

CHAPTER 400. PERMIT TYPES AND APPLICATIONS

SECTION 402. USE PERMITS

402.5. Miscellaneous Uses

A. Temporary Uses

1. Mobile Food Operations

a. Intent and Purpose

It is the intent of this Section to establish regulations related to the location and operation of mobile food operations on private and public property within the unincorporated County.

The purpose of this Section is to promote the general health, safety, and welfare of the citizens of the County by establishing reasonable regulations and review procedures to allow for mobile food operations in a safe and sanitary manner.

It is not the intent of this Section to regulate food delivery. It is not the intent of this Section to regulate food preparation by individuals for private consumption, such as “tailgating” parties, where food is not offered for public consumption. Mobile non-food operations are not authorized by this Section.

b. Applicability

Owners of qualifying mobile food operations may avail themselves of the provisions of this Section. Qualifying mobile food operations are those meeting all of the applicable requirements of the Florida Department of Agriculture and Consumer Services, Division of Food Safety or the Department of Business and Professional Regulation, Division of Hotels and Restaurants; and the Florida Department of Health; Florida Statutes; the Florida Administrative Code; the 2009 FDA Food Code, as may be amended from time to time; the National Fire Protection Association Codes and Standards; the Florida Building Code; the Florida Fire Prevention Code; and this LDC; and having obtained all required permits and licenses from the State of Florida and the County.

Private Property owners may avail themselves of these provisions and host qualifying mobile food operations regularly on their sites, during a permitted temporary event, or to develop non-residential property as a Food Truck Court on those properties zoned C-1, C-2, C-3, I-1, or I-2 or commercial or industrial zoned portions of an MPUD.

c. Permits Required

(1) Mobile Food Operations Registration

All qualifying mobile food operations seeking to operate in the County shall first register with the County.

- (a) Registration shall require proof of status as a qualifying mobile food operation;
- (b) Payment of a registration fee;
- (c) Posting of a valid registration on site;
- (d) Registration shall be required annually and is not transferable.
- (e) The location of the mobile food operation shall comply with the requirements of this Section.

2. Mobile Food Operations on Private Property

a. Non-Residentially Zoned. For purposes of this Section, non-residentially zoned shall mean all properties zoned PO-1, PO-2, C-1, C-2, C-3, I-1, I-2, and all office, commercial, industrial, or mixed use portions of an MPUD. Private property owners/leases may allow mobile food operations on their property subject to the following:

- (1) Compliance with Section 402.5.A.1.c (1) (a)-(e).
- (2) Compliance with all local ordinances.
- (3) General Prohibitions and Supplemental Regulations of this Section shall apply.
- (4) The location of the mobile food operation may not obstruct or create unsafe ingress and/or egress.
- (5) The mobile food operation shall be set back a minimum of ten feet from all property lines.
- (6) Mobile food operators shall be required to immediately comply with any request by law enforcement and/or code enforcement officers, which may include relocation of the mobile food operation if deemed by the officer to be creating an unsafe situation.

b. Residential Use/District/Zoning. For purposes of this Section Residential District/Zoning shall mean all properties zoned A-

C, AC-1, A-R, AR-1, AR-5, AR5-MH, E-R, ER-2, R-MH, R-1, R-1MH, R-2MH, R-2, R-3, R-4, MF-1, MF-2, MF-3, and residential portions of an MPUD. Community Development Districts and Property Owners' Associations shall use the same requirements and procedures listed in Section 402.5.A.2 of this Code to allow mobile food operations on their property.

- c. Property owners of existing venues that function solely for the purpose of hosting special events, such as the Pasco County Fairgrounds, are exempt from the permitting requirements of this subsection.

3. Active Construction Sites

Mobile food operations shall vend to the personnel lawfully authorized to be an appropriate location based on the location of the active construction, as authorized by the general contractor consistent with safe construction site management practices.

