



COME TOGETHER & THRIVE

REMINDER

CITY COUNCIL

NOTICE OF MEETING

Joe Frank

President

Sara Continenza

Marty Gelfand

Jane Goodman

Ruth Gray

Susan Hardy

Justin Tisdale

MEETING OF: **SAFETY COMMITTEE**

CALLED BY: MARTY GELFAND, CHAIRMAN

DATE: **February 24, 2020**

LOCATION: COMMITTEE/JURY ROOM

TIME: 6:00 P.M.

RE: Ord. 18-19 Regulation of Food Trucks
Ord. 02-20 Abatement of Criminal Nuisances

COMMITTEE MEMBERS:

JOE FRANK

JUSTIN TISDALE

COUNCIL MEMBERS

SARA CONTINENZA

JANE GOODMAN

RUTH GRAY

SUSAN HARDY

ADMINISTRATION:

FIRE CHIEF STEFKO

FIRE INSPECTOR SEBASTIAN

POLICE CHIEF NIETERT

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 18-19 _____
INTRODUCED BY: Fiorelli _____
REQUESTED BY: Mayor _____

September 23, 2019

AN ORDINANCE

CREATING NEW CHAPTER 1570 "REGULATION OF MOBILE FOOD UNITS" OF PART FIFTEEN "FIRE PREVENTION CODE" OF THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO.

WHEREAS, there has been an increase in the operation of independent "Food Trucks" throughout the community; and

WHEREAS, in order to provide for the safety of the operators and patrons of these vendors, the Fire Department would like to add regulations to the Fire Prevention Code; and

WHEREAS, this will allow the regulation of the operation of these businesses by requiring annual safety inspections, a process for securing a permit, and, where and when a Food Truck can operate within the City of South Euclid.

NOW THEREFORE BE IT ORDAINED, by the Council of the City of South Euclid, Ohio:

Section 1. That Chapter 1570 "Regulation of Mobile Food Units" of Part Fifteen "Fire Prevention Code" of the Codified Ordinances of the City of South Euclid, Ohio is hereby created to read as follows:

CHAPTER 1570
Regulation of Mobile Food Units

1570.01 PURPOSE.

(a) South Euclid recognizes and supports the vitality and activity that is created by outdoor business activities at special events within the City and in other locations and to permit seasonal mobile food services to City businesses. However, the operation of such business or other uses on public and private property or within public street rights-of-way requires careful consideration and review to ensure that such uses function in a manner as to create the aforementioned benefits without any undue negative effects.

(b) The purpose of establishing these regulations is to create a pleasant and vibrant environment for visitors and residents, to provide an opportunity for limited operations in park and business areas, to prevent the obstruction of pedestrian, bicycle and motor vehicle traffic, to ensure that adequate efforts are made to protect the health, safety and welfare of the public by requiring permits for mobile food units and to establish minimum requirements for the permitting operation of such units as defined by the Ohio Fire Code.

1570.02 DEFINITIONS.

When used in this chapter, unless the context otherwise requires, the following terms shall have the following meanings:

(a) *Food Establishment* shall mean a business operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption.

(b) *Mobile Food Unit* shall mean a Food Establishment that is located upon a vehicle including motorcycles and bicycles, or which is pulled by a vehicle, where food or beverage is cooked, prepared or served for individual portion service. This definition includes but is not limited to: mobile food kitchens, pushcart vendors, bicycle cart vendors, mobile food trucks, canteen trucks, and coffee trucks. This definition does not apply to "meals on wheels" program vehicles or food home delivery services.

(c) *Special Event* for the purpose of this chapter, shall mean any outdoor activity or series of outdoor activities open to the public specific to an identifiable time and place most often produced in conjunction with community organizations, held on public property including street rights-of-way.

(d) *Annual Vendor Permit*: Vendors that anticipate regularly operating mobile food units within South Euclid during the calendar year may obtain an inspection permit sticker after following all required inspection requirements to be pre-approved for the year.

