

Ordinance ____-2017

ORDINANCE TO ENACT CHAPTER 734 OF THE CODIFIED ORDINANCES OF THE CITY OF PAINESVILLE, OHIO PERTAINING TO ICE CREAM SALES VEHICLES/CARTS WITHIN THE CITY OF PAINESVILLE, PROVIDING FOR LICENSING PROCEDURES AND ESTABLISHING VIOLATIONS, AND DECLARING AN EMERGENCY

WHEREAS, the City Council of the City of Painesville, Ohio has determined it is necessary to update the Business Regulations to include the ice cream sales vehicles/carts; and

WHEREAS, it is appropriate to establish reasonable regulations to govern ice cream sales vehicles/carts in the City of Painesville, Ohio in an effort to provide reasonable opportunities to operate within the City; and

WHEREAS, the City further finds that such regulations are needed in order to protect the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PAINESVILLE, OHIO AS FOLLOWS:

Section I. That Chapter 734 of the Codified Ordinances is hereby enacted as follows:

734.01 General Purpose

The general propose of the ordinance is to allow vending from ice cream sales vehicles/carts under the conditions set forth in this Chapter.

734.02 Definitions.

As used in this chapter, the following terms shall have the meaning indicated:

(a) **ICE CREAM** - All frozen desserts of any kind, including, but not limited to, ice cream, ice milk, popsicles or ice sherbets.

(b) **ICE CREAM SALES VEHICLES/CARTS** - Every device in, upon or by which any person or property is or may be drawn upon a public street or sidewalk in which ice cream, ice milk, popsicles, ice sherbets or frozen desserts of any kind are carried for purposes of retail sales.

(c) **MOTOR VEHICLE** - Every vehicle which is self-propelled.

- (d) **VEHICLE** - Every device in, upon or by which any person or property is or may be transported or drawn on a street, sidewalk or alley.
- (e) **VEND or VENDING** - Offering ice cream, ice milk, popsicles, ice sherbets or frozen desserts of any kind from a vehicle on the streets or sidewalks of the City for retail sale.
- (f) **VENDOR** - Any individual who vends.

734.03 Vendor's and Sales Vehicle Licenses Required.

- (a) No person shall engage in the retail sale of ice cream from any vehicle within the City without having first obtained a license therefor. This license is hereinafter called an "ice cream vendor's license."
- (b) No person shall, as a principal, allow a vehicle to be used for the retail sale of ice cream on the streets and public areas of the City without having first obtained a license therefor. This license is hereinafter called an "ice cream sales vehicle license."
- (c) All licenses issued by the City allowing for the sale of ice cream from vehicles shall contain a clause prohibiting the assignment or transfer of the license.
- (d) All vehicular licenses shall be prominently displayed and affixed to the vehicle. All vendor licenses shall be worn by the vendor at all times while vending.
- (e) All licenses granted under this section shall expire on the last day of the calendar year following their issuance.

734.04 Vendor's License Application; Fee; Investigations; Transferability; Suspension and Revocation.

- (a) Each individual desiring to engage in the business of selling ice cream as a vendor shall make a written application therefor to the Community Development Department on a form provided by the Community Development Department. Said form shall contain the following:
 - (1) The full name, permanent address, telephone number, electronic e-mail address, date of birth, and driver's license number of the applicant.
 - (2) The name, permanent address, telephone number, electronic e-mail address, date of birth, and business license number of the firm or corporation for whom or which the applicant is employed in the retail sale of ice cream.
 - (3) The type of vehicle to be operated by the applicant and pictures; if it is a motor vehicle, the applicant shall provide a copy of a valid driver's license.
 - (4) Proof of liability insurance coverage in the amount approved by the Community Development Department, with the City of Painesville named as an additional insured.

