

CITY OF OBERLIN, OHIO

ORDINANCE No. 21-27 AC CMS

AN ORDINANCE AMENDING SECTION 797 OF THE OBERLIN CODIFIED ORDINANCES REGULATING THE OPERATION OF MOBILE FOOD VEHICLES WITHIN THE MUNICIPAL LIMITS OF THE CITY OF OBERLIN AS AN EMERGENCY MEASURE

WHEREAS, pursuant to Ordinance No. 15-05 AC CMS rules and regulations were adopted to provide for the operation of mobile food establishments within the City; and

WHEREAS, said rules and regulations were amended in November of 2015 pursuant to Ordinance No. 15-53 AC CMS and again in May of 2017 pursuant to Ordinance No. 17-23 AC CMS; and

WHEREAS, to provide for the efficient administration of the rules and regulations, the City has deemed it advantageous to further amend such rules and regulations to adopt recommendations made to City Council by the Oberlin Community Improvement Corporation; and

WHEREAS, the recommendations of the Oberlin Community Improvement Corporation regarding mobile food vendors address allowing regular operation by permitted mobile food vendors in approved locations on public and private property; designating pre-approved mobile food vending zones; revising insurance requirements and establishing administrative requirements related to hours of operation, dimensions of mobile food vending equipment, noise, light, and other items related to public safety.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio:

SECTION 1: That Section 797 of the Oberlin Codified Ordinances, as amended, shall be and are hereby amended to read as is set forth in Exhibit A attached hereto and incorporated herein.

SECTION 2: It is hereby found and determined that all formal actions of this Council concerning or relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3: That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the citizens of the City of Oberlin, Ohio or to provide for the usual daily operation of a municipal department, to wit: to facilitate and encourage the provision of mobile food services in the City of Oberlin commensurate

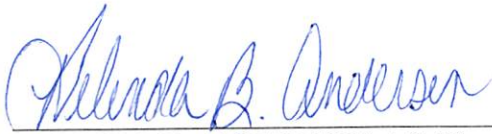
with the onset of downtown summertime activities so as to promote commerce within the City and provided that it is elevated to emergency status by the affirmative vote of at least five members of Council and receives the affirmative vote of at least five members of Council upon final passage, it shall go into full force and effect from and immediately after its passage; otherwise, it shall take effect at the earliest date allowed by law.

PASSED: 1st Reading: May 17, 2021


2nd Reading: June 7, 2021

3rd Reading: June 21, 2021

ATTEST:



BELINDA B. ANDERSON, MMC
CLERK OF COUNCIL



LINDA SLOCUM
PRESIDENT OF COUNCIL

POSTED: 06/22/2021

EFFECTIVE DATE: 06/21/2021

ORDINANCE No. 21-27 AC CMS

EXHIBIT A

CHAPTER 797

Mobile Food Vehicles

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797.01 PURPOSE.

(a) The City of Oberlin recognizes and supports the vitality and activity that is created by outdoor business activities within the "downtown business district" and in other locations. The operation of such business or other uses within the public street rights-of-way, however, requires careful consideration and review to ensure that such uses function in a manner as to create the aforementioned benefits without any undue negative effects.

(b) The purpose of establishing these regulations is to create a pleasant and vibrant downtown environment for visitors and residents; to provide an opportunity for the operation of mobile food establishments in residential and commercial areas; to prevent the obstruction of pedestrian, bicycle and motor vehicle traffic; to ensure that adequate efforts are made to protect the health, safety, and welfare of the public by requiring permits for the operation of mobile food establishments and to establish minimum requirements pertaining to the safe and sanitary operation of mobile food establishments.

797.02 DEFINITIONS.

When used in this chapter, unless the context otherwise requires, the following terms shall have the following meanings:

(a) The **City Manager** shall mean the City Manager of the City of Oberlin or a person with the authority to execute the duties of the City Manager. The City Manager, may in his or her discretion, delegate to another City employee the administrative duties set forth in this Chapter.

(b) **Mobile Food Establishment** shall mean a business operation that provides food for human consumption from a vehicle or a trailer or cart propelled by a vehicle or by human power. Mobile Food Establishments include but are not limited to: mobile food kitchens, canteen trucks, pushcart vendors, bicycle cart vendors, mobile food trucks, ice cream trucks that park and operate in a fixed temporary location, and coffee trucks. A Mobile Food Establishment does not include "Meals on Wheels," ice cream trucks that do not park and operate at a fixed temporary location or the home delivery of food.

(c) **Mobile Food Vendor** shall mean a person or business entity who operates a Mobile Food Establishment that is incorporated in or propelled by a vehicle.