(e) *Special Event Permit*: Approval for a Special Event Permit is provided through the Community Development Department and vendors are subject to the requirements of the "Food Application Contract" after obtaining required Annual Vendor Permit Fire Department inspection approval.

1570.03 SCOPE OF CHAPTER.

Any Mobile Food Unit as defined by the Ohio Fire Code shall submit an application and obtain either an Annual Vendor Permit or a Special Event Permit from the South Euclid Fire Department prior to operating in the City of South Euclid. A Mobile Food Unit may not operate on public or private property, including the right-of-way, unless it has passed a Fire Department inspection.

1570.04 MOBILE FOOD UNIT REQUIREMENTS.

Each Mobile Food Unit may contact the South Euclid Fire Department to schedule an annual inspection beginning on January 2 of each year. All inspections shall be scheduled between the hours of 7:00am-3:00pm Monday through Thursday. Annual inspections scheduled between the dates of January 2 and May 31 of each year will hold a \$25.00 annual fee. Annual inspections scheduled after May 31 of each year will require a \$50.00 permit fee. The Chief, Assistant Chief or designee of the South Euclid Fire Department will schedule the inspection of the said Mobile Food Unit, and conduct the inspection pursuant to the Ohio Fire Code and this chapter of the South Euclid Codified Ordinances. The inspection will take place at the South Euclid Fire Department, located at 1349 South Green Road, South Euclid, Ohio 44121.

(a) Mobile Food Units are required to maintain the following certifications: Board of Health approved license to sell food; documentation that the LP gas tank and piping system (where applicable) has been inspected and tested in accordance with all required standards; and proof of insurance. Additional required documentation may include other certifications or federal, state or local licensure depending on the type of operation being conducted.

(b) During the inspection, the owner or responsible party shall be present to show, operate, explain and discuss the components of the Mobile Food Unit.

(c) Upon completion of the inspection, the owner or responsible party will be issued an inspection report detailing the findings of the inspection. An inspection report indicating Passing in all fields will be accompanied with an inspection permit sticker which will indicate that the Mobile Food Unit has been permitted and inspected in the given year. An inspection report indicating Fire Code deficiencies will require the owner or responsible party to take specific action or actions to bring their Mobile Food Unit up to the specified standards required by the Ohio Fire Code. Upon completion of the actions or repairs to the Mobile Food Unit, the owner or responsible party can then schedule a re-inspection with the Fire Chief, Assistant Fire Chief or designee to show compliance with the original inspection report deficiencies. Upon successful reinspection, the Mobile Food Unit will be issued an inspection permit sticker to indicate compliance with the annual inspection. Any change in the originally inspected vehicle's cooking arrangement, or cooking fuel supply system will require a reinspection which will be free of charge.

(d) Each permit issued will expire on December 31 of the year being issued, requiring a reinspection in the following year prior to operating in the City of South Euclid.

(e) On-site inspections may be performed by authorized Fire Department officials/members at their discretion any time the Mobile Food Unit is operating in the South Euclid jurisdictional boundaries.

(f) The City reserves the right to require a Mobile Food Unit to relocate to an alternate location as determined by the enforcement official as stated in Section 311.02 if the approved location needs to be used for emergency purposes, other public benefit, or is deemed to be unsafe due to its proximity to a building or due to it impeding vehicular, pedestrian, or bicycle traffic.

(g) Mobile Food Units shall adhere to all applicable parking regulations for commercial vehicles.

1570.05 OPERATION OF MOBILE FOOD UNITS.

(a) Operation Without Operational Permit. No Mobile Food Unit shall be operated without a valid Mobile Food Unit operational sticker issued pursuant to this Chapter.

(b) Unattended Vehicles Prohibited. No Mobile Food Vehicle shall be parked on the street overnight, or left unattended and unsecured at any time food is kept in the Mobile Food Unit. The owner or operator of any Mobile Food Unit found to be in violation of this subsection may be charged with a violation of this chapter.

(c) A Mobile Food Unit operating at an unauthorized location, or beyond the hours for which the Special Event has been permitted, shall be deemed operating without an inspection permit sticker in violation of this section and may be subject to enforcement under Section 311.02.

