

Charter Township of Orion

Ordinance No. 162

Orion Township Mobile Food Establishment Ordinance

Adopted April 4, 2022

AN ORDINANCE TO ESTABLISH REGULATIONS FOR MOBILE FOOD ESTABLISHMENTS TO ENSURE THE SAFE AND ORDERLY OPERATION OF MOBILE FOOD ESTABLISHMENTS WITHIN THE TOWNSHIP; TO ESTABLISH ADMINISTRATION OF THIS ORDINANCE; AND TO PROVIDE PENALTIES FOR AND ENFORCEMENT OF VIOLATIONS OF THIS ORDINANCE.

ARTICLE I – DEFINITIONS

The following words, terms, and phrases, when used in this Ordinance, shall have the following meanings:

“**Mobile Food Establishment**” licensed and operable motor vehicle or trailer, which includes any commercial kitchen equipment used for cooking that operates in a transient or static location and involves the preparation, cooking, and sale of food and/or nonalcoholic beverages in a ready-to-consume state for consumption either on or off the premises, but not within the motor vehicle and/or trailer.

“**Applicant(s)**” shall mean an individual, corporation, association, partnership, trust, firm, or similar entity.

ARTICLE II – PURPOSE AND SCOPE

Section 1

Purpose. The intent and purpose of this Ordinance is to ensure the safe and orderly operation of Mobile Food Establishments within the Township.

Section 2

Scope. This Ordinance shall apply to all Mobile Food Establishments engaged in the business of cooking, preparing, selling, or distributing food or beverages, with or without charge, upon or in public or private spaces within the Township and where cooking appliances and domestic cooking appliances used for commercial purposes that produce grease or smoke as a result of the cooking process.

ARTICLE III – GENERAL PROVISIONS

Section 1

Mobile Food Establishments shall comply with the following standards:

- (a) Property Owner Permission. Mobile Food Establishments operating on private or public property must receive the property owner’s written consent prior to operation.
- (b) Location. Mobile Food Establishments that meet the standards of this Ordinance may be permitted in all zoning districts, unless restricted, prohibited, or otherwise regulated by the Township Zoning Ordinance or any other applicable Township Ordinance.
- (c) Insurance. All Mobile Food Establishments shall have proper vehicle registrations and current/valid registration plates. All vehicles shall be properly insured in accordance with state law.
- (d) Alcoholic Liquor. Mobile Food Establishments shall not serve alcoholic liquor or allow the consumption of alcoholic liquor in their service area(s) or dining area(s) unless Applicant has obtained all appropriate permits required by the State of Michigan and any necessary approvals from the Township, pursuant to Charter Township of Orion Ordinance No. 76.
- (e) Service Area. The area(s) where customers stand in line to place or pick up an order ("service areas") for Mobile Food Establishments shall not be located on a street, road, or within the road right of way, and, if in a parking lot, shall be located a safe distance from the travel lanes of a parking lot. Allowable Service Areas are subject to Township Fire Department approval.
- (f) Dining Areas. The area(s) where customers may sit or stand at tables to consume food or beverages ("dining areas") shall

not be located on a street, road, or within the road right of way, and, if in a parking lot, shall be located a safe distance from the travel lanes of a parking lot. Allowable Dining Areas are subject to Township Fire Department approval.

