

CITY OF FOSTORIA, OHIO

Ordinance No.: 2019 - _____

Introduced by: _____

Requested by: SSD

AN ORDINANCE

Enacting new Chapter 745 of the Codified Ordinances of the City of Fostoria, Ohio entitled "Mobile Food Vendors, Peddlers, Solicitors, and Itinerant Merchants".

WHEREAS, the Director of Public Service and Safety has determined that it is necessary for the City of Fostoria to regulate the use of Mobile Food Vendors, Peddlers, Solicitors, and Itinerant Merchants.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Fostoria, Seneca, Hancock, and Wood Counties, Ohio:

SECTION 1: The Codified Ordinances of the City of Fostoria, Ohio be, and the same hereby is, amended by adding thereto a new chapter, 745, "Mobile Food Vendors, Peddlers, Solicitors, and Itinerant Merchants, which shall read as follows:

CHAPTER 745: MOBILE FOOD VENDORS, PEDDLERS, SOLICITORS, AND ITINERANT MERCHANTS

Section

745.01 Definitions

745.02 License required

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745.04 Mobile food vendors

745.05 Peddlers, solicitors, and itinerant merchants

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745.01 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

GOODS or **WARES**. Any item of personal property, including, but not limited to, merchandise, appliances, magazines, magazine subscriptions, books, photographs, and produce, but excluding newspapers.

ITINERANT MERCHANT or **VENDOR**. A person with a fixed place of business who has been located in the city for a period of less than one year and who offers for sale goods or wares.

MOBILE FOOD VENDOR. A food sales business that is operated from a movable vehicle or portable structure.

PEDDLER. A person with no fixed place of business who carries wares or goods with him or her which he or she is prepared to sell at the time he or she solicits business and who deals primarily with consumers.

SOLICITOR or CANVASSER. A person with no fixed place of business who deals primarily with consumers and who takes orders for goods for future delivery or for personal services to be furnished in the future, whether by telephone or by house-to-house or business-to-business canvassing.

745.02 LICENSE REQUIRED.

No peddler, solicitor, canvasser, mobile food vendor, or itinerant merchant shall solicit sales of, sell, offer for sale, barter, or exchange goods, wares, or personal services without first obtaining from the Safety Service Director a license to do so.

745.03 EXCEPTIONS.

(A) With the exception of mobile food vendors, no owner of any product of his or her own raising, or the manufacturer of any article manufactured by him or her, need obtain a license to vend or sell, by himself, herself or his or her agent, any such article or product, nor shall the licensing provisions of this chapter apply to persons selling by sample only.

(B) The licensing provisions of this chapter shall not apply to a person making delivery of goods, wares, or merchandise theretofore sold by an establishment having a permanent place of business; or to a person making delivery of the following items of daily household consumption: baked goods, fruits and vegetables, or dairy products; or to a person soliciting the purchase of goods, wares, merchandise, or gifts for or on behalf of any recognized educational, civic, religious, or charitable organization.

745.04 MOBILE FOOD VENDORS.

(A) All mobile food vendors must maintain the clear distance.

(B) *Permit required.* Mobile food vendor permit is required for the sale of food by a mobile food business on public or private property selling to the general public. An application must be filed in the Safety Service Director's Office and shall include the following minimum requirements:

- (1) Copy of current/valid State of Ohio mobile food vendor license (front and back);
- (2) Proof of registration with city's Income Tax Division;
- (3) Proof of current liability insurance of at least \$1,000,000;
- (4) Plan for power and water;

(5) Payment of fee as

(6) Pass a fire safety code inspection conducted by the Fire Division.

(7) An applicant with an existing permanent place of business in the city is exempted from the fee and proof of registration with the city's Income Tax Division.

(C) *Public property operation.*

(1) Vendors are prohibited from operating from on-street parking locations on Main Street and within city-owned parking lots; unless as part of an authorized mobile food vendor special event permit or special event permit.

(2) On-street parking operation: All parking and traffic laws must be followed, no additional seating or tables may be utilized; external signs must conform to the city zoning laws.

(3) Sidewalk operation: Vendor must maintain a four-foot path that is free and clear for pedestrian traffic, and shall not place additional seating or signage on the sidewalk.