(d) **Mobile Food Vendor Designated Area** shall mean an area on public property or in the public right-of-way designated by the City Manager in which mobile food vendors can park Mobile Food Establishment Vehicles provided such an area is reserved at least 24 hours in advance with the City Manager's Office. The City Manager may establish operational policies for Mobile Food Vendor Designated Areas to ensure public safety and health.

(e) **Private event** shall mean a social gathering on private property.

(f) **Special Event:** For the purpose of this Chapter, "Special Event" shall mean any outdoor activity or series of outdoor activities open to the public occurring at a predetermined time and place; conducted on public property or on non-residential private property for which a Special Event Permit is required. A Special Event includes but is not limited to:

(1) Any activity involving entertainment and/or amplified sound, food, beverage, merchandise sales or any activity promoted as a festival, sports event, trade show, craft show, public dance, concert or performance;

(2) Any activity that may substantially increase or disrupt the normal flow of traffic on any street or highway;

(3) Any activity which involves the use of public facilities; or

(4) Any activity which involves the use of City services that would not be necessary in the absence of such an event.

797.03 SCOPE OF CHAPTER.

The provisions of this Chapter shall apply to the operation of Mobile Food Establishments in the City of Oberlin.

797.04 MOBILE FOOD VENDOR PERMIT REQUIRED.

No person, organization or business entity shall operate a Mobile Food Establishment without first having been issued a permit authorizing such operation.

797.05 APPLICATION FOR A MOBILE FOOD VENDOR PERMIT.

(a) Application. There shall be made available by the City Manager's Office an application for the operation of a Mobile Food Establishment. The application shall include the following:

(1) A description of the necessary inspections and fees.

(2) Identification of the area(s) where the operation of Mobile Food Establishments are permitted or prohibited.

(b) Submission of Materials. Each application submitted shall include the following:

(1) The name, address and telephone number of the person/entity who will own and/or operate a Mobile Food Establishment.

(2) A description of the proposed operation of the Mobile Food Establishment. A plan illustrating the proposed location(s) of the operation of the Mobile Food Establishment if applicable.

(3) Certification that the Mobile Food Establishment has passed all inspections required by the Lorain County General Health District or other Ohio county health department under the jurisdiction of the Ohio Department of Health.

(4) Proof of insurance providing general liability coverage in the minimum amount of five hundred thousand dollars (\$500,000) per occurrence and one million dollars (\$1,000,000.00) in the aggregate), naming the City of Oberlin as additional insured and in a form acceptable to the City.

(5) Completed Regional Income Tax Authority form as prescribed by the City if a Mobile Food Vendor intends to operate in the City for a period of more than twenty (20) days during the calendar year. A day is a full day or any fractional part of a day.

(c) Approval Process. Applications and required fees shall be submitted to the City Manager's Office.

(1) Prior to the operation of the Mobile Food Establishment, the equipment utilized in its operation shall be inspected by the Oberlin Fire Department to ensure compliance with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and codes. For Private Events and Special Events, the inspection may be conducted on the first day of the operation of the Mobile Food Establishment if all other required application materials have been submitted and approved in advance by the City Manager, and if prior arrangements have been made with the Oberlin Fire Department and City Manager for inspection at a mutually agreeable time and place on the first day of operation . A re-inspection shall be

required if there are subsequent material physical alterations to the vehicle used in the operation of the Mobile Food Establishment.

(2) If all application materials have been submitted and the equipment utilized in the operation of the Mobile Food Establishment has satisfied the requirements of the fire safety inspection, the City Manager shall issue a permit authorizing the operation of the Mobile Food Establishment as soon as is practicable, but not more than 10 days after the submission of the application materials.

(3) If the Application is denied, the City Manager shall state the specific reason(s) for the denial. Any applicant who has been denied a permit may, after correcting any deficiencies in the Application, resubmit the Application for approval pursuant to this Section.

797.06 RULES AND REGULATIONS.

(a) General. The following rules and regulations apply to the operation of a Mobile Food Establishment:

(1) No Mobile Food Vendor shall operate a Mobile Food Establishment without first having been issued a permit authorizing such operation.

(2) Permitted locations for Mobile Food Establishments. Mobile Food Establishments are permitted to operate in the following locations in the City of Oberlin:

(A) At private events as defined in this ordinance.

(B) At special events as defined in this ordinance.

(C) In MobileFood Vendor Designated Areas.

(D) On private property zoned "C-1", "C-2", "C-3" or "M-1" at all other times other than during a Private Event or Special Event subject to site plan approval by the Planning Commission under Section 1357 of the Codified Ordinances.

(3) No Mobile Food Vendor shall provide any dining area, tables, chairs, booths, bar stools, benches, or standup counters, unless a proposal for such seating/standup arrangements has been submitted with the permit application and approved by the City Manager.

