

Permit # _____

Fee \$100.00



City of Huber Heights
Mobile Food Vending Permit Application
6131 Taylorsville Road, Huber Heights, OH 45424

Please contact Don Millard, Zoning Manager, 937-237-5815 or dmillard@hhoh.org with any questions pertaining to this application.

INFORMATION CONTAINED IN THIS LICENSE APPLICATION IS SUBJECT TO DISCLOSURE AS A MATTER OF PUBLIC RECORD.

Check One: ☐ New Application ☐ Renewal Application

The following documents must accompany application:

- Mobile Food Service License *
- Property Owner Letter(s)
- Sales Tax License
- Ohio Vehicle Registration
- Vehicle Insurance
- Liability Insurance

*Mobile Food Service License from any county in the State of Ohio is valid in Montgomery County

VENDOR MUST DISPLAY PROPERTY OWNER'S PERMISSION TO OPERATE

VEHICLE OWNER INFORMATION:

Full Name: _____

Address: _____
(Number Street) (City) (State) (Zip)

Phone Number: _____ Email: _____

BUSINESS INFORMATION:

Business Name: _____ Tax ID# _____

Business Address: _____
(Number Street) (City) (State) (Zip)

Phone Number: _____ Email: _____

VEHICLE INFORMATION:

Model Make Year Color

License Plate Number State Vehicle Identification Number

APPLICATION FEE OF \$100.00

Amount Paid _____ Cash/CC/Check # _____ Received by _____ Receipt# _____

Revised 06/12/2023

FIRE DIVISION MUST APPROVE GAS STATION SET-UP, CALL 937-233-1564 PRIOR TO SET-UP.

LOCATION INFORMATION:

Address(es) of all proposed locations and proposed time. Written permission of property owner/tenant must be attached

Property Address

Time of Operation*

Property Address

Time of Operation*

Property Address

Time of Operation*

*No Mobile Food Vehicle shall conduct business for more than four hours at the same property for more than five consecutive days, nor more than 26 days total in a calendar year.

DRIVER INFORMATION: (Attach additional sheets if necessary)

Note: You are required to provide Information for any new drivers used during the Licensing Period but after the Issuance of the permit

1. Name: _____ ☐ copy of Driver's License attached
(Last) (First) (Middle)

Address: _____
(Number Street) {City} (State) (Zip)

2. Name: _____ ☐ copy of Driver's License attached
(Last) (First) (Middle)

Address: _____
(Number Street) (City) (State) (Zip)

3. Name: _____ ☐ copy of Driver's License attached
{Last} (First) (Middle)

Address: _____
(Number Street) (City) (State) (Zip)

WARNING: Any false statement made or given in this application or violation of requirements for Mobile Food Vending Permit may result In denial of permit and prosecution for perjury.

STATE OF OHIO,
COUNTY OF _____

The undersigned Owner/Applicant being duly sworn acknowledges and attests under oath that:

1. The Owner has not had a Mobile Food Vending Permit issued by the City, or a similar permit or license issued by another city, revoked in the past two years; or if a revocation has occurred has provided with this application the reason for such revocation and proof of compliance;
2. The Owner Is the individual making the application and the answers to the foregoing questions and other statements contained herein are true to his/her knowledge and belief;

3. The Owner meets all the requirements pursuant to the City of Huber Heights code and ASSUMES RESPONSIBILITY FOR THE ACTS AND OMISSION OF ITS OPERATORS IN THE PERFORMANCE OF OR FAILURE TO PERFORM UNDER HUBER HEIGHTS CODIFIED ORDINANCES CHAPTER 1194 if a permit is granted.

Owner Signature

Sworn to before me and subscribed in my presence this _____ day of _____, 20____.

Notary Public

CHAPTER '1194 - MOBILE FOOD VEHICLES

Foot notes:

- (57)--

Editor's note- Ord. No. 2018-0-2352, § 1, adopted Nov. 28, 2018, set out provisions intended for use as Ch. 1196, §§ 1196.01- 1196.13. Inasmuch as there were already provisions so designated, said chapter and sections have been codified herein as Ch. 1194, §§ 1194.01- 1194.13 at the discretion of the editor.

1194.01 - Definitions.

[For purposes of this chapter the following definitions shall apply:]

Event Holder means a person, group or organization responsible for the hosting or operation of a Permitted Event.

Food shall mean a raw, cooked or processed edible substance, ice, beverage, or ingredient used or intended for use of for sale in whole or in part for human consumption.

Food Service Operation means, for the purpose of a mobile food vending permit, a place, location, site or separate area where food intended to be served in individual portions is prepared or served for a charge or required donation . As used in this chapter, "served" means a response made to an order for one or more individual portions of food in a form that is edible without washing, cooking or additional preparation and "prepared" means any action that affects a food other than receiving or maintaining it at the temperature at which it was received.