4. Mobile Food Operations on County Property

Various County Departments, including, but not limited to, Parks, Recreation, and Natural Resources, Libraries, and Facilities, intend to identify appropriate locations on County-owned property for use by mobile food operations. Specific requirements for individual properties, including, but not limited to availability, hours of operations, frequency of use, etc., shall be established by each of the Departments, who shall have the authority to administer the mobile food operation program on their property. An indemnification agreement prepared by the County Attorney shall be signed by the owner of the mobile food operation prior to operating on County property. A reservation fee may be required.

5. Mobile Food Operations - Food Truck Courts

Persons seeking to develop a permanent site on non-residential private property for the location of multiple mobile food operations simultaneously shall apply to construct a "Food Truck Court." Food Truck Courts shall, at a minimum, provide for restroom facilities, drinking fountains, trash and recycling receptacles, shade and seating. A Preliminary Site Plan (PSP) pursuant to LDC Section 403.3 shall be submitted to the County.

6. General Prohibitions Applicable to all Mobile Food Operations

Mobile food operations are prohibited on public rights-of-way within the unincorporated County. Mobile food operations shall not:

- a. be parked overnight on a site. However, semi-permanent operations such as stands, kiosks, or similar structures may

remain on site provided that the duration of operation does not exceed more than 180 days per year otherwise the operation will be deemed a permanent use under this LDC and will become subject to all other applicable requirements of this LDC;

- b. be located at one location within the County more than 104 days per year otherwise the operation will be deemed a permanent use under this LDC and will become subject to all other applicable requirements of this LDC;
- c. be parked within terminal islands;
- d. be parked within landscape buffers;
- e. obstruct designated clear sight triangles;
- f. be within 10 feet of, or otherwise obstruct, a fire hydrant or fire escape;
- g. impede safe movement of vehicles and pedestrian traffic, parking lot circulation or access to any sidewalk;
- h. be parked within five feet of any driveway, sidewalk, utility boxes, handicap ramps, building entrances or exits, or emergency call boxes;
- i. provide amplified music, announcements or other forms of disruptive sound;
- j. sell or dispense food to customers in a moving vehicle or otherwise engage in drive-up sales; or
- k. sell alcohol unless during a permitted temporary event and in accordance with all other State and local requirements.

7. Supplemental Regulations Applicable to all Mobile Food Operations

- a. Hours of operation:
 - (1) Mobile food operations, including any setup and closing operations, shall not occur outside the hours of 6:00am to 10:00pm, unless:
 - (a) There is an onsite business with hours of operation that extend beyond the 6:00am to 10:00pm timeframe; or
 - (b) The mobile food operation is associated with a permitted temporary event.

(2) Where a site approved for mobile food operations abuts a residential use/district the mobile food operation may not begin prior to 8:00 am nor extend beyond 8:00 pm (including any setup and closing operations) unless there is a building or other substantial sound and light barrier between the mobile food operation and the abutting residential use.

(3) For mobile food operations operating between sunset and sunrise, all lighting must be reasonably contained on site without disruption to residential areas or traffic flow.

b. Minimum distance between individual mobile food service operations and between mobile food service operations and any structure constructed of combustible material shall be 20 feet.

c. Seating areas, if provided, shall be a minimum of 20 feet from the mobile food service operations and a safe distance from any customer parking and ingress/egress points.

d. Maximum number of mobile food operations simultaneously allowed on site shall not exceed 5 unless associated with a permitted temporary event or a permitted Food Truck Court in accordance with Section 402.5.5.

e. In addition to any advertising/signage adhered to the mobile food operation itself, one sandwich sign not to exceed a maximum height of 3 1/2 feet and a sign structure width of 2 feet shall be allowed within five feet of the operation. Advertising and signage adhered to the mobile food operation shall not alter the lines of the mobile food operation.

f. Trash and recyclable receptacles shall be provided and, at a minimum, emptied daily. All trash is to be removed from the site daily. Dumpsters of existing businesses shall not be used without permission of that business(es).

8. Revocation or Suspension of Registration

If, at any time, a Mobile Food Operation's State of Florida issued license is revoked or suspended, the County's registration shall be deemed to have been simultaneously revoked or suspended.

