

**CITY OF OBERLIN, OHIO**

**ORDINANCE No. 15-53 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

WHEREAS, Local restaurants support the local economy by providing local employment opportunities and support the City of Oberlin budget through the direct or indirect payment of property taxes and withholding of payroll taxes for their employees, and

BE IT ORDAINED by the Council of the City of Oberlin, County of Lorain, State of Ohio, a majority of all members elected thereto concurring:

SECTION 1: That Section 797 of the Oberlin Codified Ordinances adopting the regulations attached hereto as **Exhibit A** related to the operation of mobile food vehicles in the City of Oberlin, Ohio is hereby amended.

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.

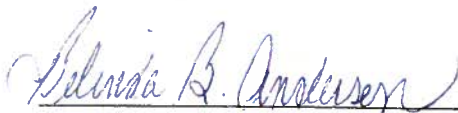
SECTION 3: That this ordinance shall take effect at the earliest date allowed by law.


PASSED: 1st Reading: October 5, 2015

2nd Reading: October 19, 2015(amended)

3rd Reading: November 2, 2015(tabled), November 16, 2015 (A)

ATTEST:

  
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BELINDA B. ANDERSON, MMC  
CLERK OF COUNCIL

  
\_\_\_\_\_  
H. SCOTT BROADWELL  
PRESIDENT OF COUNCIL

POSTED: 11/17/2015

EFFECTIVE DATE: 12/16/2015

## EXHIBIT A

### CHAPTER 797

# MOBILE FOOD VEHICLES

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#### 797.1 Purpose

The City of Oberlin recognizes and supports the vitality and activity that is created by outdoor business activities at special events 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.

The purpose of establishing these regulations is to create a pleasant and vibrant downtown environment for visitors and residents; to provide an opportunity for limited operations in residential 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 mobile food vehicles; and to establish minimum requirements for the operation of such vehicles related to their location, hours of operation, sanitation, cleanliness, etc.

#### 797.2 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.
- b) **Food Establishment** shall mean a business operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption.
- c) **Mobile Food Vehicle** shall mean a Food Establishment that is located upon a vehicle including motorcycles and bicycles, or which is pulled by a vehicle, where food or beverage is cooked, prepared, or served for individual portion service. This definition includes but is not limited to: mobile food kitchens, pushcart vendors, bicycle cart vendors, mobile food trucks, canteen trucks, and coffee trucks. This definition does not apply to "meals on wheels" program vehicles, ice cream trucks or food home delivery services.
- d) **Private Party** ~~shall mean A private party is~~ a social gathering on private property not open to the public ~~and where the food is provided to guests at no charge to the guests.~~
- e) **Special Event**, ~~for the purpose of this chapter, Special Event~~ shall mean any outdoor activity or series of outdoor activities open to the public specific to an identifiable time and place; most often produced in conjunction with community organizations; held on public property including street rights-of-way, non-profit organization property or non-residential private property; and generally occurring once a year and 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.

f) Seasonal Special Event Vendor Permit: Vendors anticipating operating at more than one Special Event in Oberlin during the course of the year may pay a one-time fee, following all required application and inspection requirements to be pre-approved for the year. Vendors must still be approved to participate by each Special Event organizer/sponsor and must notify the City Manager's Office one week in advance that they will be operating in Oberlin for specific Special Events.

### 797.3 Scope of Chapter

- a) The provisions of this section shall apply to mobile food operations for "Special Events" which receive a Special Event Permit from the City or for private parties as defined in this chapter.

### 797.4 Mobile Food Vehicle Permit Required

- a) No person or business entity, including a religious or charitable organization, shall operate a Mobile Food Vehicle in any public or private space without a permit issued by the City Manager.
- b) A Mobile Food Vehicle permit is required for each and every Mobile Food Vehicle.
- b)c) No permit is required for a Mobile Food Vehicle owned and operated in conjunction with a licensed, permitted restaurant when such Mobile Food Vehicle is operated on the private commercial property of the restaurant.

### 797.5 Application for a Mobile Food Vehicle Permit

- a) *Single Application.* There shall be made available by the City Manager a single application form to apply for each Mobile Food Vehicle permit. The application shall provide the following:
  - 1) A description of the necessary inspections and fees.
  - 2) A description of the areas of the City where the operation of Mobile Food Vehicles are limited or prohibited.
- b) *Submission of Materials.* Each application shall include the following materials:
  - 1) The name of the business and its owner or owners, the mailing address of the business, and mobile telephone number of the operator.
  - 2) A description of the proposed plan of operation for the Mobile Food Vehicle operation.
  - 3) A plan illustrating the proposed location(s) of the Mobile Food Vehicle.
  - 4) Certification that the Mobile Food Vehicle has passed all necessary inspections required by the City of Oberlin Fire Department and the Lorain County Health Department.