- (5) Proof of Ohio Department of Taxation Itinerant Vendor's License, if required (when required).
 - (6) Proof that the applicant is current and compliant in the payment of any City of Painesville taxes on payroll and net profits at the time such proof is submitted; or if the applicant is not current and compliant in the payment of any City of Painesville taxes on payroll and net profits, that that the applicant 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.
 - (7) Affirmation that, upon issuance of a license, the applicant will provide to the Community Development Department written documentation of any change in the information required by this Chapter, as well as written documentation of any modification, damage, destruction, or decommissioning of the unit, within thirty (30) calendar days of any such change.
 - (8) Proof of a City income tax filing number or exemption from the City of Painesville tax provided by the Regional Income Tax Agency (RITA).
 - (9) Ice cream vendors must be licensed and equipped in accordance with the rules and regulations of all local, state, and federal agencies having jurisdiction over such vehicles.
 - (10) A listing of all criminal convictions of the applicant within the last two years, and all earlier felony convictions.
 - (11) An affidavit that the information contained in the application is accurate and correct.
- (b). Each individual shall pay to the Community Development Department or designee a \$100.00 application fee at the time the application is made. A portion of the fee shall be used to conduct a criminal background investigation. In the event that the application is rejected under Subsection C, thereof, the portion of the fee not used for the criminal background investigation shall be refunded.
- (c). If the applicant is to operate a motor vehicle, the Chief of Police shall cause an investigation to be made into the driving record of the applicant. The Chief shall report the findings of his or her investigation to the Community Development Department, who may, if finding the applicant not to be a safe and competent driver based on said driving record, deny the application.
- (d). Each license issued shall not be transferable or assignable and shall not be valid for more than one year.
- (e). Ice cream vendor's license may be suspended by the Chief of Police upon a subsequent conviction of the vendor of a criminal offense, a violation or suspected violation of this chapter or suspicion of fraud in obtaining a license under this chapter. The license may be revoked by the Community Development Department for the same causes

as above specified for suspension, after giving the vendor reasonable notice and an opportunity to be heard.

734.05 Vehicle License Application; Fees.

(a) Each person, firm or corporation owning or leasing a vehicle from which the retail sale of ice cream will be made shall file an application with the Community Development Department on a form provided by the Community Development Department. Said form shall contain the following:

- (1) The full name, permanent address and local address of the applicant.
- (2) The name of the business entity which the applicant represents.
- (3) The type of vehicle which this permit will cover, and the motor vehicle registration number or bicycle or cart permit number thereof.

(b). If the vehicle is classified as a motor vehicle, the applicant shall also provide the Community Development Department with the following:

- (1) The report of an inspection made by the Painesville Department.
- (2) A certificate of insurance showing that the applicant is carrying the following minimum amounts of insurance: public liability insurance of \$500,000 for injuries, including those resulting in death from any one occurrence and on account of any one accident, and property damage insurance of \$25,000 for damages on account of any one accident or occurrence. Certificates shall contain an agreement signed by the insurance company that prior to modification, cancellation or termination of the subject policy, written notice shall be sent to the Community Development Department by the insurance company.

(c). The applicant shall pay a \$50.00 license fee per vehicle as established by this Ordinance.

734.06 Vending Restrictions Generally.

(a). No person shall vend before 10:00 a.m. or after 9:00 p.m. or sunset, whichever comes first.

(b). No person shall use bells, amplified music or other audible devices to vend before 10:00 a.m. or between the hours of 5:00 p.m. and 6:00 p.m.

(c). No person shall vend unless the ice cream truck is lawfully parked or stopped.

(d). No person shall vend except from the side of the truck away from moving traffic and as near as possible to the curb or edge of the street.

(e). No person shall vend to a person standing in the roadway.

(f). No person shall stop on the left side of a one-way street to vend.

(g). No driver of an ice cream sales vehicle/cart shall back up or reverse the vehicle to make or attempt a sale.

(h). No person shall stop within twenty (20) feet of an intersection or double park when attempting a sale or when making a sale.

(i). No driver shall play music or bells in excess of that allowed under Chapter 539 of the Painesville Codified Ordinances.

734.07 Restricted Area.

(a). No person shall engage in the retail sale of ice cream from a vehicle on any of the following streets: Jackson Street, Richmond Street, Mentor Avenue, Walnut Street, State Street, Bank Street, Chestnut Street and East Erie Street.

(b). In the Central Business District, the prohibitions on places of sale may be waived for a maximum of four days if approved by the City Manager or designee.

(c). Whenever such a waiver is made, other requirements may be established by the Community Development Department to protect the health, safety and welfare of the City.

734.08 Unauthorized Riders Prohibited.

(a). The driver of an ice cream truck shall not permit any unauthorized person to ride in or on the vehicle.

(b). No person shall ride in or on an ice cream truck, unless he or she is employed by its owner or unless he or she is authorized, in writing, to do so by the owner or the Police Department. Additional persons shall be required to pay the fee to obtain a criminal background check as specified in 734.03 (b).