B. Vacation Rentals (formerly known as Short-Term Rentals)

1. Intent and Purpose

The intent and purpose of this section is to minimize conflicts occurring between vacation renters and permanent residents; to require explicit approval and notification for developments which intend to allow vacation rentals; and require the registration and monitoring of such units by both those that own and those that manage vacation rentals and who benefit economically there from and possess the authority to remedy problems that arise as a result of vacation rentals.

2. Applicability

Nothing herein shall be construed to affect the validity or to otherwise prevent the enforcement of deed restrictions, or other similar instruments which, either explicitly or implicitly prohibit vacation rentals within a subdivision, planned unit development, condominium, or MPUD Master Planned Unit Development.

3. Existing Nonconformities

Certain vacation rentals were eligible for nonconforming (grandfathered) status in accordance with Ordinance No. 99-21 and are on file with the County Administrator or designee.

4. Approval Required

Except for those vacation rentals grandfathered above, pursuant to Ordinance No. 99-21, no existing or future dwelling units may be utilized for vacation rental purposes unless specifically authorized by the County through the Conditional Use process or an MPUD Zoning Amendment.

Individual dwelling units located within a platted subdivision or condominium will not be authorized as a vacation rental through the Conditional Use process or an MPUD Zoning Amendment. Rather, the Board of County Commissioners may only authorize future vacation rentals in:

- a. The entire subdivision/condominium; or
- b. A distinct section, unit, or increment of the subdivision/condominium.

5. Application Requirements, Existing Platted Subdivision or Condominium

- a. Applications for vacation rental approval in an existing subdivision/condominium may be submitted by any lot or unit owner.

- b. Applications must be accompanied by a petition in favor of the application signed by the owners of a minimum of fifty-one (51) percent of the lots/units.

6. Additional Notice Requirements

In addition to any other notice required by the Conditional Use process/MPUD Zoning Amendment process, written notice (Certified Mail, Return Receipt Requested) shall be mailed by the applicant at least twenty (20) days prior to the public hearing to each lot/unit owner within the subdivision/condominium for which the application is being made and to each lot/unit owner within 250 feet of the boundary of the application. The boundary of the application shall be the entire platted subdivision/condominium even if only a distinct section, unit, or increment is proposed as the subject of the application.

The applicant shall use the latest mailing address on file with the Property Appraiser for notification. Proof of mailing shall be furnished to the County seven (7) days prior to the public hearing.

7. Required Standards

In determining whether or not to allow vacation rentals, the following factors shall be considered in addition to the factors required in this Code for Conditional Uses/MPUD approval:

- a. The ratio of vacation rentals to total lots within the subdivision/condominium;
- b. The setbacks between dwelling units within the subdivision/condominium; and
- c. Any other factor affecting the compatibility of vacation rentals with residential dwelling units not being utilized as vacation rentals and lots/units located within 250 feet of the boundary of the application.

8. Post Approval Notification Requirements

Upon receiving vacation rental approval by the County, notices that vacation rentals will be allowed shall be provided as follows:

- a. Homeowners' Documents

Within ten (10) days of approval for vacation rentals, or prior to the sale of any lots/units within the subdivision/condominium, whichever occurs first, the deed restrictions for the subdivision/condominium or instruments similar in function to deed restrictions shall indicate that vacation rentals are allowed

within the subdivision/condominium and shall set forth the definition of "vacation rental" contained in this Code.

If the definition of "vacation rental" contained herein is more permissive than what is allowed in the subdivision/condominium, a more restrictive definition of "vacation rental" may be set forth. If vacation rentals are allowed in less than the entire subdivision/condominium, the deed restrictions shall identify the distinct section, unit, or increment in which vacation rentals are allowed.

b. Recorded Notice

A document to be entitled "Notice of Vacation Rentals," which document shall boldly note that vacation rentals are allowed within the subdivision/condominium, shall be recorded by the applicant in the Public Records, separate from the deed restrictions or instruments similar in function for the subdivision/condominium. A copy of the recorded notice must be provided by the applicant to the County Administrator or designee, within ten (10) days of approval for vacation rentals, or prior to the sale of any lots/units within the subdivision/condominium, whichever occurs first.