- 5) A certificate of insurance providing general liability coverage in the minimum amount of Two Million Dollars (\$2,000,000.00) in the aggregate in a form acceptable to the City.
- c) *Approval Process.* An application must be submitted to the City Manager.
- 1) The City Manager or his or her designee may work with the applicant or permit holder to modify a location(s) at any time: (i) before the issuance of a permit; (ii) after the issuance of a permit, it is determined that the granting of a permit or the approval of a location or service route constitutes a public nuisance or otherwise endangers public health, safety, or order or by the request of the permit holder.
  - 2) Within thirty (30) days of the submission of a completed application, the City Manager shall either issue or deny the application for a permit.
  - 3) If the application is denied in whole or in part, the City Manager shall state the specific reasons for the denial. Any applicant who has been denied a permit may appeal such denial by submitting a written appeal request to the Department of Planning and Community-Development within ten (10) days of the date of the denial. The appeal shall be heard by the Board of Zoning Appeals within thirty (30) days of receipt of said appeal upon procedures established by the Board of Zoning Appeals. The decision of the Board of Zoning Appeals may be appealed by the applicant or the City to Lorain County Common Pleas Court as is provided in Chapter 2506 of the Ohio Revised Code.

#### **797.7 Rules and Regulations**

- a) *General.* The following rules and regulations apply:
- 1) No operator of a Mobile Food Vehicle shall park, stand or move a vehicle and conduct business within areas of the City where the permit holder has not been authorized to operate for a Special Event or private party or gathering;
  - 2) The issuance of a permit does not grant or entitle the exclusive use of a location to the Mobile Food Vehicle permit holder, other than the time and place as approved for the term of the permit;
  - 3) No Mobile Food Vehicle shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, unless a proposal for such seating/standup arrangements is submitted with the permit application and approved by the City Manager.
  - 4) Permit holders shall provide customers with single service articles, such as plastic silverware and paper plates, and a waste container for their disposal. All Mobile Food Vehicles shall offer a waste container for public use that the operator shall empty at his or her own expense if not provided by the Special Event sponsor.
  - 5) No Mobile Food Vehicle 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 permittee shall employ the use of flashing or moving lights on or near a Mobile Food Vehicle as part of its operation.
  - 7) A Mobile Food Vehicle may not operate on public property, including right-of-way, unless the City Manager has otherwise granted approval on the Special Event Permit application for its operation at the particular location during specific times.

- 8) The City reserves the right to relocate a mobile food truck to an alternate location as determined by the City Manager if the approved location needs to be used for emergency purposes or other public benefit.
  - 9) Mobile Food Vehicles shall adhere to all applicable parking regulations for commercial vehicles.
- b) The operation of Mobile Food 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.
  - c) The Oberlin Fire Department shall inspect Mobile Food Vehicles to ensure compliance with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and codes. Inspections and approvals by the Oberlin Fire Department are valid for one year.

**797.8 Permit Fees**

- a) Application Fee. The application fee for a permit for a Special Event shall be fifty dollars (\$50) per day of the Special Event. ~~There shall be no application fee for a private party or gathering.~~
- b) Seasonal Special Event Fee. The one-time application fee for a Seasonal Special Event permit is \$125 for the calendar year.
- a)c) Exemptions. ~~There shall be no application fee for a private party or gathering. There shall be no application fee for permits for Mobile Food Vehicles owned and operated in Oberlin by Oberlin-based restaurants.~~

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**797.9 Prohibition Against the Transfer of a Permit**

- a) *Transfers for value prohibited.* No person holding a permit for a Mobile Food Vehicle shall sell, lend, lease or in any manner transfer a Mobile Food Vehicle permit except as provided for under (b) below.
- b) *Non-value transfers as part of the sale of a business.* Notwithstanding subsection 797.9(a), 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 food vehicle permit application for approval to the City Manager pursuant to the process set forth in subsection 797.5.
  - 2) Any such transfer shall be subject to the terms and conditions of the original permit.

**797.10 Operation of Mobile Food Vehicles**

- a) *Operation without permit.* Any Mobile Food Vehicle being operated without a valid Mobile Food Vehicle permit issued by the City Manager ~~and~~ may be charged with a violation of this Ordinance.

- b) *Unattended vehicles prohibited.* No Mobile Food Vehicle shall be parked on the street overnight, or left unattended and unsecured at any time food is kept in the ~~mobile-Mobile food-Food vehicle~~Vehicle. The owner or operator of any Mobile Food Vehicle found to be in violation of this subsection may be charged with a violation of this Ordinance.
- c) A Mobile Food Vehicle operating at an unauthorized location, or beyond the hours for which the Special Event or private party has been permitted, shall be deemed operating without a permit in violation of this section and may be subject to enforcement under subsection 797.11.

#### **797.11 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.* Once a permit has been issued it may be revoked or suspended, for failure to comply with the provisions of this chapter.
  - 1) Anyone holding a permit that has been revoked or suspended may within ten (10) days of notice of the same, appeal as is provided in paragraph 797.5 (c) (3) above. The City Manager may suspend a permit for no more than three (3) days without notice or hearing, if he or she notifies the permit holder in writing that there is a probability of a violation of public safety, health or order. In such a case, anyone holding a permit that has been suspended may request a hearing within seventy-two (72) hours of notice of the suspension in order to determine whether the suspension is justified.
  - 2) A violation of the rules and regulations under this chapter shall be grounds for the revocation of a permit issued by the City Manager.

#### **797.12 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.

#### **797.13 Penalty**

- a) A violation of this Chapter shall constitute an unclassified misdemeanor and shall be punishable as provided in Section 501.02 of the Codified Ordinances of the City of Oberlin.
- b) Each day that a permit holder is in violation of this chapter is a separate offense or violation.