- (g) Preparation and Storage. Food shall not be prepared, sold, or displayed outside of the mobile food Establishment as set forth below.
 - (1) Materials, Food, and Supplies. All materials, food, and supplies must be stored within a Mobile Food Establishment, or may be adjacent to a Mobile Food Establishment, if in an enclosed container. Food and condiments may be displayed on shelving attached to the Mobile Food Establishment.
- (h) Obstructions. Mobile Food Establishments and their respective service areas and dining areas shall not obstruct or impede vehicular, pedestrian, or non-motorized travel or movement, nor create visual obstructions for vehicular traffic.
- (i) Waste. Waste associated with Mobile Food Establishments shall be managed as set forth below.
 - (1) Waste Container. Mobile Food Establishments must be equipped with sufficient garbage or refuse containers to handle their waste, including one provided for patrons.
 - (2) Daily Cleaning. All waste, spilled food, food byproducts, and litter left by customers associated with each Mobile Food Establishment (collectively "waste"), shall be cleaned up and collected, and thereafter properly and lawfully disposed of, by the Mobile Food Establishment operator at least daily.
 - (3) Dumping of Fluids. Dumping of gray water, grease, or any other fluid onto land or any street or into any storm sewer is prohibited.
- (j) Fire Code. Mobile Food Establishments shall be subject to an annual inspection by the Orion Township Fire Department to confirm compliance with Michigan Fire Protection Code standards, including, but not limited to, standards required for fire extinguishers, fire extinguishing systems, compressed gas/liquid propane gas, generators, electrical, location, and general fire safety.
- (k) Water. Mobile Food Establishments shall not be temporarily connected to a water source unless the Applicant provides verification to the Township that it is a potable water source.
- (l) Sewer. Mobile Food Establishments shall not be connected to sanitary or storm sewer facilities.
- (m) Wheel Chocks. Mobile Food Establishments shall use wheel chocks while parked to prepare or distribute food.
- (n) Display of Permits. Mobile Food Establishments shall prominently display any required permits and licenses while in operation.

ARTICLE IV – PERMITS

Section 1

It shall be a violation of this Ordinance to operate a Mobile Food Establishment without the necessary licenses, permits, and approvals, as set forth below.

- (a) Mobile Food Establishment Permit. Open Mobile Food Establishments shall obtain a permit on an annual basis as set forth in more detail below, which shall be valid for one (1) calendar year, provided that the Applicant remains in compliance with the permit requirements.
- (b) Oakland County Health Department Permit. All Mobile Food Establishments must obtain and maintain any permits and approvals required by the Oakland County Health Department.
- (c) State of Michigan. All Mobile Food Establishments must obtain and maintain any permits, licenses, and approvals required by the Michigan Department of Agriculture and Rural Development.

- (d) Others. All Mobile Food Establishments must obtain and maintain any other permits, approvals, or licenses required by law.
- (e) Transferability. A license or permit issued under this Ordinance shall not be transferred from person to person or to another Mobile Food Establishment.

Section 2 – Administration

This Ordinance shall be administered by the Fire Chief and/or their designee, as outlined below.

- (a) Order of Process. The following shall be the order of process in obtaining a Mobile Food Establishment Permit:
 - (1) Applicant submits permit application to the Fire Department;
 - (2) Fire Department schedules an inspection with the Applicant.
 - (3) Fire Department conducts the inspection.
 - (4) If the Mobile Food Truck Establishment meets all requirements of this Ordinance, the Zoning Ordinance, and/or Outdoor Assemblies Ordinance (where applicable), the Fire Department shall issue a permit under this Ordinance. The Fire Department shall also provide the applicant with a Mobile Food Truck sticker and applicant shall prominently display its sticker on the outside of the Mobile Food Establishment;
- (b) Mobile Food Establishment Permit Application. A Mobile Food Establishment permit shall include the following materials:
 - (1) A signed and completed Application form;
 - (2) Description of the proposed event(s);
 - (3) Depictions of all locations where the Mobile Food Establishment will be parked and providing services and where dining areas will be located, and, if in a parking lot, how the service/ dining areas will be delineated for safety purposes;
 - (4) Any necessary written permission from property owners;
 - (5) A fee, as adopted by resolution of the Township Board; and
 - (6) Any additional information necessary to determine compliance with this Ordinance and other applicable ordinances, laws, permits, and regulations.
- (c) Timely Submission. Mobile Food Establishments shall submit a permit application two (2) business days before any needed inspection to operate. In the event an Applicant requests a permit for a Mobile Food Establishment and is in need of an inspection with less than two (2) business days' notice, the Applicant shall be subject to payment of an increased permit fee as set forth by Resolution of the Township Board.
- (d) Complete and Accurate. Submission of an Application constitutes a representation that all of the information is complete and accurate.
- (e) Issuance. Annual Mobile Food Establishment Permits shall be issued by the Fire Chief and/or their designee after the permit Applicant has passed an inspection conducted by the fire department. All permits issued by the fire department shall expire on December 31st of every calendar year as long as the Applicant remains in compliance with the provisions of this Ordinance and other applicable ordinances, permits, regulations, and laws. The review shall be conducted in consultation with the Fire Chief or their designee and other applicable entities and agencies.
- (f) Operating without a Permit. In the event a Mobile Food Establishment is found to be operating without a permit, it shall constitute a violation of this Ordinance and shall constitute a civil infraction as defined by Michigan law and shall be subject to a civil fine of not more than five hundred (\$500.00) dollars, as set forth in sec. 3 of this Ordinance. Prior

violation(s) of this Ordinance, or operating without a permit, if repeated and demonstrates a disregard for the requirements of this Ordinance, may form the basis to deny future permits under this Ordinance.

