

# RECORD OF ORDINANCES

Ordinance No. 2021-O-05

Passed April 26, 2021  
YEAR

## VILLAGE COUNCIL OF NORTH FAIRFIELD, OHIO ORDINANCE NO. 2021-O-05

AN ORDINANCE AMENDING TITLE XI BUSINESS REGULATIONS OF THE NORTH FAIRFIELD CODE OF ORDINANCES BY ADDING CHAPTER 115 REGULATING TRANSIENT FOOD VENDORS AND DECLARING AN EMERGENCY

WHEREAS, Village Council desires to regulate Transient Food Vendors doing business in the Village; and

WHEREAS, Section 715.24 of the Ohio Revised Code provides that any municipal corporation may regulate, license, or prohibit the selling of goods, merchandise, or medicines on the streets.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF NORTH FAIRFIELD, STATE OF OHIO: (RC 731.18)

SECTION 1: That Title XI Business Regulations of the North Fairfield Code of Ordinances by adding Chapter 115 Regulating Transient Food Vendors as follows:

### ***CHAPTER 115 - TRANSIENT FOOD VENDORS***

#### ***115.01 PURPOSE.***

*The purpose of this Chapter is to provide regulation of mobile food vendors operating within the Village of North Fairfield.*

#### ***115.02 DEFINITIONS.***

*As used in this Chapter:*

*(a) "Mobile Food Unit" means any vehicle, apparatus, or equipment that is used to prepare, cook, or serve food primarily for immediate consumption, that routinely changes or can change location and is operated from a moveable vehicle or apparatus, including but not limited to food trucks, trailers, pushcarts, canteen trucks and coffee trucks.*

*(b) "Mobile Food Unit" does not include "Meals on Wheels", ice cream trucks, home delivery of food, or mobile canteens set up by emergency or non-profit agencies for the purpose of providing relief during an emergency or natural disaster.*

*(c) "Public property" includes all public streets, sidewalks, roadways, highways, parkways, alleys, public parks, public parking lots, any other public way, and any other*

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*property owned, leased or operated by the Village.*

*(d) "Vendor" means any person, firm, partnership, corporation or other business engaged in the displaying, selling, offering for sale, or soliciting orders for the sale, of food or beverages from a mobile food unit.*

## **115.03 REGISTRATION AND PERMIT REQUIRED.**

*(a) No Vendor shall operate a mobile food unit with the Village, without having first registered and obtained and maintained a current permit in accordance with this Chapter.*

*(b) No Vendor, having obtained a permit in accordance with this Chapter, shall operate a mobile food unit except in accordance with the terms of the permit.*

## **115.04 REGISTRATION, APPLICATION AND FEE.**

*(a) Any person, firm, partnership, corporation, or other business desiring to act as a Vendor within the Village shall complete and submit a registration and application form at the Village Hall/Offices. Such registration and application shall be under oath as to the information contained therein and shall contain the following:*

- (1) Name, date of birth, address and telephone number of the person/entity who will own and/or operate the mobile food unit;*
- (2) A description of the mobile food unit to be used together with a photograph thereof;*
- (3) A description of the nature of the business and the goods or services to be sold;*
- (4) The make, model, year and current registration number of the mobile food unit;*

*(b) The registration and application shall be accompanied by a fee in the amount of one hundred dollars (\$100.00) which shall be non-refundable.*

*(c) No person shall submit a registration and application containing false or misleading information.*

## **115.05 ACTION UPON APPLICATION.**

*(a) Within fourteen (14) business days from the date of application, the Mayor, Village Administrator or designee, shall review the application and approve or reject the same.*

*(b) If the application is approved, the Mayor, Village Administrator or designee, shall issue a Vendor's Permit and proceed in accordance with Section 115.05(d).*

