address other food dispensing vehicles (i.e., vehicles serving a construction site and ice cream trucks), which tend to temporarily vend for a period of minutes and not days or hours. Temporary mobile food vendors are not considered a “hawker” or “peddler” as provided for in Code of Ordinances Chapter 22, Article IV. The dispensing of food from mobile units by humanitarian organizations or other similar entities as part of disaster relief efforts is exempt from the provisions of this section.

(b) General Standards. The following general standards apply to mobile food vendors:

(1) It shall be a violation for any mobile food vendor to offer for retail sales, display or accessory advertising of any food or beverage product at any location except in compliance with the requirements of this section.

(2) This section excludes a written contractual or other private arrangement between a mobile food vendor and an individual or group that desires to have food or beverage catered at a specific time and location and which is not open to the public.

Committee comment: The LPA recommended noting that any contractual or private arrangement for catering by a mobile food vendor should be required in writing. This section has been amended accordingly.

(3) The mobile food vendor must maintain the valid license required under Section 509.241, Florida Statutes, and any other valid licenses and insurance required to operate a motor vehicle within the state. [Staff note: This section requires a mobile food vendor to obtain a state public food service establishment license and all other licenses required to operate a motor vehicle]

Committee comment: The LPA questioned whether the insurance requirements for mobile food vendors indemnify the County. County staff was unable to answer the question.

(4) All mobile food vendors must have the name of the business clearly displayed on the conveyance.

(5) A conveyance is limited to signs attached to its exterior. The signs:

a. Must be secured and mounted flat against the conveyance; and

b. Must not project more than six inches from the exterior of the conveyance.

- (6) Alcoholic beverages must not be sold or dispensed by a mobile food vendor. Consumption of alcoholic beverages by patrons of a mobile food vendor is prohibited except when a mobile food vendor is operating as an ancillary use to and on the same premises as an establishment with a valid approval for outdoor consumption on premises. [Staff note: This section is intended to allow mobile vendors to operate as an ancillary use to establishments with valid COP approvals such as microbreweries or distilleries with ancillary tap/tasting rooms, or other similar uses.]
- (7) No tables, chairs or other furniture or equipment intended to provide accommodations for the patrons of a mobile food vendor may be placed in the public right-of-way.
- (8) Mobile food vendors must provide or have available a trash receptacle which is clearly marked with a sign requesting its use by patrons. The mobile food vendor must remove all generated waste and trash at the end of each day or more frequently if needed to maintain the public health, safety and welfare.
- (9) Liquid waste or grease must be disposed of at an approved location and may not be placed in tree pits, storm drains, or sanitary sewers, or onto sidewalks, streets or other public or private space. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the responsible mobile food vendor will be required to cease operation immediately and clean up the improperly disposed material to the reasonable satisfaction of the County. The responsible mobile food vendor may not resume operation until an alternate method of disposal has been approved.
- Committee comment: The LPA recommended adding “reasonable” with respect to clean-up of improperly disposed material to the County’s satisfaction. This change has been made accordingly.
- (10) Mobile food vendors must remove all vehicles, equipment, and other accessory items from the permitted site when vending is not taking place.

Committee comment: The LPA questioned whether there was any restriction on hours of operation for mobile food vendors proposed. Staff clarified that no limitations on hours of operation are contemplated by these regulations and has revised subsection (10) to remove reference to “restricted hours of operation.”

(11) A mobile food vendor may not operate in areas designated on an approved local development order as a buffer or preserve area.

(12) Electrical service, if required, must be provided by a portable generator or by a temporary connection to an existing point of service.

Committee comment: The LPA recommended adding a standard to mitigate noise of sounds not to exceed 80 decibels as measured 15 feet from the vehicle. The County noise ordinance establishes maximum sound levels County-wide; therefore, the noise ordinance provisions would govern.

(13) The stopping, standing, or parking of any mobile food vendor within any street right-of-way or street easement in violation of stopping, standing or parking prohibitions or restrictions is prohibited.

Committee comment: The LPA questioned whether mobile food vendors would be prohibited from operating within any easement. County staff clarified that the easement referenced in subsection (13) is intended to be a street easement and has clarified this section accordingly.

(14) A mobile food vendor may not conduct business within 20 feet of any fire lane, fire hydrant, fire alarm box or fire connection.

