

**LYON TOWNSHIP
ROSCOMMON COUNTY, MICHIGAN
MOBILE FOOD VENDORS ORDINANCE**

ORDINANCE NO 63

Amended by 63-A May 19, 2023

At a regular meeting of the Township Board of Lyon Township, Roscommon County, Michigan, held at the Lyon Township Hall on April 20, 2023, at 7:00 p.m., Township Board Member Grier moved to adopt the following Ordinance, which motion was seconded by Township Board Member Maduri:

An Ordinance to regulate mobile food vendors or facilities within Lyon Township; to require a permit and compliance with requirements of this Ordinance to engage in mobile food vending; and to preserve the health, safety, and welfare of the general public.

THE TOWNSHIP OF LYON ORDAINS:

SECTION 1. TITLE. This Ordinance shall be known as the “Lyon Township Mobile Food Vendors Ordinance.”

SECTION 2. PURPOSE. The purpose of this Ordinance shall be to secure and protect the public health, safety, and general welfare of its residents through permitting requirements and related regulations.

- A. *Public Health.* Enforcing health regulations on mobile food vendors can be problematic due to the mobile nature of the business. Mobile food vendors do not provide bathroom facilities for operators or patrons, which raises concerns over health, proper sanitation, and proper waste disposal, especially when in connection with on-site food preparation. When mobile vendors congregate in the same area, the heightened intensity of use can negatively impact the surrounding area, particularly by increased trash.
- B. *Safety.* It is recognized that conducting business within the Township as a mobile vendor can have negative land use, public safety, and traffic impacts. The primary purpose of rights-of-way is for use by vehicular and pedestrian traffic. Mobile vendors operating on streets, sidewalks and rights-of-way present a potential hazard to motorists, pedestrians, and vendor operators and their patrons. Mobile vendors also contribute to vehicular traffic congestion and impact on-street parking availability. Mobile vendors operating upon or adjacent to public sidewalks impede the clear path of travel for pedestrians. Lack of or diminished space on sidewalks due to vending activities could force pedestrians onto streets and create particular difficulties for residents with disabilities.
- C. *General Welfare.* The aesthetics of mobile food vendors must be regulated to protect the goals and desires of the Township. Regulation and monitoring of mobile vendors to ensure safety and compliance with established regulations and tax requirements are problematic due to the temporary and mobile nature of such businesses; and, therefore must be regulated with the requisite specificity to meet the Township’s goals and desires.

SECTION 3. DEFINITIONS. The following words and phrases shall have the meanings ascribed to them in this Ordinance:

- A. *Mobile Vending Facility.* Colloquially referred to as a “food truck.” A cart, structure, vehicle, or other physical establishment within which the primary vending operation takes place and which meets either a mobile food establishment, special transitory food unit, or temporary food establishment as defined under the Michigan Food Law, Public Act 92 of 2000. None of the following are mobile vending facilities:
 - I. Home Grocery delivery operations in which the customer solicits delivery directly to a customer’s home.
 - II. Persons selling frozen prepackaged/individually wrapped food items (e.g., ice cream) as long as such vendors are present at one location for no more than 10 minutes at a given time.
 - III. Minors under the age of 14 selling, providing, or offering food or beverages for sale at a temporary, nonpermanent location in which proceeds of the sale are kept by the minor.
- B. *Operate.* All activities associated with the conducting of business, including set-up and take-down activities, as well as the activities conducted by a mobile vending facility when open for business.

SECTION 4. PERMIT REQUIRED. No person or entity shall operate a mobile vending facility unless having first registered that facility with the Township and obtaining the permit specified by this Ordinance, as well as any other approvals necessary by law.

SECTION 5. EXEMPTION FOR PRIVATE FUNCTIONS. The provisions of this Ordinance, unless otherwise stated, shall not be construed as applying to mobile vending facilities operating at a private function, such as but not limited to a graduation open house. As used in this section, “private function” means an event that meets all of the following conditions:

- A. It is a prearranged private party, private function, or private event for a specific social or business occasion;
- B. Attendance is only by invitation or reservation;
- C. It is not open to the general public. For purposes of this requirement, attendance that is by an open or general invitation to the public is not considered to be by invitation or reservation; and
- D. It is on private property.

SECTION 6. APPLICATION PROCESS.

- A. An application for a permit to operate a mobile vending facility within the Township shall be made to the Township Clerk or Township Treasurer on the form supplied by the Township and approved by the Township Board, and the applicant shall supply all of the information listed on the application before an application will be reviewed for approval.

- B. An application fee shall be provided to the Township Clerk in conjunction with the application according to a fee schedule established by resolution of the Township Board.

SECTION 7. ISSUANCE OF PERMIT. Upon receipt of a completed written application for a permit under this Ordinance and the required fees as set by the Township Board, the Township Clerk or Township Treasurer shall issue to the applicant a mobile vending facility permit unless good cause exists to deny the application. Good cause for denial of a permit under this Ordinance includes, but is not limited to: unsatisfactory history of convictions for traffic offenses or driving privileges affecting the applicant's fitness for a permit; discovery of facts supporting lack of business responsibility; a showing that the proposed operating location(s) will cause an unreasonable hazard to vehicular traffic, pedestrians, or facility operators and their patrons, or that there is an unsatisfactory amount of parking available, or any legitimate reason that the applicant presents a risk to the citizens if permitted to engage in mobile food vending. The action taken by the Township Clerk or Township Treasurer may be appealed, by written application, to the Township Board. A denial shall be evidenced by issuance of a written Notice of Denial, stating the specific reason(s) for denial and including notice of the right to appeal pursuant to this Ordinance.