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(c) *If the application is denied, the Mayor, Village Administrator or designee, shall, in writing, notify the applicant of the rejection and the reasons for the rejection. Said notice shall be sent by regular U.S. mail to the address listed on the application as the applicant's home address. Upon receipt of such notice, the applicant may request a hearing on the rejection by written request served upon the Mayor, Village Administrator or Fiscal Officer within ten (10) days of the mailing of the notice of rejection. Upon timely receipt of a request for hearing, the Mayor or Village Administrator shall conduct such a hearing within five (5) days shall re-evaluate the application taking into consideration any additional information provided and proceed to either approve or deny the application. The Mayor or Village Administrator shall issue a written decision within thirty (30) days of the hearing. The decision shall be sent to the applicant by regular U.S. mail to the address listed on the application as the applicant's home address.*

(d) *Upon approval of the application, the Mayor, Village Administrator or designee shall issue a Vendor's Permit to the applicant and enter each permit into a Registry of Vendors to be maintained by the Fiscal Officer / Council Clerk.*

## **720.06 DURATION OF PERMITS, REVOCATION.**

(a) *Permits issued pursuant to this Chapter shall be valid for a period of one (1) year from date of issuance unless revoke pursuant to this Chapter.*

(b) *The Mayor or Village Administrator may revoke any permit if he/she determines that:*

- 1) the permit holder provided false information during the application process; or*
- 2) the permit holder has violated any provision of this Chapter; or*
- 3) the permit holder has been convicted of any felony or misdemeanor involving fraud, theft, or dishonesty in connection with the mobile food unit business; or*
- 4) the permit holder is conducting the permitted business in such a manner as to constitute a nuisance; or*
- 5) the permit holder is unable to provide proof of any necessary documentation required by any applicable Department of Health.*

## **115.07 MOBILE FOOD UNITS ON PUBLIC PROPERTY.**

(a) **PERMIT.** *No Vendor shall operate a mobile food unit on public process without a permit providing for such operations issued by the Safety/Service Director. Said permit shall set forth the location, dates and times operations on public property are permitted.*

(b) **UTILITIES.** *In the event a Vendor desires to operate a mobile food unit on*

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*public property and secure access to electric and/or water utility services from the Village, the Vendor shall pay a fee of thirty-five dollars (\$35.00) per day for utilities. The fees shall be in addition to the registration fee paid under Section 115.04 and shall cover the costs of the use of the public property and the costs of utilities, if utilized by the Vendor.*

*(c) **INSURANCE.** Any Vendor operating a mobile food unit on public property shall, at the time of application, furnish proof of an insurance policy, issued by an insurance company licensed to do business in the State, protecting the licensee and the Village from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the license, in an amount of not less than one million dollars (\$ 1,000,000). Such insurance shall name the City as an additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty days advance written notice to the Village.*

## **115.08 PROHIBITIONS.**

*(a) No Vendor shall conduct sales of alcoholic beverages in contravention of state or local law.*

*(b) No Vendor shall operate a mobile food unit for which a permit or license is required by any applicable local, state or federal law or regulation without first obtaining such permit or license.*

*(c) No Vendor shall operate a mobile food unit in violation of any provision of this Chapter.*

*(d) Except where the property involved is public property or when authorization has been obtained pursuant to Section 115.09, no Vendor shall operate a mobile food unit from property or in areas zoned R-1, R-2, or R-3.*

*(e) No Vendor shall operate a mobile food unit prior to 06:00 a.m. or after 12:00 a.m. except when operated as part of an organized festival authorized by the Village.*

*(f) No Vendor operating a mobile food unit shall fail to relocate his/her mobile food unit to an alternate location if the Vendor's current location is required by the Village for public safety, emergency, or other public benefit or purpose.*

*(g) No Vendor operating a mobile food unit shall utilize any free-standing signage except one (1) menu board with a maximum size of six (6) square feet placed immediately adjacent to the mobile food unit.*

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## ***115.09 OPERATION IN RESIDENTIAL DISTRICTS.***

*The Mayor or Village Administrator may authorize the operation of mobile food units on non-public property zoned or located in areas zoned R1, R-2, or R-3 in conjunction with private or public events otherwise permitted in such zones. The Mayor or Village Administrator shall place reasonable regulations upon such operations. No mobile food unit shall be operated pursuant to this section before 10:00 a.m. or after 11:00 p.m.*