(15) A mobile food vendor may not block access to a public facility such as a mail box, parking meter, traffic control box, driveway or other access point.

Committee comment: The LPA recommended removing reference to “telephone booth” in subsection (14) since this equipment is obsolete. This change has been made accordingly.

- (16) If the conveyance will operate between dusk and dawn, adequate lighting must be provided and the lighting must be directed to eliminate glare on any other use or property.

Committee comment: The LPA recommended strengthening subsection (16) to preclude lighting/glare onto any other property, not just properties that are developed and occupied. This section has been modified accordingly.

- (17) A permanent water or wastewater connection is prohibited.
- (18) Tents and tarps for the purposes of accommodating patrons are prohibited. All mobile food vending must be conducted from the conveyance.
- (19) All items related to the operation of conveyance must be kept either on or in the conveyance.
- (20) No more than two mobile food vendors may locate on an individual lot;
[Staff Note: Many local jurisdictions limit the number of vendors permitted on a single property. Staff recommends establishing a maximum number of vendors so as to avoid the establishment of a *de facto* food truck park without the zoning and development order approvals. Staff is currently preparing draft LDC amendments to establish a new food truck park use.]

Committee comment: The LPA questioned whether these regulations would apply to a food truck park concept. Staff indicated that these regulations are intended to apply to single mobile food vendors operating outside of any food truck park-type development.

- (c) Permitted locations. Mobile food vendors may be located on any lot or lots within:

- (1) Any conventionally-zoned Community Facilities, Commercial, Marine-Oriented, or Industrial zoning district;

- (2) Any agricultural zoning district provided that the mobile food vendor is associated with an agritourism activity (df);

Committee comment: The LPA asked for clarification on what agritourism is and how mobile food vendors fit into agritourism operations.

- (3) Any common element of a conventionally-zoned Residential, Mobile Home, or Recreational Vehicle zoning district developed as a recreation facility or other similar amenity;

- (4) Any portion of a Community Facilities, Commercial, Industrial, or Mixed Use Planned Development zoning district not designated for residential use on the approved master concept plan; or

- (5) Any portion of a Residential, Commercial, or Mixed Use Planned Development zoning district designated on the approved master concept plan as a recreation facility or other similar amenity.

(d) *Prohibited locations.* Mobile food vendors must not be located:

- (1) Within any street right-of-way or easement;

- (2) Within any required preserve or landscape buffer;

- (3) In a manner inconsistent with section 34-3131;

- (4) Within 50 feet of a single-family residential lot unless separated and screened by a minimum six (6) foot high opaque wall; or

- (5) On undeveloped property.

Committee comment: The LPA recommended modifying subsection (5) to preclude mobile food vendors from operating on property that is vacant and undeveloped. This section has been modified accordingly, and will allow mobile food vendors to operate on property that has an approved local development order and may be partially developed.

(e) Minimum setbacks. Mobile food vendors must meet the following minimum setbacks:

- (1) 50 feet from the main entrance into any non-residential enterprise or from the boundary of any outdoor dining area;

Committee comment: The LPA questioned whether a 50-foot setback was adequate separation between a brick and mortar establishment and a mobile food vending operation. The LPA also questioned whether property owner permission is required for a mobile food vendor to operate on a property. Staff noted that it would be presumed that a mobile food vendor has permission from the property owner of the property from which the mobile food vendor is operating.

- (2) 20 feet from a street right-of-way or easement; and

- (3) A minimum setback of ten feet from any internal drive or permitted curb cut, provided that the location is in conformance with section 34-3052(d)(3).

(f) Ice cream vehicles.

- (1) Locations. An ice cream vehicle may operate within public rights-of-way and must stop as far to the right of the street as far as possible before serving customers, but may not stop or park within any open drainage conveyance.

- (2) Standards. The following standards shall apply:

- a. Ice cream vehicles are allowed to operate between 9:00 a.m. and dusk in all zoning districts.

Committee comment: The LPA questioned whether it was appropriate to allow ice cream trucks to operate until 9:00 p.m., which is after dark during some parts of the year, and recommended that ice cream trucks be permitted to operate until dusk in lieu of an evening end time. This change has been made accordingly.

- b. Ice cream vehicles are permitted to play music from the vehicle to draw the attention of customers; however, this music must be turned off anytime the ice cream vehicle is stopped serving customers.