734.09 Equipment Requirements for Ice Cream Trucks.

In addition to other equipment required by law, every motor vehicle/cart used as an ice cream truck shall be equipped with:

(a). Signal lamps mounted at the same level and as high and as widely spaced laterally as practicable. These lamps shall be five to seven inches in diameter and shall display two alternately flashing amber lights on the front of the vehicle and two alternately flashing red lights on the rear of the vehicle, both lights visible at 500 feet in normal sunlight upon a straight level street.

(b). A convex mirror mounted on the front so that the driver, in his or her normal seating position, can see the area in front of the truck which is otherwise obscured by the hood.

(c). Each side of the vehicle must be marked, in letters and numbers, at least three inches in height, with the name and address of the registered ice cream vendor or his or her principal.

734.09 Use of Special Lights on Ice Cream Trucks.

- (a). The driver of an ice cream truck stopped on the streets for the purpose of vending shall actuate the special flashing lights required by 734-8.
- (b). These lights shall not be used when the truck is in motion or at any time the truck is stopped for a purpose other than vending.

734.10 Effect of Chapter on Health and Traffic Laws.

- (a). Nothing contained in this chapter shall be construed as usurping the authority of the Lake County General Health Department or any other entity governing the wholesomeness of food.
- (b). The possession of a permit issued under this chapter does not give the vendor the authority to violate any traffic law, ordinance or regulation.

734.99 Penalty.

(a). A violation of any section of this Chapter shall be deemed a criminal violation as follows:

(1) Whoever violates Section 734.04 or 734.05 shall be guilty of a misdemeanor of the first degree. Any such violation shall constitute a separate offense on each successive day continued. Strict liability is intended to be imposed for a violation of this section.

(2) Whoever violates Section 734 shall be guilty of a minor misdemeanor. Strict liability is intended to be imposed for a violation of this section.

(3) A violation of any section of Chapter 734 may be grounds for suspension, revocation or permanent revocation of the Ice Cream Sales Vehicles/Carts permit or in the case of a new application may be grounds to refuse to issue such permit for a determinate period of time up to ninety (90) days or permanently, in addition to any other penalties established for such violation in applicable section of the City of Painesville Codes.

Section II. That this Ordinance is passed as an emergency measure for the protection and preservation of the peace, health, safety and general welfare of the inhabitants of the City of Painesville, the emergency being the proposed change is necessary to allow regulations to be put into place to regulate ice cream sales vehicles/carts within the City limits, and therefore, this Ordinance shall become effective immediately upon its passage.

PASSED:

Paul W. Hach, II
President of Council

ATTEST:

Valerie Vargo
Clerk of Council

ORDINANCE NO.

AN ORDINANCE TO ENACT CHAPTER 733 OF THE CODIFIED ORDINANCES OF THE CITY OF PAINESVILLE, OHIO PERTAINING TO FOOD TRUCK STANDARDS and DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Painesville, Ohio, has determined that it is necessary to update the Codified Ordinances pertaining to food truck standards of the City of Painesville.

NOW, THEREFORE, BE IT ORDAINED that the Council of the City of Painesville, Lake County, Ohio hereby enacts the following provisions pertaining to the vending and sale of food and related products within the City of Painesville.

Section I. That Chapter 733 of the Codified Ordinances is hereby enacted as follows:

733.01 PURPOSE AND INTENT.

The purpose of this ordinance is to promote and protect the public safety, convenience, comfort, prosperity, and general welfare by regulating food truck activities throughout the City of Painesville under the conditions set forth in this Chapter.

733.02 DEFINITIONS.

- (a) "Event Holder" means a person, group, or organization responsible for the hosting or operation of a Permitted Event.
- (b) "Food" shall mean a raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.
- (c) "Food Service Operation" means, for the purposes 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 division, "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.
- (d) "Food Truck" means a motorized vehicle or mobile food unit which is temporarily located on a premise to sell food items to the general public.
- (e) "Health License" means an official document issued by a department of health pursuant to Section 3701 of the Ohio Revised Code. Such document shall be an annual health license.
- (f) "Ice Cream Truck" means motor vehicles from which ice cream, popsicles, ice sherbets, frozen desserts, or other similar items are sold.
- (g) "Licensing Period" means the calendar year and all licenses granted under this section shall expire on the last day of the calendar year following their issuance.
- (h) "Mobile Food Vending Permit" means an official document issued by the Community Development Department authorizing operation of a mobile food vending unit within the corporate limits of the City of Painesville.
- (i) "Mobile Food Vending Unit" means a food service operation or retail food establishment that is operated from a food truck. For the purpose of a mobile food vending permit, "mobile food vending unit" excludes food delivery operations and vending machines, as defined in Ohio Revised Code 3717.01 (L).
- (j) "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 the heirs, executors, administrators, or personal representatives or assignees of any deceased owner, owning, controlling, operating or managing any mobile food vending unit.
- (k) "Non-Incorporated Children's Stands" shall mean a non-incorporated business that is commonly owned and operated by a child or children to sell lemonade or other beverages (e.g. iced tea, coffee, hot chocolate, etc.) and snack foods (e.g. cookies, etc.)