Health License means an official document issued by a department of health pursuant to Ohio R.C. 3701. Such document shall be an annual health license.

Ice Cream Truck means motor vehicles from which ice cream, popsicles, ice sherbets, frozen desserts or other similar items are sold.

Licensing Period means the first day of March to the last day of February of the next succeeding year.

Mobile Food Vehicle is defined as a readily movable, motorized-wheeled vehicle or a towed vehicle designed and equipped to prepare, or serve, and sell food to the general public.

Mobile Food Vending Permit means an official document issued by the Zoning Department authorizing operation of a mobile food vending unit within the corporate limits of the City of Huber Heights.

Mobile Food Vending Unit means a food service operation or retail food establishment that is operated from a mobile food vehicle. For the purpose of a mobile food vending permit, "mobile food vending unit" excludes food delivery operations and vending machines, as defined in Ohio R.C. 3717.01(L).

Mobile Food Vendor means every corporation, association, joint stock association, person, firm or partnership, their lessees, directors, receivers, trustees , appointees by any court whatsoever, or their heirs, executors, administrators, or personal representatives or assignees or any deceased owner, owning controlling, operating or managing any mobile food vending unit.

Non-incorporated Children's Stands shall mean a non-incorporated business that is commonly operated by a child or children to sell lemonade or other beverages and snack foods.

Operator means the individual who manages one or more mobile food vending units whether as the owner, an employee of the owner or as an independent contractor.

Permitted Event means a Special Event and/or a Public Event.

Public Event means any public activity or gathering or assemblage of people, other than a special event, that is open to the general public for admission that requires payment for entrance, attendance or participation, and requires the issuance of a health license or temporary health license pursuant to Ohio R.C. 3717.01 for participating mobile food vendors.

Revoke means to terminate all rights or privileges under a Mobile Food Vending Permit .

Special Event means any activity or gathering or assemblage of people upon public property or in the public right-of-way for which a street closure, race event, parade permit or other like permit has been issued by the City of Huber Heights.

Vending shall mean the sale of food to a person who is the ultimate consumer. Such sales do not include those from a vending machine, as defined in Ohio R.C. 3717.01(L).

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.02 - Permit required for operation.

- (a) Except as provided in subsection (b) below, no individual or organization shall operate, or cause to be operated, any mobile food vending unit within the City of Huber Heights without a current and valid Mobile Food Vending Permit issued pursuant to this chapter and applicable Health License issued in accordance with laws, rules and regulations established in the Ohio Revised Code, the Ohio Administrative Code.
- (b) Mobile Food Vending Units, within the City, that only operate as part of a Permitted Event shall not require a Mobile Food Vending Permit. Such Mobile Food Vending Units must comply with any health licensing requirements of the State of Ohio and any Fire Code requirements of the City of Huber Heights.
- (c) Nothing in this chapter shall be construed as superseding, supplanting, or otherwise replacing any duty imposed by Ohio R.C. Chapter 3701 or 3717, or rules or regulations promulgated thereunder, upon an application for a health license, or upon a department of health in the conduct of its responsibilities relative to mobile food vending units.
- (d) Any Mobile Food Vehicle shall be subject to inspection by the City Fire Division and shall be charged a fee as designated in Chapter 1509 of the Fire Prevention Code.

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.03 - Application for permit.

- (a) An application for a Mobile Food Vending Permit must be submitted by the owner of the Mobile Food Vending Unit to the City of Huber Heights Zoning Department. A separate application must be submitted for each Mobile Food Vending Unit. Application for a Mobile Food Vending Permit shall be on a form prescribed by the Zoning Department.
- (b) The applicant must provide proof of, and maintain during the Licensing period a valid driver's license for all drivers, vehicle registration, motor vehicle insurance, and liability insurance. The Operator shall provide such information for any new drivers that are used during the Licensing Period but after the Mobile Food Vending Permit has been issued.

(c) The cost of a Mobile Food Vending Permit is \$100.00 and shall be valid only for the Licensing Period for which

it is issued. As a condition of accepting the permit, the applicant is required to sign the application agreeing to meet all the requirements pursuant to City code and to assume responsibility for the actions and omissions of its Operators in the performance of or failure to perform its obligations under the permit.

