

**ORDINANCE NO: 2020-119 (AMENDED)
INTRODUCED BY: ADMINISTRATION**

**AN ORDINANCE ENACTING CHAPTER 759 OF THE
BUSINESS REGULATION CODE OF THE CITY TITLED
“CERTIFICATE OF BUSINESS OCCUPANCY,” AND
DECLARING AN EMERGENCY**

WHEREAS, the City of Lyndhurst currently has multiple unregistered businesses; and

WHEREAS, this Council has determined the need to maintain an accurate listing of all businesses and types of businesses to provide that list to the residents of the City of Lyndhurst, the Police Department and Fire Department; and

WHEREAS, requiring a Certificate for Business Occupancy is a proper function to protect the public health, welfare and safety of the City of Lyndhurst, its residents, and its residential property owners; and

WHEREAS, for the above reasons this Council has determined to enact regulations regarding the requirements for Certificates for Business Occupancy.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNDHURST, CUYAHOGA COUNTY, STATE OF OHIO, THAT:

SECTION 1. Chapter 759 of the Codified Ordinances titled “CERTIFICATE OF BUSINESS OCCUPANCY” is hereby enacted to read as follows:

CHAPTER 759: Certificate of Business Occupancy

- 759.01 Certificate of business occupancy required.**
- 759.02 Certificate issuance; contents, term, and revocation.**
- 759.03 Failure to apply for certificate; renewals.**
- 759.04 Posting of certificate.**
- 759.05 Fees; changes in business occupancy.**
- 759.99 Penalties**

759.01 CERTIFICATE OF BUSINESS OCCUPANCY REQUIRED.

On and after December 1, 2020, no person shall occupy any structure used or designed, or intended to be used as a commercial, institutional, etc., building, structure or premises, or any part thereof, unless such person holds a Certificate of Business Occupancy issued by the Building Commissioner for such structure, which certificate has not expired, revoked or otherwise become null and void.

759.02 CERTIFICATE ISSUANCE; CONTENTS, TERM AND REVOCATION.

(a) Application for a Certificate of Business Occupancy required by the provisions of this Business Regulation Code shall be made annually by supplying the information and data to determine compliance with applicable laws, ordinances, rules and regulations for the existing use or occupancy or the intended use or occupancy on forms supplied by the Building Commissioner.

(b) The Building Commissioner may require the submission of an affidavit stating such information, and he may cause a general inspection of the structure or premises to be made.

(c) If it is found that a building or other structure is in compliance with the provisions of this Business Regulation Code, and all other laws, ordinances, rules and regulations applicable thereto, the Building Commissioner shall issue a Certificate of Business Occupancy for such building or structure, which shall contain the following information:

- (1) The street address or other identifying characteristics of the building or structure.
- (2) The name and address of the occupant of the building or structure.
- (3) The exact nature and extent of the use or occupancy authorized.
- (4) The period for which such certificate of business occupancy is effective

(d) The Building Commissioner shall have the power to revoke a Certificate of Business Occupancy if any false statement is made by the applicant in connection with the issuance of such certificate, or for noncompliance of a structure or its use with the requirements of this Business Regulation Code, or if the owner, agent or person in charge of a structure shall refuse to comply with any applicable provision of this Business Regulation Code.

759.03 FAILURE TO APPLY FOR CERTIFICATE; RENEWALS.

Except as provided in Section 759.05, the proposed occupant of a structure requiring a Certificate of Business Occupancy shall apply for such Certificate of Business Occupancy for the calendar year, upon forms provided by the Building Commissioner, if such structure is proposed to be occupied or will be available for occupancy, The proposed occupant of a structure to be used for business purposes, which will be completed and available for occupancy and which requires a Certificate of Business Occupancy under the terms of this Code, shall apply for such certificate as soon as practicable, but in no event shall any unit of the structure be occupied in whole or in part until such certificate has been issued.

For each calendar year, the person applying for a required Certificate of Business Occupancy for any unit used for business purposes shall apply for such certificate on or before December 1st, of the year preceding the period for which the certificate is issued

759.04 POSTING OF CERTIFICATE.

Except as provided for in Section 759.05, the occupant of every structure included in the scope of this Business Regulation Code shall cause a Certificate of Business Occupancy to be posted conspicuously at all times at NEAR the main entrance of such structure BUSINESS. Such Certificate of Business Occupancy shall be provided and shall be securely affixed to the wall.

759.05 FEES; CHANGES IN BUSINESS OCCUPANCY.

(a) Changes; New Certificate of Business Occupancy; Fees- If there is a change in the occupancy of any building or portion thereof, the certificate of business occupancy issued under the provisions of this Business Regulation Code to the former occupant or owner shall become null and void as to the vacated business unit or units at the time such use is terminated. A new Certificate of Business Occupancy shall be obtained by the new occupant or owner before the new business use begins its tenancy or occupancy. Application for a new Certificate of Business Occupancy for any business use shall be made before the new business use begins its tenancy or occupancy. ~~A fee of Fifty Dollars (\$50.00) shall be paid upon application for each new certificate.~~ Such new certificate shall expire on the same date as that of the certificate which it replaces. DECEMBER 1ST, OF EACH YEAR.

