

**ORDINANCE NO: 2020-123 (AMENDED)
INTRODUCED BY: ADMINISTRATION**

**AN ORDINANCE ENACTING CHAPTER 761 OF THE OF
THE CODIFIED ORDINANCES OF THE CITY OF
LYNDHURST TITLED “MOBILE FOOD SERVICE
OPERATION,” AND DECLARING AN EMERGENCY**

WHEREAS, this Council observes a need to adopt regulations to ensure food trucks/FOOD TRAILERS operating within the City do so according to appropriate standards of safety, sanitation, and liability while also balancing the interests of the LOCAL restaurant community; and

WHEREAS, the food truck/FOOD TRAILER industry has grown considerably in recent years; and

WHEREAS, food trucks/FOOD TRAILERS have played a key role in the success of many signature community events, offering a wide variety of fare to residents and visitors.

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

SECTION 1. New Chapter 761 of the Codified Ordinances titled “MOBILE FOOD SERVICE OPERATION” is thereby enacted to read as follows:

CHAPTER 761: MOBILE FOOD SERVICE OPERATION

- 761.01 Definitions
- 761.02 Operation in Right of Way; Public Property
- 761.03 Mobile Food Service Operation Permit
- 761.04 Application Fee
- 761.05 General Regulations
- 761.99 Penalty

761.01 DEFINITIONS. As used in this Chapter.

- a) “Food” shall mean a raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or part for human consumption.
- b) “Mobile food service operation” means a food service operation required to be licensed under Ohio Revised Code that is operated from a single movable vehicle or portable structure and that CAN OR routinely changes location.
- c) “Mobile food service operation permit” shall mean the permit issued by the Division of Building and Housing pursuant to this Chapter.
- d) “Food service operation license” means the official document issued by the Cuyahoga County Board of Health or by another jurisdiction’s health district with the authority to INSPECT AND license food service operations.

761.02 OPERATION IN RIGHT OF WAY; PUBLIC OR PRIVATE PROPERTY.

- a) No person shall cause a mobile food service operator to operate on any public street, ~~or~~ sidewalk OR ANY PRIVATE DRIVE OR WALKWAY within the City while such public street, ~~or~~ sidewalk OR PRIVATE DRIVE OR WALKWAY is open to normal TRAFFIC OR public use.
- b) No person shall cause a mobile food service operator to operate on any public street or sidewalk within the City OR ANY PRIVATE DRIVE OR WALKWAY WITHOUT MEETING THE LICENSING AND FEE REQUIREMENTS OF THIS CHAPTER AND WITHOUT an existing PERMIT ISSUED BY the City.
- c) OPERATION OF A MOBILE FOOD VENDING UNIT MUST BE IN COMPLIANCE WITH ALL APPLICABLE ZONING REQUIREMENTS RELATED TO COMMERCIAL ACTIVITY ON PRIVATE PROPERTY.
- d) No person shall cause a mobile food service operator to operate on public property, including public parks, unless the mobile food service operation has an existing agreement to participate in a permitted parade or special event or has otherwise received written permission from the Director of Public Safety.

761.03 MOBILE FOOD SERVICE OPERATION PERMIT.

- a) No person shall cause a mobile food service operator to operate in the City unless the operator has received a mobile food service operation permit from the City.
- b) An application for a mobile food service permit shall be submitted to the Division of Housing and Building BY THE APPROVED EVENT SPONSOR, FOR THOSE VENDORS PARTICIPATING IN THAT APPROVED PUBLIC EVENT OR THE INDIVIDUAL OPERATOR OF A FOOD VENDING UNIT APPEARING AT A PRIVATE EVENT on a form provided by the Director of Public Safety AND SHALL SUBSTANTIALLY COMPLY WITH THIS SUBSECTION. Applicants must provide the following documentation upon submittal of the permit application:
 - (1) A copy of a current mobile food service operation license ISSUED BY THE CUYAHOGA COUNTY BOARD OF HEALTH OR OTHER BOARD OF HEALTH HAVING JURISDICTION IN THE STATE OF OHIO.
 - (2) Proof of general liability insurance coverage, including without limitation, bodily injury and property damage AS REQUIRED BY THIS CHAPTER OR BY ANY CITY, STATE OR FEDERAL LAW OR POLICY.
 - (3) NAME, ADDRESS, TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS OF THE MOBILE FOOD VENDING UNIT OPERATOR.
 - (4) BUSINESS NAME OR DBA, PERMANENT ADDRESS, ELECTRONIC MAIL ADDRESS AND TELEPHONE NUMBER OF THE OWNER IF DIFFERENT THAN THE OPERATOR.
 - (5) PROOF OF CURRENT BUREAU OF WORKERS COMPENSATION CERTIFICATE.
 - (6) PROOF OF TAXPAYER IDENTIFICATION NUMBER OR EXEMPTION ISSUED TO OWNER,
 - (7) PROOF OF OHIO DEPARTMENT OF TAXATION ITINERANT VENDORS LICENSE IF REQUIRED.
 - (8) PHYSICAL DESCRIPTION OF THE MOBILE FOOD VENDING UNIT ALONG WITH CURRENT VEHICLE REGISTRATION.
 - (9) Written permission from the property owner to operate on private property.
 - (10) ANY OTHER INFORMATION AS MAY BE REQUIRED BY THE DIRECTOR OF PUBLIC SAFETY OR THE COUNTY BOARD OF HEALTH.
- c) THE DIRECTOR OF PUBLIC SAFETY SHALL EXAMINE ALL APPLICATIONS FOR A MOBILE FOOD VENDING LICENSE FILED UNDER THIS CHAPTER AND MAKE, OR CAUSE TO BE MADE ANY FURTHER INVESTIGATION INTO THE APPLICATION AS IS DEEMED NECESSARY IN ORDER TO MAKE TIMELY DETERMINATION REGARDING THE APPLICATION.
- d) THE DIRECTOR OF PULCIC SAFETY SHALL PROVIDE WRITTEN DETERMINATION TO EACH APPLICANT AS TO THE REASON(S) ANY SUBMITTED APPLICATION FOR A MOBILE FOOD VENDING LICENSE IS NOT APPROVED.