- (d) The Zoning Department must examine all applications for a Mobile Food Vending permit under this chapter and make, or cause to be made, any further investigation into the application as is deemed necessary in order to make a determination regarding the application within five business days.
- (e) If a complete application for a mobile food vending permit is not approved, any reason(s) for that determination shall be provided to each applicant in writing.
- (f) A Mobile Food Vending Permit application shall meet the following requirements:
 - (1) Provide proof of and maintain a valid driver's license for all known drivers, vehicle registration, and current motor vehicle insurance;
 - (2) Provide proof of and maintain an Ohio Retail Food license;
 - (3) Provide proof of and maintain a valid sales use tax license;
 - (4) Provide payment of the fee of \$100.00;
 - (5) Provide proof of a Federal income tax identification number or exemption from the City of Huber Heights division of tax;
 - (6) Provide address of all proposed locations for the Mobile Food Vending Unit and proof of permission from property owner of proposed location(s);
 - (7) Attest under oath that no Operator has had a Mobile Food Vending Permit issued by the City, or a similar permit or license issued by another city, revoked in the past two years; or if a revocation has occurred the reason for such revocation and proof of compliance.

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.04 - Operating requirements.

- (a) Mobile Food Vehicles shall obtain all applicable approvals and permits, and shall follow all applicable processes as required by the City of Huber Heights and/or the Event Holder.
- (b) Mobile Food Vehicles shall comply with all local, state, and federal laws, regulations and ordinances.
- (c) Except for Mobile Food Vehicles operating within the City as part of a Permitted Event, Mobile Food Vehicles shall be permitted as follows:
 - (1) Shall be permitted within the following districts:
 - a. Industrial (I).
 - b. Commercial (B).
 - c. Planned Districts (PUD) as approved through the City's Planning Commission.
 - (2) Shall be located on a lot containing a principal building and must be parked on a hard surface.
- (d) Operational Requirements. Except for Mobile Food Vehicles operating within the City as part of a Permitted Event the following shall apply:
 - (1) Mobile Food Vehicles operating on private property in the above zoning districts shall be required to maintain a minimum separation of 200 feet from the primary entrance to, or outdoor eating area of, a restaurant, and 150 feet from residential zone districts. In addition, such vehicles shall also be required

to maintain a minimum separation of 200 feet from any other mobile food vehicle and a minimum of 15 feet from any fire hydrant.

- (2) Mobile Food Vehicles shall not obstruct the pedestrian or bicycle access, the visibility of motorists, nor obstruct circulation or block access to a public street, alley or sidewalk.
- (3) Mobile Food Vehicles shall not locate any vehicle, structure, or device upon a public sidewalk within the extended boundaries of a crosswalk or within ten feet of the extension of any building entranceway, doorway or driveway.
- (4) Mobile Food Vehicles shall not fail to maintain and provide proof when requested of written consent from the private property owner authorizing the property to be used for the proposed use with regard to Mobile Food Vehicle sales on private property.
- (5) Mobile Food Vehicles shall not operate before 8:00 a.m. or after 9:00 p.m. No Mobile Food Vehicle shall conduct business for more than four hours at the same property for more than five consecutive days, nor more than 26 days total in a calendar year.
- (6) Mobile Food Vehicles shall not sell anything other than food and non-alcoholic beverages.
- (7) Mobile Food Vehicles shall not provide amplified music louder than the City's noise ordinance.
- (8) Mobile Food Vehicles shall not place signs/banners in or alongside the public right-of-way or across roadways. Signs must be permanently affixed to or painted on the mobile food vehicle.
- (9) Mobile Food Vehicles shall not fail to have the vehicle attended at all times.
- (10) Mobile Food Vehicles shall not fail to permanently display to the public in the food handling area of the mobile food vehicle the permit authorizing such use.
- (11) Mobile Food Vehicles shall not fail to provide trash receptacles and properly dispose of all trash, refuse, compost and garbage that is generated by the use.
- (12) Mobile Food Vehicles shall not cause any liquid wastes used in the operation to be discharged from the mobile food vehicle.
- (13) Mobile Food Vehicles shall not fail to abide by all other ordinances of the city.
- (14) Mobile Food Vehicles shall not operate in the city's right-of-way.

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.05 - Exceptions.

The following activities shall be exempted from the provisions of this chapter:

- (1) Ice Cream Trucks; and
- (2) Non-Incorporated Children's Stands.
- (3) Mobile Food Vehicle's conducting business at a particular property at the request of and with the written permission of the property owner or operator of the business located on the property and which limits the sale of its food to employees of such business or property owner. Provided, however, such Mobile Food Vehicles may operate for no more than three periods of 60 minutes or less each day between the hours of 6:00 a.m. and 10:00 p.m. Provided further, such Mobile Food Vehicle shall be subject to an annual inspection by the City Fire Division and shall be charged a fee as designated in Chapter 1509 of the Fire Prevention Code prior to commencing operation.