(l) "Operator" means the individual who manages one (1) or more mobile food vending units whether as the owner, an employee of the owner or as an independent contractor.

(m) "Permanently revoke" means to terminate all rights and privileges under a mobile food vending permit for a period of ninety (90) days or greater and to render the holder of the permit ineligible to reapply for said permit.

(n) "Permitted Events" means events as approved by the City Manager under Section 735.11(e).

(o) "Public Event" means any public activity or gathering or assemblage of people, other than a special event, that is open to the general public and requires the issuance of a health license or temporary health license pursuant to Ohio Revised Code 3717.01 for participating mobile food vendors. "Public event" includes, by way of example and not by way of limitation, a sporting event at an arena or stadium, a state fair, a concert, or a theatre production.

(p) "Revoke" means to terminate all rights or privileges under a mobile food vending permit for a period not to exceed ninety (90) days after which the individual must reapply for a permit.

(q) "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, community market, or other like permit has been issued by the City of Painesville.

(r) "Suspend" means to temporarily deprive a permittee of rights or privileges under a permit for a period not to exceed ninety (90) days.

(s) "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 Revised Code 3717.01 (L).

733.03 PERMIT REQUIRED FOR OPERATION.

(a) No individual or organization shall operate, or cause to be operated, any mobile food vending unit within the corporate limits of the City of Painesville without a current and valid Mobile Food Vending Permit and applicable health license issued in accordance with laws, rules and regulations established in the Ohio Revised Code, the Ohio Administrative Code, or the City of Painesville Codes, whichever is applicable.

(b) Mobile Food Vending units, to be located on private property, that only operate as part of a special event or public event shall not require a mobile food vending permit. Such units must comply with any health licensing requirements of the State of Ohio.

(c) Nothing in this chapter shall be construed as superseding, supplanting, or otherwise replacing any duty imposed by Ohio Revised Code 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.

733.04 APPLICATION FOR PERMIT.

(a) An application for a Mobile Food Vending permit must be submitted by the owner of the unit or owner of the business to the City of Painesville Community Development Department. A separate application must be submitted for each unit. Application for a Mobile Food Vending permit shall be on a form prescribed by the Community Development Department and shall substantially comply with subsection (b) of this section.

(b) Application for a Mobile Food Vending permit shall be made under oath and shall contain the following information and/or material:

1. Name, permanent address, telephone number, electronic mail address, date of birth, and driver's license number of the mobile food vending unit owner;
2. Business name or DBA, permanent address, and telephone number, if different from the owner information;
3. Proof of Ohio Department of Taxation Itinerant Vendors License, if required; (when required)
4. A physical description of the unit proposed to be licensed for mobile food vending;

5. Current and valid state vehicle registration information for the unit proposed to be permitted for mobile food vending;
6. Proof of a City of Painesville income tax filing number or exemption from the City of Painesville division of income tax through RITA;
7. Proof that the applicant is current and compliant in the payment of any City of Painesville taxes on payroll and net profits at the time such proof is submitted; or if the applicant is not current and compliant in the payment of any City of Painesville taxes on payroll and net projects, that the applicant 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;
8. Proof of a filing number or exemption from the Ohio Department of Taxation;
9. Affirmation that, upon issuance of a permit, the applicant will provide to the Community Development Department written documentation of any change in the information required by this chapter, as well as written documentation of any modification, damage, destruction, or decommissioning of the unit, within thirty (30) calendar days of any such change; and
10. Location of the proposed operation of business. If private property, letter of support from the property owner shall be submitted with the application.
11. Payment of a mobile food vending permit annual fee of \$500.00. If a mobile food vending permit is applied for on or after August 15th of any calendar year the permit fee shall be prorated to \$250.00.

(c) The Community Development 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 timely determination regarding the application.

(d) The Community Development Department shall provide a written determination to each applicant. If a complete application for a mobile food vending permit is not approved, any reason(s) for that determination must be provided to each applicant in writing.

733.05 OPERATING REQUIREMENTS.

(a) Mobile Food Trucks shall obtain all applicable approvals and permits, and shall follow all applicable processes as required by the City of Painesville and/or the Event Holder.