(4) Mobile Food Vendor shall provide customers with single service articles, such as plastic silverware and paper plates and napkins, and a waste container for their disposal. A Mobile Food Vendor shall dispose of waste in accordance with applicable regulations unless such disposal is otherwise provided by a Special Event sponsor.

(5) No Mobile Food Vendor shall make or cause to be made any unreasonable or excessive noise in violation of Section [509.10](#) of the City's Codified Ordinances.

(6) No Mobile Food Vendor shall employ the use of flashing or moving lights on or near a Mobile Food Establishment as part of its operation.

(7) The operation of a Mobile Food Establishment shall be in accordance with all applicable parking regulations for commercial vehicles.

(8) The City Manager may require a change of an approved location for the operation of the Mobile Food Establishment at any time if it is determined by the City Manager the approved location for the operation of a Mobile Food Establishment endangers public health, safety, or order or upon the request of the permit holder or if it is necessary that use of the approved location is necessary for emergency purposes or other public benefit.

(9) Mobile Food Establishments shall either operate within the operating hours of a private event or special event; within the hours of 7:00 a.m. to 10:00 p.m. in Mobile Food Vendor Designated Areas except for those Mobile Food Establishments located in Mobile Food Vendor Designated Areas in City parks which must operate in accordance with Section 927.12; or within operating hours as approved by the Planning Commission during site plan approval for Mobile Food Establishments located on private property.

(b) The operation of Mobile Food Vendor vehicles shall at all times be in compliance with all applicable governmental rules and regulations, including but not limited to those of the Lorain County General Health District and the State of Ohio, as well as all applicable fire safety statues, regulations, ordinances and codes.

797.07 PERMIT FEES.

(a) Annual Permit Application Fee. The annual application fee for a Permit to authorize the operation of a Mobile Food Establishment shall be one hundred twenty-five dollars (\$125.00).

(b) Single Event Permit Application Fee. The Application fee for a permit to authorize the operation of a Mobile Food Establishment at a single Special Event or Private Event shall be fifty dollars (\$50.00) for each event.

(c) Permit application fees are non-refundable once submitted, regardless of whether a permit is issued or denied.

(d) Exemptions. There shall be no application fee required for a permit to authorize the operation of a Mobile Food Establishment operated in Oberlin by a restaurant having its principal business location in Oberlin.

797.08 PROHIBITION AGAINST THE TRANSFER OF A PERMIT.

(a) Transfers for Value Prohibited. No person holding a permit for a Mobile Food Establishment shall sell, lend, lease or in any manner transfer a Mobile Food Vendor Permit except as provided for under (b) below.

(b) Non-value Transfers as Part of the Sale of a Business. Notwithstanding subsection (a) hereof, a permit holder may transfer a permit as part of the sale of a majority of the stock in a corporation holding such permit, as part of the sale of a majority of the membership interests of a limited liability company

holding such permit, or as part of the sale of a business or substantially all of its assets; provided that there shall be no allocated or actual value for the transfer of the permit.

(1) Prior to any such transfer, the transferor shall notify the City Manager in writing and the transferee shall submit a Mobile Food Vendor Permit application for approval to the City Manager's Office pursuant to the process set forth in Section [797.05](#).

(2) Any such transfer shall be subject to the terms and conditions of the original permit.

797.09 UNLAWFUL OPERATION OF A MOBILE FOOD ESTABLISHMENT.

(a) Operation Without Permit. No Mobile Food Establishment shall be operated without first having been issued a permit in accordance with this Chapter.

(b) Unattended Vehicles Prohibited. No Food Establishment shall be parked on a public street overnight, or left unattended and unsecured at any time food is kept in the vehicle.

(c) No Mobile Food Establishment shall be operated at any location other than has been authorized by the City in accordance with this Chapter.

797.10 ENFORCEMENT.

(a) Enforcement. The provisions of this chapter may be enforced by the City Manager, the Oberlin Police Department, or the Oberlin Fire Department.

(b) Revocation, Suspension, Modification. Any permit authorizing the operation of a Mobile Food Establishment may be revoked for a violation of the provisions of this Chapter upon written notice issued by the City Manager.

(1) The City Manager may suspend a permit for no more than three (3) days without prior notice, if, in the determination of the City Manager, the continued operation of the Mobile Food Establishment poses an immediate danger to the public safety, health or order. Notice of such suspension shall be issued to the permit holder as soon as is practicable. The permit holder may request a hearing before the City Manager within seventy-two (72) hours of the notice.

797.11 SEVERABILITY.

If any provision of this Chapter is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

797.99 PENALTY.

(a) Whoever violates a provision of this Chapter is guilty of a misdemeanor of the third degree on a first offense; for a second or subsequent offense, such person is guilty of a misdemeanor of the second degree and shall be punishable as provided in Section [501.99](#) of the Codified Ordinances of the City of Oberlin.

(b) Each day that a violation continues shall be a separate offense.