

ORDINANCE NO. 2018-32

INTRODUCED BY: COUNCILWOMAN WEISS

**AN ORDINANCE ENACTING CODIFIED ORDINANCE CHAPTER
880 ENTITLED "MOBILE RETAIL FOOD ESTABLISHMENTS,"
AND DECLARING AN EMERGENCY.**

WHEREAS, the City wishes to allow for the presence of mobile retail food establishments, commonly known as food trucks, throughout the City; and

WHEREAS, the City wishes to enact reasonable regulations governing the business and operations of mobile retail food establishments;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY HEIGHTS, OHIO THAT:

Section 1. City Council hereby enacts Codified Ordinance Chapter 880 entitled "Mobile Retail Food Establishments," which shall read in its entirety as follows:

**CHAPTER 880
Mobile Retail Food Establishments**

880.01 Definitions

880.02 Permits and Fees

880.03 Location Restrictions

880.04 Regulations

880.01 DEFINITIONS

The following terms shall have the meanings ascribed to them as follows.

- (a) "Mobile retail food establishment" means a retail food establishment that is operated from a movable vehicle or other portable structure, and that routinely changes location.
- (b) "Vendor" means a mobile retail food establishment or a person operating a mobile retail food establishment.

880.02 PERMITS AND FEES

- (a) No vendor of a mobile retail food establishment shall sell, offer for sale or display food items from City streets, rights-of-way or property without first obtaining a permit from the City Building Department.
- (b) An application for a permit under this section shall be made upon a form prescribed by the Building Commissioner and shall contain the following:
 - (1) The vendor's name, address, phone number, email address, and mobile retail food establishment license number;
 - (2) The vendor's Tax identification number;
 - (3) Proof of a City income tax filing number or exemption from the City of University Heights income tax;
 - (4) Proof that the vendor is current and compliant in the payment of any City of University Heights taxes on payroll and net profits at the time such proof is submitted; or if the vendor is not current and compliant in the payment of any City of University Heights taxes on payroll and net profits, that vendor has entered into an agreement to pay any delinquency and is abiding by the terms of the agreement at the time such proof is submitted;
 - (5) A description of the mobile retail food establishment, including the dimensions;
 - (6) A description of the items to be offered for sale;

(7) A copy of the vendor's mobile retail food establishment license issued pursuant to Ohio Revised Code Section 3717.43;

(8) A certificate of insurance, or an acknowledgment thereof, by an insurance carrier licensed to do business on this state, evidencing comprehensive general liability coverage in the amount of one million dollars (\$1,000,000.00) to protect against damage to property and/or persons resulting from the operation of the mobile retail food establishment and naming the City of University Heights as an additional insured;

(9) A non-refundable application fee of ten dollars (\$10.00) per day requested under the permit, provided, however, that any mobile retail food establishment invited by an authorized City official either to attend a City-sponsored event and/or to serve food on City owned or controlled property shall not be obligated to pay any fee hereunder;

(10) A description of the date, time and location proposed for operation of the mobile retail food establishment;

(11) Any other information the Building Commissioner may require.

(c) Upon receipt of a permit under subsection (b) hereof, the permittee-vendor may operate the mobile retail food establishment on the date, at the times, and at the location as specified in the permit.

(d) Permits issued hereunder shall expire in accordance with the terms set forth in the permit.

(e) The Building Commissioner may suspend or revoke any permit granted under this section on the basis of a violation of any provision of this chapter.

(f) A mobile retail food establishment and/or vendor shall be obligated to fill out an application and provide the required information at least once each calendar year, and the City Building department shall keep said application and related information on file. A mobile retail food establishment shall be required to obtain a permit and pay the required permit fee set forth in subsection 9 hereof each time it operates within the City.

880.03 LOCATION RESTRICTIONS

(a) No vendor shall be permitted to operate a mobile retail food establishment on public property in the following locations:

(1) On public sidewalk;

(2) Within ten (10) feet of a fire hydrant, bus stop, mailbox, building entrance, fire exit or escape, or a police or fire call box;

(3) Within fifty feet of a gas station;

(4) In a location where on-street parking is prohibited; or

(5) Within five (5) feet of another mobile retail food establishment.

(b) A mobile retail food establishment vendor shall comply with all state and local traffic laws.

880.04 REGULATIONS

Mobile retail food establishments shall operate in accordance with the regulations of this section and as otherwise provided in this code.

(a) No mobile retail food establishment vendor shall do any of the following:

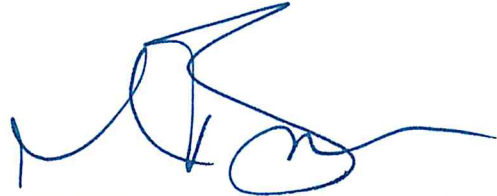
(1) Sell food items, display food items or conduct vending operations to the occupants of vehicles stopped in traffic;

- (2) Display food items or place lines or other devices for 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) Operate any vending device that does not comply with the Liquefied Petroleum Gas Code, NFPA 58, as promulgated by the National Fire Protection Association;
 - (5) Leave a vending device unattended at any time;
 - (6) Make any loud or unreasonable noise for the purpose of advertising or drawing attention to its mobile food service operations or for any other purpose;
 - (7) Conduct business without making available a container suitable for the placement of litter or garbage;
 - (8) Throw or deposit any merchandise, packaging, containers, fat, grease, paper or other litter on any streets or sidewalk or in any sewer;
 - (9) Place or affix any advertising material or signage to any location other than flat upon the vending device being used in its operations;
 - (10) Use or place on-site amenities like tables and chairs outside of the mobile retail food establishment.
- (b) All mobile retail food establishments shall:
- (1) Park parallel to the curb and operate toward the sidewalk;
 - (2) Operate only between the hours of 8:00 a.m. and 12:00 a.m.;
 - (3) Obey any lawful order of a police officer to remove himself or herself and the vending device to avoid congestion or obstruction during an emergency;
 - (4) Comply with zoning regulations, among other laws, if on private property;
 - (5) Exercise reasonable care to ensure that their operations do not create a health or safety hazard to customers, other users of the sidewalks and streets or persons abutting property;
 - (6) If operating on private property, maintain documentation of the operator's ownership, or if the operator is not the owner of the private property, documentation, signed by the property owner, of the operator's right to operate on the property;
 - (7) Obey all federal, state and local laws; and
 - (8) Maintain general liability insurance coverage in the amount of one million dollars (\$1,000,000.00) per occurrence, to protect against damage to property and/or persons resulting from the operation of the mobile retail food establishment.

Section 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage 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 action, were in meetings open to the public, in compliance with all legal requirements.

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, the emergency being the need to allow for the issuance of mobile retail food establishment permits in a timeframe that will allow residents to enjoy the benefits if such establishments during the Summer months; wherefore, this ordinance shall be in full force and effect from and immediately after its adoption and approval by the Mayor.

CITY OF UNIVERSITY HEIGHTS, OHIO



MICHAEL DYLAN BRENNAN, MAYOR

PASSED: *June 4, 2018*

ATTEST:



KELLY M. THOMAS, CLERK OF COUNCIL

APPROVED AS TO FORM:



LUKE F. MCCONVILLE, LAW DIRECTOR