(b) Mobile Food Trucks shall comply with all local, state, and federal laws, regulations and ordinances.

(c) Mobile Food Trucks shall be permitted as follows:

1. Shall be permitted only within the commercial and industrial zoning districts:
2. Shall be located on a lot containing a principal building, must be parked on a hard surfaced area and the maximum number of food trucks per lot is limited as follows:
 - a. Maximum of 1 food truck on lots between one-quarter acre and 1 acres; and
 - b. Maximum of 2 food trucks on lots greater than 1 acre.
 - c. For purposes of the limitations in this Section, adjacent lots under common ownership shall be considered as a single lot.

(d) Site requirements:

1. Shall be located at least 250 feet from the main entrance to any eating establishment or similar food service business, 250 feet from any outdoor dining area as measured from the designated location on the lot accommodating the food truck. In the event that one or more of the aforementioned uses locates within the minimum separation requirement subsequent to the food truck location being approved, the approved Mobile Food Truck may continue to operate at the approved location until the food truck permit has expired.

2. Shall be located at least 5 feet from the edge of any driveway or public sidewalk, utility boxes and vaults, handicapped ramp, building entrance, exit or emergency access/exit way, or emergency call box and must not locate within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic. Food trucks must be located a minimum distance of 25 feet in all directions from any fire hydrant(s).
 3. The Mobile Food Truck must not occupy parking spaces required to fulfill the minimum requirements of the principal use.
 4. All parking required by the addition of the Mobile Food Truck to the property must be fulfilled on-site, must be hard surfaced, and must be in addition to any required parking spaces for the principal use, unless the principal use's hours of operation do not coincide with those of the food truck.
 5. Associated seating must not occupy parking spaces required to fulfill the minimum requirements of the principal use, unless the principal use's hours of operation do not coincide with those of the food truck business.
 6. Associated seating must not occupy parking spaces that may be leased to other businesses and used to fulfill their minimum parking requirements.
 7. Associated seating must be removed from all permitted locations during impermissible house of operation and must not be stored, parked, or left overnight on any public street or sidewalk.
 9. Associated seating areas must not occupy any handicap accessible parking spaces.
 10. The Mobile Food Truck vendor is responsible for the proper disposal of waste and trash associated with the operation. City of Painesville trash receptacles shall not be used for this purpose. Vendors must remove all waste and trash from their approved location at the end of each day or as needed to maintain the health and safety of the public. The vendor must keep all areas within 5 feet of the truck and associated seating area clean of grease, trash, paper, cups, or cans associated with the vending operation.
 11. No liquid waste or grease is to be disposed of in tree pits, storm drains or onto the sidewalks, streets, or other public space. Under no circumstances can grease be released or disposed of in the City of Painesville's sanitary sewer system.
 12. No free-standing signage or audio amplification is allowed as part of the food trucks vending operation. Mobile food trucks are otherwise exempt from signage regulations in Painesville Codified Ordinance Chapter 1341.
 13. Hours of operation are limited to the hours between 7:00 a.m. and 10:00 p.m. unless approved by the City Manager. Mobile food trucks are required to be removed from the premises during non-business hours.
 14. Operator or their designee must be present at all times except in cases of an emergency.
- (e) The following activities shall be exempted from the chapter within the City of Painesville:
1. Ice Cream Trucks; and
 2. Non-Incorporated Children's Stands.

733.06. SPECIAL EVENTS AND PUBLIC EVENTS, PERMITS NOT REQUIRED.

- (a) No mobile food vending permit shall be required for any mobile food vending unit that operates exclusively as a subset of a City of Painesville approved Special Event, within the approved areas and time frames.
- (b) No mobile food vending permit shall be issued within the right-of-way or on City of Painesville property, unless part of a Special Event.

733.07 OPERATION ON PRIVATE PROPERTY ONLY.

(a) Individuals or organizations shall be permitted to operate or cause to be operated any Mobile Food Vending Unit on private property within the corporate limits of the City of Painesville after meeting the permit and fee requirements of this chapter, unless otherwise exempted by this chapter.

(b) Operation of a Mobile Food Vending Unit on private property must be in compliance with all applicable zoning requirements related to commercial activity on private property.

733.08 EXPIRATION AND RENEWAL OF PERMIT.

(a) All licenses granted under this section shall expire on the last day of the calendar year following their issuance.

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

733.09 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.