c. Posted Notice

Within ten (10) days of approval for vacation rentals, or prior to the sale of any lots/units within the subdivision/condominium, whichever occurs first, notice, including the definition of "vacation rental" must be posted in a conspicuous place in the sales office or model center, if any, for the subdivision/condominium, and shall also be included in any sales literature for the project. If the definition of "vacation rental" contained herein is more permissive than what is allowed in the project, a more restrictive definition may be included in the notice. In addition, if vacation rentals are allowed in less than the entire subdivision/condominium, the notice shall identify the distinct section, unit, or increment in which vacation rentals are allowed. The notice shall be in no less than bold, fourteen (14) point font, and shall contain substantially the following language:

NOTICE OF VACATION RENTALS

(Name of subdivision/condominium)

(Name of developer/owner)

**IMPORTANT NOTICE TO PROSPECTIVE
PURCHASERS:**

Vacation rentals are allowed within (name of subdivision/condominium). A vacation rental is defined by the County as a dwelling unit, which is advertised or made available more than three (3) times per year for periods of fewer than thirty (30) days or one (1) calendar month at a time, whichever is less, for use, occupancy, or possession by the public. Timeshares, vacation rentals, and holiday rentals meeting this definition are examples of vacation rentals.

If you have any questions regarding vacation rentals, you may call the Pasco County Zoning and Site Development Department at (727) 847-8132.

d. Notice to Buyer

In addition to the notice required above, prior to the execution of a contract for sale and purchase of a lot/unit within a subdivision/condominium in which vacation rentals have been authorized, the seller of such lot/unit, whether the developer or a subsequent owner, and whether the lot/unit is improved or unimproved, shall provide written notice to any prospective purchaser that vacation rentals are allowed within the subdivision/condominium. The notice shall be in substantial conformance with the Notice of Vacation Rentals set forth above and must contain a sworn statement signed and dated by the seller indicating that the seller has advised the prospective purchaser of the presence of vacation rentals in the subdivision/condominium, along with a sworn statement signed and dated by the prospective purchaser indicating that the purchaser has been advised by the seller of the presence of vacation rentals in the subdivision/condominium. Both the seller and the prospective purchaser shall be given a signed copy of the notice.

e. Grandfathered Unit Notice Requirements

Units grandfathered pursuant to Section 402.5.B.3 shall be required to only comply with the notice requirements of Sections 402.5.B.8.b, c, and d.

9. Registration

- a. The property owner and management company, if applicable, shall, on or before September 30th of each year for each dwelling unit that is approved by the County as a vacation

rental, register each unit with the County Administrator or designee, pay a registration fee, and obtain a business tax certificate from the Tax Collector. The application for such registration shall include: (1) the name, telephone number, e-mail address, and mailing address of the management company managing the vacation rental; (2) the name, telephone number, e-mail address, and mailing address of the owner of such unit; (3) the street address of the unit; (4) a telephone number at which a representative of the management company can be reached twenty-four (24) hours per day. The number(s) submitted must be either a published local number or a toll-free number; and (5) a copy of the license required under Chapter 509, Florida Statutes. Only one (1) business tax certificate need be obtained for each management company on an annual basis regardless of the number of properties managed under the said license. Finally, all vacation rentals, transient lodging, and bed and breakfasts on which payment is made to rent, lease, let, or use for a period of six (6) months or less are subject to the County's Tourist Development Tax and collections, Chapter 102 of the Pasco County Code. Any dwelling unit which does not comply with these provisions shall not be utilized as a vacation rental.

- b. Within thirty (30) days of the annual registration or due date for the tax, the unit shall not be utilized for a vacation rental. The owner of the unit and the management company for the unit shall amend or correct registration information within fifteen (15) calendar days of any change to ensure that the information on file with the County Administrator or designee is both current and accurate.
- c. Registration fees and fines collected for violation of the provisions of this ordinance shall be deposited in a separate County account to be used to provide funds for additional Code Enforcement Officers to ensure compliance with the terms of this section.