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.06 - Permitted events.

- (a) No mobile food vending permit shall be required for any mobile food vending unit that operates exclusively as

- a part of a City approved Permitted Event, within the approved areas and time frames.
- (b) Operation in residential zones and city parks are prohibited unless permitted as a part of an organized nonprofit Permitted Event.
- (c) Mobile food vehicles sales that are part of a Permitted Event are exempt from the requirements above but will be subject to other conditions imposed in connection with the Permitted Event. Those conditions will be identified in the Permitted Event permit process.

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.07 - Criteria for mobile food vending units at permitted events.

Before allowing Mobile Food Vending Units at a Permitted Event, the city manager shall:

- (1) Consult with the city fire and police departments and transportation division to determine the degree of congestion of any public right-of-way which may result from the proposed use, design and location, including the probability of impact of the proposed use on the safe flow of vehicular and pedestrian traffic. Factors considered shall include but not be limited to the width of the streets and sidewalks, the volume of traffic, the availability of off-street parking, or any other factor related to the protection of the public health, safety, and welfare.
- (2) Consult with the Planning Department to determine the appropriateness of sales activities within commercial districts based on the impact to the economic viability of existing businesses, the public's use and enjoyment of sidewalks and other public areas for patio and cafe seating, amenities including and not limited to benches, trees, trash receptacles, parking kiosks, bicycle parking, events, and the mobility of pedestrians.
- (3) Determine whether the permit meets all requirements of this code and other ordinances of the city. The manager shall issue such permit upon a finding that, in view of the location or area proposed to be used and the type of business to be carried on, the sales business complies with all requirements of this code, other ordinances of the city, would not constitute an obstruction of public property or a health or safety hazard, and the public benefit from the proposed use exceeds its detriments. The city manager may impose reasonable conditions in the permit to assure the use of public property and right -of-way and protect the public health, safety, and welfare.

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.08 - Public property use permits.

No person shall, in conjunction with a Mobile Food Vending Unit, place for sale or for solicitation of orders any merchandise or other things upon any street, alley, sidewalk, or other public property or suspended from any building or structure over the street, sidewalk, or public property without first obtaining a permit from the city manager.

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.09 - Expiration and renewal of permit.

- (a) Each permit issued under this chapter shall expire at 11:59 p.m. on the last day of February following the date of issue.

- (b) Each permittee must comply with the application and inspection requirements of this chapter to receive a new permit for the succeeding permit period.

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.10 - Transfer of permit prohibited.

No Mobile Food Vending Permit issued under this chapter shall be transferred or assigned by the named permittee to any other individual or organization, or to any other Mobile Food Vending Unit. Should a change in ownership of a Mobile Food Vending Unit occur at any time, the succeeding owner must comply with the application, inspection and fee requirements of this chapter.

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.11 - Permit suspension, revocation.

Permits issued under this chapter may be revoked by the City for one or more of the following reasons:

- (1) Fraud, misrepresentation or bribery in securing a permit or during the course of business; or
- (2) Violation of any provision of this chapter; or
- (3) Failure to display the Mobile Food Vehicle permit as issued; or
- (4) Failure to have valid permits or licenses required by a County Health Department within the State of Ohio; or
- (5) For any of the reasons which could have been grounds for refusing to issue the original license; or
- (6) Knowingly allowing another person to use a Mobile Food Vehicle within the City in violation of any provision of this chapter.

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.12 - Appeals.

Any individual or organization who has been refused a permit or renewal of a permit under this chapter or has had a permit issued under this chapter revoked, may appeal such decision as provided in Section 1127.04 of the Zoning Ordinance.

(Ord. No. 2018-0-2352, § 1, 11-28-18)

1194.13 - Penalty.

In addition to any applicable revocation of a Mobile Food Vending Permit, the following penalties may apply:

- (a) Whoever violates any provision of this chapter is guilty of the following offenses and shall be subject to the following penalties:
 - (1) For the first offense, a minor misdemeanor.
 - (2) For the second offense (whether or not of the same section of the provision), occurring not sooner than 20 days and not later than two years after the first offense, a misdemeanor of the fourth degree.
 - (3) For the third offense (whether or not of the same provision), occurring no sooner than 20 days after the second offense and not later than two years after the first offense, a misdemeanor of the third degree.

(4) For a fourth offense and each subsequent offense (whether or not of the same provision), occurring

not sooner than 20 days after the third offense and not later than two years after the first offense, a misdemeanor of the second degree.

- (b) An Operator that has had Mobile Food Vending Permit revoked by the City on more than two occasions shall not be eligible for a new Mobile Food Vending Permit.

(Ord. No. 2018-0-2352, § 1, 11-28-18)