SECTION 8. PERMIT OPERATING STANDARDS. Mobile vending facilities operating under a permit issued under this Ordinance and mobile vending facilities operating without a permit pursuant to Section 5 of this ordinance shall comply with all of the following.

- A. All applicable state, federal, and local laws, regulations, or ordinances.
- B. Must maintain in good standing a permit or certification from the Roscommon County Health Division.
- C. If parked on public streets, vendors shall conform to all applicable parking regulations.
- D. Not obstruct the public right-of-way on any street, driveway, or sidewalk.
- E. Provide appropriate waste receptacles at the site of the mobile vending facility and the vendor is responsible, at their own expense, to remove all litter, debris, and other waste attributable to the vendor on a daily basis.
- F. Not use any flashing or blinking lights or strobe lights; all exterior lights over 60 watts shall contain opaque, hood shields to direct the illumination downward.
- G. Not use a power source (such as a generator), loud music, amplification devices, calling out, or any other audible methods to gain attention which causes a disruption or safety hazard as determined by the Township.
- H. Display the permit issued by the Township in a visible location on the mobile vending facility.
- I. Only operate between the hours of 9:00a.m. and 9:00p.m.

- J. Operate a maximum of 4 days in a calendar week.
- K. No mobile vending facility operated on Township-controlled property can be left unattended for more than 1 hour unless otherwise approved by the Township Board.
- L. The vendor may not represent a permit granted under this Ordinance as an endorsement by the Township.
- M. The vendor shall not utilize any electrical power without prior written authorization of the power customer.
- N. No cables, hoses, cords, or any object shall be extended across any public right of way.
- O. Any mobile vending facility is subject to inspection by the Township to ensure compliance with this Ordinance.
- P. Any permit issued under this Ordinance is not transferable to any other vendor or mobile vending facility.
- Q. No mobile vending facility may park within 150 feet of an existing permanent (i.e. brick-and-mortar) restaurant during the hours when such restaurant is open to the public for business. This standard may be waived by the Township Board upon receipt of a written request for waiver when such waiver can be granted in such fashion that the spirit of this Ordinance is observed and public safety and welfare secured.
- R. Maintain a General Liability policy coverage issued by an insurer permitted to do business in this State and which names the Township as an additional insured; and proof of a Public Liability and Property Damage motor vehicle policy issued by an insurer licensed to do business in this State; and, to maintain the same for the entire period a permit is granted.

SECTION 9. SUSPENSION AND REVOCATION.

- A. *Suspension.* The Township Clerk may suspend a permit of any vendor who:
 - 1) Violates any of the requirements of this Ordinance;
 - 2) Violates any regulation, law, or code of the federal, state, or local government;
 - 3) Commits fraud, or makes a representation or a false statement on their application or in the course of operating as a mobile vending facility; or
 - 4) Operates in a manner that is adverse to the protection of the public health, safety, and welfare.

Immediately upon suspension the Clerk shall provide written notice to the permit holder by certified mail to their place of business or residence or electronic mail as indicated on the application. Said notice shall set forth the specific grounds for suspension.

- B. *Revocation.* Upon suspension, the permittee shall be provided with notice that they have 10 days to request, in writing, a hearing at which the permittee can show why the permit should not be revoked. If a permittee requests a hearing, the Township Supervisor shall hold a hearing to determine whether the permit should continue, be revoked, or be reinstated. If no request for such a hearing is made within the specified time, the permit shall automatically be revoked and shall become null and void. Any decision of the Township Supervisor may be appealed, by written application, to the Township Board.

SECTION 10. APPEALS. Any person aggrieved by denial or revocation of a permit may file an appeal with the Township Board. The notice of appeal must be filed within 14 days after notice of the denial or revocation has been mailed to the person's last known address or delivered via electronic mail. The request must be in writing and must explain the grounds for appeal. The action taken by the Township Board shall be final, and any permittee whose permit has been denied or revoked shall not be eligible to apply for a new permit for a period of one (1) year after such denial or revocation.

SECTION 11. ENFORCEMENT AND PENALTIES.

- A. The Township Board, or its designee, or any local law enforcement personnel is authorized to enforce the provisions of this Ordinance against any person found to be violating it, and failure to produce a permit or information necessary to verify a claimed exemption under this Ordinance shall constitute probable cause for enforcement action.
- B. Violations of this Ordinance shall be a civil infraction, and shall be punishable by a civil penalty of \$500.00. Each day a violation continues shall be considered a separate offense. This subsection shall not be construed as preventing the Township from seeking to enforce this Ordinance through any other procedure permitted by law, including without limitation the commencement of a civil suit for legal or equitable relief.

SECTION 12. INDEMNIFICATION. Application for a permit under this Ordinance shall be deemed an agreement by the applicant to observe all pertinent ordinances and regulations of the Township and defend, indemnify, and hold harmless the Township from all damages, costs, or actions at law that may arise or may be brought on account of injury to persons or property resulting from the permittee's activities.

SECTION 13. SAVINGS. All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

SECTION 14. SEVERABILITY. If a court of competent jurisdiction finds any provision, clause, or portion of this Ordinance to be invalid, the balance or remainder of this ordinance shall remain valid and in full force and effect.

SECTION 15. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days following its publication (or a summary thereof).

SECTION 16. REPEAL. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

YEAS: Maduri, Schnell, Grier, Carlson, Tomak

NAYS: None

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the above is a true copy of an ordinance adopted by the Lyon Township Board at a regular meeting held on April 20, 2023, pursuant to the required statutory procedures, and that the ordinance was transmitted and published as directed.

Dated: April 28, 2023

Doug Schnell, Lyon Township Clerk

LYON TOWNSHIP