10. Requirements for Operation

All approved vacation rentals including grandfathered units shall comply with the following requirements:

- a. Except where the requirements of this section are more stringent, vacation rentals shall comply with all requirements for public lodging establishments under Chapter 509, Florida Statutes, and any other applicable local, State, and Federal regulations.
- b. A copy of the Chapter 509, Florida Statutes, license, and the local business tax certificate for both the vacation rental and

the management company for the unit shall be displayed on the back of the main entrance/exit door to the unit. The management company's telephone number shall be listed on its license.

- c. Each vacation rental must have an operable telephone with the words "In Case of Emergency Dial 911" or similar words displayed in a prominent position on or by each telephone in the unit.
- d. Each person occupying a vacation rental and each person or entity responsible for the housekeeping of the unit must be notified of all rules for trash collection. This notice must include information on the days of trash collection for the unit, the required use of trash containers, and applicable limitations on how trash may be stored until the day before collection.
- e. The maximum occupancy limits for vacation rentals shall be two persons per separate, enclosed bedroom. Persons who stay overnight in a unit shall be considered occupants of the unit irrespective of whether or not they are listed as occupants on the rental contract for the unit.
- f. A vacation rental unit shall not be made available for a period of less than six (6) days at a time.
- g. Loading and unloading of buses shall not be allowed within the residential areas of a subdivision or condominium. For the purposes of this provision, any vehicle designed to seat more than fifteen (15) adults shall be considered a bus. School buses and public buses are exempt from the provisions of this paragraph.
- h. A written log recording the names and addresses of all persons occupying a vacation rental unit, whether or not for exchange of consideration, and the length and dates of each person's occupancy shall be kept for each rental unit and shall be provided to the County Administrator or designee at 8731 Citizens Drive, New Port Richey, Florida, for inspection within seventy-two (72) hours of mailing a written request.
- i. A notice in substantial conformance with the following shall be posted on the back of the main entrance/exit door to each vacation rental in no less than a twelve (12) point font:

NOTICE TO OCCUPANT

This unit is located within a residential community. Please be considerate of your neighbors. The following are some of the local laws and community restrictions that you should be aware of during your stay:

1. Trash: All trash must be placed in a covered, watertight, trash container. Trash may not be stored in such a manner that it may become deposited on public property or the property of another or in a manner that it otherwise becomes a nuisance. Trash must be disposed of at least twice a week. Garbage collectors will pick up your trash on (owner/management company shall verify days of collection and insert here). To ensure that your trash is picked up, please place your trash containers by the road after 5:00 p.m., the day before pickup. Trash cans must be removed from the roadside the same day trash is picked up.
2. Noise: It is unlawful in the County to create noise at such a level or for such duration that the noise unreasonably interferes with your neighbors' comfortable enjoyment of their property or disturbs the peace and tranquility of the neighborhood.
3. Animals: Dogs, cats, or other pets may not roam free outside of your unit. When outside, your dog must either be leashed or fenced and pet owners must clean up after their pet(s).
4. Clothing: With the exception of nudist and clothing-optional communities, you must wear clothes while in public or any other place where you are

readily visible to the public or your neighbors. Females must wear both a top and a bottom, while males must wear a bottom. G-strings and similar articles of clothing are insufficient for this purpose.

The above notice may be modified when homeowners' association restrictions or restrictions imposed by the unit owner are more stringent than the listed regulations. In addition, restrictions may be added to the notice. Any restrictions varying from or added to the notice shall not infringe upon any civil rights guaranteed by the United States or State Constitutions.

11. Enforcement

Violations may be addressed by any of the methods of this Code, Section 108, or revocation of approval of a Conditional Use or revocation of the registration of the vacation rental.

Both the management company and the owner of a vacation rental shall be responsible for compliance with and shall be held jointly and severally responsible for violations of this section.

12. Tourist Tax

- a. All vacation rentals on which payment is made to rent, lease, let, or use for a period of six (6) months or less are subject to the County's Tourist Development Tax and collections, Chapter 102 of the Pasco County Code and Section 125.0104, Florida Statutes.
- b. Any residential dwelling unit used as a vacation rental which does not comply with this provision shall not be utilized as a vacation rental.