761.04 APPLICATION FEE.

(a) EACH APPLICATION FOR A MOBILE FOOD VENDING LICENSE SHALL BE ACCOMPANIED BY A NON-REFUNDABLE APPLICATION FEE IN THE AMOUNT OF ONE HUNDRED DOLLARS (\$100.00) PER APPROVED PUBLIC EVENT OR TWENTY-FIVE DOLLARS (\$25.00) PER INDIVIDUAL PRIVATE EVENT FOOD VENDING UNIT APPEARANCE.

761.05 GENERAL REGULATIONS.

- a) No person shall cause a mobile food service operator to:
 - (1) Sell food items, display food items, or conduct vending operations to the occupants of vehicles stopped in traffic;
 - (2) Display food items or place lines or other devices for the display of food items on any building or on any utility pole, planter, tree, trash container, or other sidewalk fixture;
 - (3) Place any food items in or upon any street or sidewalk;

- (4) Leave a vending device unattended at any time during hours of operation UNLESS, THE MOBILE FOOD SERVICE OPERATION HAS AN EXISTING AGREEMENT TO PARTICIPATE IN A PERMITTED PARADE OR SPECIAL EVENT OR HAS OTHERWISE RECEIVED WRITTEN PERMISSION FROM THE DIRECTOR OF PUBLIC SAFETY.
 - (5) CONDUCT VENDING MORE THAN ONCE PER WEEK AT ANY ONE PROPERTY UNLESS ASSOCIATED WITH A SPECIAL EVENT REGISTERED WITH OR SPONSORED BY THE CITY.
 - (6) FOOD TRUCKS/FOOD TRAILERS MAY NOT BE PARKED OVERNIGHT AND MUST BE REMOVED FROM THE PROPERTY UNLESS ASSOCIATED WITH A SPECIAL EVENT REGISTERED WITH OR SPONSORED BY THE CITY.
 - (7) Utilize loudspeakers or other noise-making devices in such a way to create a nuisance IN COMPLIANCE WITH THE CITY'S NOISE/NUISANCE REGULATIONS; or
 - (8) SERVE ALCOHOLIC BEVERAGES FROM THE FOOD TRUCK/FOOD TRAILER WITHOUT PROPER LICENSE ISSUED BY THE OHIO DEPARTMENT OF LIQUOR CONTROL.
 - (9) Conduct business without making available a container suitable for the placement of litter.
- b) All mobile food service operations must:
- (1) Conspicuously display evidence of their mobile food service operation permit issued pursuant to this Chapter;
 - (2) Operate between the hours of 9:00A.M and 9:00 P.M. UNLESS, THE MOBILE FOOD SERVICE OPERATION HAS AN EXISTING AGREEMENT TO PARTICIPATE IN A PERMITTED PARADE OR SPECIAL EVENT OR HAS OTHERWISE RECEIVED WRITTEN PERMISSION FROM THE DIRECTOR OF PUBLIC SAFETY.
 - (3) Be constructed to internally store and contain all wastewater for proper disposal, to prevent ground water contamination, and to prevent discharge of any wastewater onto the ground or into any storm water sewer within the City;
 - (4) Obey any lawful order of a police officer to relocate to avoid congestion or obstruction during an emergency;
 - (5) Comply with all requirements of applicable state and local law, including, without limitation, the City's fire prevention code, the State of Ohio fire code, the Ohio Uniform Food Safety Code, and the City's traffic and zoning codes;
 - (6) Exercise reasonable care to ensure that operations do not create a health or safety hazard to customers, other users of the sidewalks and streets, or persons on abutting property; and
 - (7) Operate at all times in accordance with the Ohio Uniform Food Safety Code.

761.99 PENALTY.

A VIOLATION OF ANY SECTION OF THIS CHAPTER SHALL BE DEEMED A CRIMINAL VIOLATION AS FOLLOWS:

(a) WHOEVER VIOLATES SECTION 761.02 SHALL BE GUILTY OF A MISDEMEANOR OF THE FIRST DEGREE. ANY SUCH VIOLATION SHALL CONSTITUTE A SEPARATE OFFENSE ON EACH SUCCESSIVE DAY CONTINUED. STRICT LIABILITY IS INTENDED TO BE IMPOSED FOR A VIOLATION OF THIS SECTION.

(b) WHOEVER VIOLATES SECTION 761.03 SHALL BE GUILTY OF A MINOR MISDEMEANOR. STRICT LIABILITY IS INTENDED TO BE IMPOSED FOR A VIOLATION OF THESE SECTIONS.

(c) A VIOLATION OF ANY OTHER SECTION OF CHAPTER 761 MAY BE GROUNDS FOR THE SUSPENSION, REVOCATION OR PERMANENT REVOCATION OF THE MOBILE FOOD VENDING UNIT LICENSE OR IN THE CASE OF A NEW APPLICATION MAY BE GROUNDS TO REFUSE TO ISSUE SUCH LICENSE FOR

A DETERMINATE PERIOD OF TIME UP TO NINETY (90) DAYS OR PERMANENTLY, IN ADDITION TO ANY OTHER PENALTIES ESTABLISHED FOR SUCH VIOLATION IN APPLICABLE SECTIONS OF THE LYNDHURST CITY CODES.

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, that resulted in those formal actions, 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