- (g) Withholding Permit. Issuance of any license or permit may be withheld pending verification that any other necessary approvals have been granted.
- (h) Conditions. Reasonable conditions may be placed on approvals, as outlined below.
 - (1) Health, Safety, and Welfare. Conditions shall be designed to protect the health, safety, and welfare of the patrons, vendors, adjacent property owners, and the community as a whole.
 - (2) Police Power. Conditions shall be related to the valid exercise of the police power and purposes affected by the activity.
 - (3) Compliance. Conditions shall be designed to ensure compliance with the provisions of this Ordinance, other Township ordinances, County requirements, and state and federal law.
- (i) Suspension and Revocation. As outlined below, an approval may be immediately suspended on a temporary or permanent basis by the Orion Fire Chief and/or their designee.
 - (1) Notice. The Applicant shall receive written notice of the possible suspension or revocation, including the reason for the suspension or revocation, and actions necessary, if any, to prevent the suspension or revocation. In the case of an immediate emergency, as determined by the Orion Fire Chief or their designee, the Mobile Food Establishment may be shut down pending further investigation, notice, and any hearing, as provided herein.
 - (2) Decision Criteria. After providing the Permittee notice and an opportunity to respond, the Township Supervisor may issue an order to suspend, restrict, or revoke a Mobile Food Establishment Permit if the Supervisor makes any of the following findings:
 - a. An imminent threat exists to the health, safety, or welfare of persons or neighboring properties; or
 - b. The Applicant has violated or currently fails to comply with any condition of its license or permit or with any applicable Township ordinance, County requirement, or state or federal law.
 - (3) Effect. Upon revocation of an approval, all activity shall cease immediately, except for work related to securing the site or correcting a violation, as determined by the Fire Chief and/or their designee.
- (j) Appeal. Appeals of decisions made in the administration of this Ordinance shall be heard and decided by the Township Board of Trustees. The appeal of any suspension, restriction, or revocation of a permit under this Ordinance shall be decided by the Board of Trustees after providing the Permittee a reasonable opportunity to respond and to be heard on terms and conditions as determined by the Township Attorney using the Decision Criteria set forth above in Section 2(i)(2).

Section 3 – Enforcement

A violation of this Ordinance or any license, permit, or condition issued under this Ordinance is a municipal civil infraction and subject to enforcement, as set forth below.

- (a) Party to Violation. Any person who violates this Ordinance, or fails to comply with its terms, or with any of the conditions of any License or Permit, shall be responsible for a municipal civil infraction. Any property owner who violates or allows a violation of this Ordinance on his/her/its property shall be responsible for a municipal civil infraction.
- (b) Each Day. Each day that any violation exists or continues shall be deemed a separate offense.
- (c) Penalty. Any person or other entity who causes or permits to continue a public nuisance as prohibited by the Ordinance is responsible for a municipal civil infraction as defined by Michigan law and is subject to a civil fine of not more than five hundred (\$500.00) dollars, plus costs, which may include all direct or indirect expenses to which the Township has incurred in connection with the violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies,

and judicial orders as are authorized under Michigan law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

Section 4 – Severability

This Ordinance, and all provisions hereof, are hereby declared to be severable, and if any provision hereof or part hereof is adjudged by a court of competent jurisdiction to be invalid or unenforceable for any reason whatsoever, it is hereby declared and provided that the remainder of this Ordinance shall not be affected thereby.

Section 5 – Effective date and Adoption

Effective Date. This Ordinance shall be published in a newspaper of general circulation in the Township of Orion and shall become effective upon publication, as provided by law.