(b) Occupancy Certificate Fee. An ~~annual~~ application for a certificate of business occupancy shall be accompanied by a nonrefundable fee of ONE HUNDRED DOLLARS (\$100.00), ~~payable annually~~ for each occupant or tenant in a commercial building. A RENEWAL APPLICATION SHALL BE ACCOMPANIED BY A NONREFUNDABLE FEE OF FIFTY DOLLARS (\$50.00.) This fee shall not apply and is otherwise waived to houses of worship, schools, and non-profit organizations. ~~At the sole discretion of the Building Commissioner,~~ IN THE EVENT OF A LATE RENEWAL APPLICATION OR THE FAILURE TO REGISTER A NEW BUSINESS, THE AFORESAID FEES SHALL BE DOUBLED IN ADDITION TO ANY FURTHER PENALTY PROVIDED IN THE LYNDBURST ORDINANCES, ~~in the event of a late application or the failure to register the business.~~

(c) Multiple Occupancy. For all buildings having more than five (5) occupants or tenants, the owner or his agent shall also submit a list of the tenants for each

unit which identifies each occupant or tenant and states the nature of the business, use or occupancy of their respective units.

(d) **Change Approval.** Any change in the nature or extent of the use or occupancy as specified on the certificate of business occupancy shall render the certificate null and void upon the happening of such change. No such change is permissible under this Business Regulation Code unless such change has been approved by occupancy, incorporating such change, has been issued. Any such change, without the approval of the proper City authorities, will subject the owner, occupant, operator, or agent to the penalty provided in Section 759.99 AND OTHER APPLICABLE PROVISIONS OF THE ORDINANCES OF THE CITY OF LYNDHURST.

759.99 PENALTIES

(a) UNLESS OTHERWISE SPECIFICALLY PROVIDED, WHOEVER, VIOLATES ANY OF THE PROVISIONS OF THIS CODE OR ANY RULES OR REGULATIONS PROMULGATED HEREUNDER, FAILS TO COMPLY THEREWITH OR WITH ANY WRITTEN NOTICE OR WRITTEN ORDER ISSUED HEREUNDER, FAILS TO COMPLY WITH THE REGISTRATION REQUIREMENTS, REFUSES TO PERMIT ENTRY BY THE BUILDING COMMISSIONER OR OTHER DEPARTMENT HEADS OR THEIR REPRESENTATIVES, OR INTERFERES WITH, CONSTRUCTS OR HINDERS SUCH BUILDING COMMISSIONER, OTHER DEPARTMENT HEADS OR THEIR REPRESENTATIVES WHILE ATTEMPTING TO MAKE SUCH INSPECTION, PER THE REQUIREMENTS AND COMPLIANCE OF SECTION 757.04 OF THE CODIFIED ORDINANCES, SHALL BE FINED NOT MORE THAN ONE THOUSAND-DOLLARS (\$1,000) IF AN INDIVIDUAL, AND SHALL BE FINED NOT MORE THAN FIVE THOUSAND DOLLARS (\$5,000), IF AN ORGANIZATION, SUBJECT TO THE PROVISIONS OF SECTIONS 606.08 AND 606.09 OF THE GENERAL OFFENSES CODE, FOR EACH OFFENSE. THE BUILDING COMMISSIONER SHALL HAVE THE DISCRETION TO REVOKE THE OCCUPANCY PERMIT FOR ANY VIOLATION OF THIS ORDINANCE. A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OR NONCOMPLIANCE OCCURS OR CONTINUES.

(b) THE IMPOSITION OF ANY PENALTY SHALL NOT PRECLUDE THE DIRECTOR OF LAW FROM INSTITUTING AN APPROPRIATE ACTION OR PROCEEDING IN THE COURT OF PROPER JURISDICTION TO PREVENT AN UNLAWFUL REPAIR OR MAINTENANCE, TO RESTRAIN, CORRECT OR ABATE A VIOLATION, TO PREVENT THE OCCUPANCY OF A BUILDING, STRUCTURE OR PREMISES, OR TO REQUIRE COMPLIANCE WITH THE PROVISIONS OF THIS CODE, OR OTHER APPLICABLE LAWS, ORDINANCES, RULES OR REGULATIONS, OR THE ORDERS OR DETERMINATIONS OF THE BUILDING COMMISSIONER, THE DIRECTOR OF LAW, OR THE BOARD OF ZONING APPEALS

SECTION 2. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City of Lyndhurst and its residents for the reason that it is necessary to assure that all non-owner occupied dwelling units in the City are safe for those living there. Therefore, this Ordinance shall take effect immediately upon the affirmative vote of not less than five (5) members elected to Council, and signature by the Mayor, or otherwise at the earliest time allowed by law.

PASSED: January 18, 2021

MAYOR

VICE MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Ordinance by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City on January 28, 2021 and February 4, 2021.

Clerk of Council

First Reading: December 7, 2020

Second Reading: January 4, 2021

Third Reading: January 18, 2021

Passed 1-18-2021