(D) *Mobile food vendor special event permit.* This permit, to be obtained in the office of the Safety Service Director, shall provide for permitting of events centering on mobile food vendors. It is not required that each individual vendor, operating as part of an approved mobile food vendor special event permit, carry a mobile food vendor permit as described in § 745.04(B); however, every vendor shall successfully pass a fire safety code inspection conducted by the Fire Division. The applicant for the mobile food vendor special event permit is responsible to confirm that all participating vendors have proper licensing with the State of Ohio.

(1) *Mobile food vendor special event permit on private property.* Applicant must complete permit application and pay the fee.

(2) *Mobile food vendor special event permit on public property.* In addition to the permit application and the fee, a proposed gathering on public property shall also meet the following minimum requirements:

(a) The applicant shall also deposit, before the license is issued, the sum of \$100 to guarantee the cost of cleaning the premises and removing any property therefrom after the termination of the business. If the premises on which the business is conducted are not cleaned and all merchandise, property, refuse, and temporary structures are not removed therefrom and properly disposed of within 48 hours after the termination of the business, the Safety Service Director shall immediately cause such work to be done and report the cost thereof to the Auditor, who shall deduct the cost and return any balance of the deposit. The licensee shall be liable for any deficiency.

(b) Plan for electrical and water service must be submitted to the Safety Service Director.

(c) If external signage or seating is requested, the plan must be submitted as part of the application.

(d) Proof of liability insurance of at least \$1,000,000.

(e) Organizers may not charge an admission or cover charge for events to be held on public property.

(E) In all instances, the Safety Service Director or designee shall have the authority to remove a food vendor, whether on public property or private property when selling to the general public, when said vendor's operation is deemed a safety concern.

745.05 PEDDLERS, SOLICITORS, AND ITINERANT MERCHANTS.

(A) Licenses for peddlers, solicitors, and itinerant merchants shall be obtained from the Safety Service Director.

(B) The application shall be made at least ten days before the license is required.

(C) Permit fee must be paid.

(D) The applicant is required to provide proof that he or she has filled out all necessary forms with the city's Income Tax Division.

(E) Licenses shall expire on December 31 of the year in which the license is issued.

(F) The license shall be exhibited in the place of business by itinerant merchants, shall be carried by any peddler or solicitor at all times when peddling or soliciting, and shall be exhibited to any person solicited or any police officer on request.

(G) Any applicant who has applied for a license in accordance with this chapter, and to whom the Safety Service Director has, after investigation, denied a license, shall be entitled to appeal to Council. Notice of the appeal shall be filed with the Clerk of Council within five days after the denial of the license by the Safety Service Director. Council, on appeal, may grant or reject the application for a license.

(H) All business done under a license issued under this chapter shall be conducted between the hours of 10:00 a.m. and 5:00 p.m. on weekdays. No business shall be conducted on Sunday or on any federal holiday.

(I) No peddler, canvasser, or solicitor shall knock at the door of or ring the bell of any private home, apartment, or apartment building in the city where there is displayed at the entrance a notice reading "No Solicitors, Peddlers, or Canvassers Allowed," or which otherwise clearly purports to prohibit persons from doing so, unless the person is or has been invited upon the premises by the owner, lessee, or occupant thereof.

(J) No peddler, solicitor, or canvasser shall vex, annoy, or harass any person by importuning the person to purchase or to look at his or her goods or wares; nor shall

any peddler, solicitor, or canvasser enter any private house or residence without being invited to come in.

(K) The applicant shall also deposit, before the license is issued, the sum of \$100 to guarantee the cost of cleaning the premises and removing any property therefrom after the termination of the business. If the premises on which the business is conducted are not cleaned and all merchandise, property, refuse, and temporary structures are not removed therefrom and properly disposed of within 48 hours after the termination of the business, the Safety Service Director shall immediately cause such work to be done and report the cost thereof to the Auditor, who shall deduct the cost and return any balance of the deposit. The licensee shall be liable for any deficiency.

745.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the fourth degree. Each day's continued violation shall be a separate offense.

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

SECTION 3: That in order to preserve the public peace, health, safety and welfare of the City of Fostoria and its inhabitants, this measure shall take effect at the earliest time allowed by law after its passage for the reason that this ordinance is necessary for the inhabitants of the City of Fostoria.

THEREFORE, upon the affirmative vote of two-thirds (2/3) of all members elected to Council, and signature by the Mayor, this ordinance shall go into immediate force and effect.

Passed this _____ day of _____, 2019.

Steve Kauffman, Council President

ATTEST:

Tamara L. Drake, Clerk of Council

Filed with me and approved by me this _____ day of _____, 2019.

Eric J. Keckler, Mayor