733.10 PERMIT SUSPENSION, REVOCATION.

(a) Permits issued under this chapter may be suspended or revoked by the City of Painesville 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 Truck permit as issued; or
4. Failure to have valid permits or licenses required by the Lake County General Health Department or any other City of Painesville, state or federal agency; or
5. Conviction of any criminal or traffic offense while using a Food Cart or Mobile Food Truck or conviction of any criminal offense involving theft or fraud; or
6. For any of the reasons which could have been grounds for refusing to issue the original license; or
7. Knowingly allowing another person to use a Mobile Food Truck in violation of any provision of this chapter.
8. For other good cause at the discretion of the City Manager.

733.11 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 suspended or revoked, may appeal such decision shall have the right to appeal to the Safety Director of the City. An appeal shall be filed within thirty days after the receipt of notice of the decision.

733.12 SEVERABILITY CLAUSE.

If any particular portion of this chapter is declared to be invalid by a court of competent jurisdiction, such declaration of invalidity shall be limited to the particular portion declared invalid. This declaration of invalidity shall not affect or impair the remainder of this chapter, and to this end, the provisions are severable.

733.13 PENALTY.

(a) A violation of any section of this chapter shall be deemed a criminal violation as follows:

1. Whoever violates Section 733.02 shall be guilty of a misdemeanor of the first degree. Any such violation shall constitute a separate offense on each successive day continued. Strict liability is intended to be imposed for a violation of this section.
2. Whoever violates any other section of Chapter 733 shall be guilty of a minor misdemeanor. Strict liability is intended to be imposed for a violation of these sections.
3. A violation of any section of chapter 733 may be grounds for the suspension, revocation or permanent revocation of the Mobile Food Truck permit or in the case of a new application may be grounds to refuse to issue such permit for a determinate period of time up to ninety (90) days or permanently, in addition to any other penalties established for such violation in applicable section of the City of Painesville Codes.

Section II. That this Ordinance is passed as an emergency measure for the protection and preservation of the peace, health, safety and general welfare of the inhabitants of the City of Painesville, the emergency being the proposed change is necessary to allow regulations to be put into place to regulate the mobile food truck industry within the city limits, and therefore this ordinance shall become effective immediately upon its passage.

PASSED:

ATTEST:

VALERIE VARGO
CLERK OF COUNCIL

PAUL W. HACH, II
PRESIDENT OF COUNCIL

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 735.11 OF THE PAINESVILLE
CODE OF 1998 RELATING TO ROADSIDE STANDS AND SELLING ON
STREET and DECLARING AN EMERGENCY.

SECTION I. That Section 735.11 of the Painesville Code of 1998 is hereby amended to read as follows:

735.11 ROADSIDE STANDS AND SELLING ON STREET PROHIBITED.

- a) No person shall keep or maintain any outdoor display area or temporary structure within the City where flowers, vegetables, foodstuffs or any other items or commodities are kept, sold, or bartered.
- b) For the purpose of this section, any motor vehicle or other type of vehicle or cart whether motor propelled or otherwise that parks or remains in, or at one location for the purpose of such activity defined in subsection (a) hereof, shall be considered a roadside stand and in violation of this section.
- c) No person shall sell or offer to sell in, on or from the street, sidewalks or alleys within the City or from any motor vehicle or other type of vehicle or cart, whether motor-propelled or otherwise, located upon any street, sidewalk or alley within the City, any goods, services, merchandise, foodstuffs or other article or thing of any kind.
- d) This provision shall not apply to:
 - (1) Merchants having a retail establishment within the border of the City provided;
 - A. Registration has been issued pursuant to this chapter for each person and/or location.
 - B. The point of sale is not within 200 feet from a retail establishment offering exclusively the same product or service.
 - C. There is no obstruction to vehicular or pedestrian traffic flow as determined by the issuer of the permit.
 - (2) The owner of a product of his or her own raising or the manufacturer of any articles manufactured by him or her to vend or sell in any way, by himself or herself or his or her agent, any such article or produce on the land on which the product was raised or manufactured.
- e) Special permission of the City Manager may be granted for a temporary period only, not to exceed four (4) days, when associated with a special event.

SECTION II. That this Ordinance is passed as an emergency measure for the protection and preservation of the peace, health, safety, and general welfare of the inhabitants of the City of Painesville, the emergency being the immediate necessity to address roadside stands and selling on street within the City of Painesville, and therefore, this Ordinance shall be effective immediately upon its passage.

PASSED:

PAUL HACH, JR.
President of Council

ATTEST:

VALERIE VARGO
Clerk of Council