C. Sexually-Oriented Businesses

1. Intent and Purpose

The intent and purpose of this section is to regulate the location of sexually-oriented businesses so as to prevent the adverse secondary effects on the public health, safety, and welfare, which, as the Supreme Court recognized in the case of *City of Erie v. Pap's A.M.*, 529 U.S.C. 277 (2000), are "caused by the presence of even one such establishment." This section is designed to eliminate or lessen

such adverse secondary effects by maintaining minimum distances between such sexually-oriented businesses and certain other uses and land zoned for office or residential use and allowing sexually-oriented businesses to locate in appropriate areas of the County only. This section is based upon the fundamental zoning principle that certain uses, by the very nature of the adverse secondary effects, such uses are recognized to have upon the surrounding community, must be subjected to particular restrictions so that such uses may exist without destroying the value, vitality, or existence of other lawful and reasonable uses. The sole purpose of the legislative body of the County in enacting this section is the desire to preserve and protect the quality of life, public health, safety, and general welfare of the citizens of the County and not to suppress free speech or impair the constitutional rights of any person or group of persons. Nothing herein shall be construed to authorize a commission of any obscenity offense or other criminal defense as proscribed by the laws of the State, the County, or the laws of any local government within the County.

2. Existing Nonconformities

Subject to meeting the conditions set forth in this section, any sexually-oriented businesses eligible for nonconforming use status in accordance with Ordinance No. 03-01 may continue to operate, subject to this Code, Section 1201, as a legally nonconforming use. However, such sexually-oriented business shall not conduct different types of sexually-oriented business activities other than those being conducted on December 17, 2002, and may not expand or enlarge the area (square footage) being utilized for sexually-oriented business activities.

- a. The sexually-oriented businesses which were eligible for nonconforming status in accordance with the Pasco County Code, Ordinance No. 03-01, are on file with the County Administrator or designee.
- b. Sexually-oriented businesses granted legally nonconforming use rights under this subsection must nonetheless comply with all requirements of this Code, except Section 402.5.C.3.

3. Locations Within Authorized Zoning District; Distance Restrictions

Sexually-oriented businesses shall be allowed only within the I-2 General Industrial Park District and then only if the following restrictions are met:

- a. No sexually-oriented business shall be located within 1,000 feet of:

- (1) Any preexisting zoning district within the County that is zoned for residential or office use including, but not limited to, residential planned unit development districts and office planned unit development districts.
- (2) Any lawfully preexisting:
 - (a) Day-care facility;
 - (b) Place of religious worship;
 - (c) Public park; or
 - (d) School

b. The distances provided for in this section shall be measured in a straight line, without regard to intervening structures or objects, from the nearest portion of any building in which the sexually-oriented business is operated to the nearest property line of a parcel:

- (1) Upon which, such a lawfully, preexisting day-care facility, place of religious worship, public park, or school is located; or
- (2) Within a district zoned for residential or office use.

4. Prohibited Conduct

No sexually-oriented business shall be conducted in any manner that permits any person on any parcel of property within incorporated or unincorporated Pasco County, other than the parcel upon which the sexually-oriented business is located, to observe any live or recorded performance or any visual image tangibly fixed in any medium which performances, images, or recordings have, as their primary or dominant theme, subject matter depicting, describing, or relating to specified sexual activities, or specified anatomical areas, or which performance, recording, or visual image requires the exclusion of minors pursuant to Chapter 847, Florida Statutes, other than such observation as may occur as a result of the observer's intentional reception of such a performance, recording, or visual image within an enclosed structure on the premises of the sexually-oriented business.

5. No Application, License, or Permit

With the express exception of business tax certificates and permits issued upon purely objective criteria applicable to all businesses within an I-2 General Industrial Park Zoning District and applications relating to such permits, no application or permit shall be required for the establishment of any sexually-oriented business.

6. No Subjective Zoning Condition, Restriction, Safeguard, or Standard

No sexually-oriented business shall be subject to any regulation, zoning condition, restriction, safeguard, or standard that contains subjective criteria.

7. No Variances, Waivers, or Special Exceptions

No variances, waivers, or special exceptions from the prohibitions set forth in this section shall be permitted for any reason.