## ***115.99 PENALTY AND ENFORCEMENT.***

*(a) Whoever violates Sections 720.03 shall be guilty of a minor misdemeanor. Each sale or attempted sale made by any person in violation of said Sections shall be deemed a distinct and separate offense. Having previously been convicted of a violation of this Section, each subsequent offense shall be a misdemeanor of the fourth degree.*

*(b) Whoever violates any other provisions of this chapter shall be guilty of a misdemeanor of the fourth degree on the first offense. Each sale or attempted sale made by any person in violation of this chapter shall be deemed a distinct and separate offense.*

*(c) Upon conviction of any person under this Chapter, the Village shall revoke the registration and permit of any such person. Any person convicted of a violation of this Chapter shall be prohibited from obtaining a registration card or permit for a period of five (5) years following the date of the conviction.*

SECTION 3. CODIFICATION. That the Clerk is hereby authorized and directed to submit this legislation upon adoption to the village codification service.

SECTION 4. DISPENSE WITH THREE READINGS. [R.C. 731.17(A)(2)] That the legislative authority, upon a vote of at least three-fourths of its members, hereby dispenses with the rule requiring each ordinance or resolution shall be read on three different days.

SECTION 5. DECLARATION OF EMERGENCY FOR IMMEDIATE EFFECT. That by two-thirds vote of all the members elected to the legislative authority, this Ordinance/Resolution is hereby declared to be an emergency measure pursuant to RC 731.30, being necessary for the

immediate preservation of the public peace, health, or safety of the municipal corporation and shall go into immediate effect for the following reason(s): *To effect regulations for Spring 2021*

SECTION 6. PUBLIC MEETING. That it is found and determined that all formal actions of this public body concerning or relating to the passage of this Resolution / Ordinance were adopted in a public meeting open to the public at all times, and that all deliberations of the public

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body and any of its committees that resulted in such formal action, were in public meetings open to the public, in compliance with all legal requirements including all lawful ordinances and any applicable provisions of Section 121.22 of the Ohio Revised Code.

WHEREFORE, this legislation shall be in full force and effect from and after the earliest period allowed by law.

PASSED AND ADOPTED on this 26 day of April, 2021.

## AUTHENTICATION and ATTESTATION (RC 731.20)

We hereby attest and affirm that the foregoing Ordinance/Resolution received the necessary affirmative roll call votes required for passage by R.C. 731.17.

  
MAYOR

  
FISCAL OFFICER

Vote on the passage was taken by yeas and nays and entered upon the journal as follows R.C. 731.17(A)(3):

YEAS: 6 NAYS: 0 ABSTAIN: 0

First Reading: April 26, 2021  
Second Reading: Dispensed [may be dispensed by a vote of at least three-fourths of members. R.C. 731.17(A)(2)]  
Third Reading: Dispensed [may be dispensed by a vote of at least three-fourths of members. R.C. 731.17(A)(2)]

PREPARED BY AND APPROVED AS TO FORM [See also 731.21(B)]:

  
VILLAGE CLERK, Steve Palmer

## CERTIFICATE OF POSTING (RC 731.25)

I hereby certify that pursuant to R.C. 731.25, a succinct summary of the above legislation was posted in not less than five of the most public places in the municipal corporation as determined by the legislative authority (See Ord 2019-O-12) for a period of not less than fifteen days prior to the effective date at the following locations:

- 1) Fiscal Officer Office, 3 East Main St., North Fairfield, Ohio; and
- 2) North Fairfield Village Hall, 3 East Main St., North Fairfield, Ohio; and
- 3) North Fairfield Public Library, 5 East Main St., North Fairfield, Ohio; and
- 4) North Fairfield Post Office, 1 North Main St., North Fairfield, Ohio; and
- 5) Electronically online at official Village website

  
FISCAL OFFICER