1570.06 ENFORCEMENT.

The provisions of this chapter may be enforced by the South Euclid Police Department, the South Euclid Fire Department, or the Mayor.

1570.07 SEVERABILITY.

If any provision of this chapter is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

1570.99 PENALTY.

A violation of this chapter for which no penalty is specified is a minor misdemeanor and punishable to the same extent as set forth in Chapter 1510, Sections 1510.99 of the Codified Ordinances of South Euclid.

Section 2: That 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 on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: That this Ordinance is deemed to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety within the City and therefore should be adopted at the earliest possible time. Wherefore this Ordinance shall take effect and be in force from and after the earliest period allowed by law and upon signature of the Mayor.

Passed this _____ day of _____, 2019.

Dennis Fiorelli, President of Council

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law

CITY OF SOUTH EUCLID, OHIO

ORDINANCE NO.: 02-20
INTRODUCED BY: Frank
REQUESTED BY: Mayor

February 10, 2020

AN ORDINANCE

AMENDING SECTION 531.09 "ABATEMENT OF CRIMINAL NUISANCES"
OF CHAPTER 531 "NUISANCES" OF PART FIVE "GENERAL OFFENSES" OF
THE CODIFIED ORDINANCES OF THE CITY OF SOUTH EUCLID, OHIO,
FIRST READING.

WHEREAS, the intent of the nuisance abatement ordinance is to promote, protect, and improve the health, safety, and welfare of our resident.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of South Euclid, Ohio:

Section 1: That Section 531.09 "Abatement of Criminal Nuisances" of Chapter 531 "Nuisances" of Part Five "General Offenses Code" of the Codified Ordinances of the City of South Euclid, Ohio be amended as follows:

"531.09 ABATEMENT OF CRIMINAL ACTIVITY NUISANCES.

(a) The following activities occurring on either residential or commercial properties, or within 1,000 feet of the property line of said residential or commercial property, and engaged in by an owner, occupant or invitee of the owner or occupant of such residential or commercial properties, are hereby declared to be public nuisances.

(1) Any animal violations under Sections 505.01, Dogs and Other Animals Running at Large; Dangerous and Vicious Dogs; 505.09, Barking or Howling Dogs; 505.06, Poisoning Animals; 505.07, Cruelty to Animals; 505.071, Neglect of Animals; 505.08, Noxious Odors; Unsanitary Conditions;

(2) Any disorderly conduct, disturbance of the peace or other violation of Chapter 509 of the Codified Ordinances;

(3) Any drug abuse violation under Chapter 513 of the Codified Ordinances;

(4) Any gambling violation under Chapter 517 of the Codified Ordinances;

(5) Any health, safety or sanitation violation under Chapter 521 of the Codified Ordinances;

(6) Any obstruction of official business violation under Section 525.07 of the Codified Ordinances;

(7) Any alcohol violations under Chapter 529 of the Codified Ordinances;

(8) Any sex offenses under Sections 533.07, Public Indecency; 533.08, Procuring; 533.09, Soliciting; or 533.10, Prostitution, of the Codified Ordinances;

(9) Any offense against another person under Chapter 537 of the Codified Ordinances with the exception of Domestic Violence charged pursuant to Section 537.14 or equivalent Ohio Revised Code section; Menacing by Stalking charged pursuant to Section 537.051 or equivalent Ohio Revised Code section; or Violating Protection Order charged pursuant to Ohio R.C. 2919.27;

(10) Any offense against property under Sections 541.03, Criminal Damaging or Endangering; 541.04, Criminal Mischief, of the Codified Ordinances;

(11) Any littering or deposition of waste under Chapter 527 of the Codified Ordinances;

(12) Any theft violation under Sections 545.05, Petty Theft; 545.08, Unauthorized Use of Property, of the Codified Ordinances;

(13) Any weapons, explosives, firearm or handgun violation under Chapter 549 of the Codified Ordinances;

(14) Any fireworks violation under Chapter 1540 of the Codified Ordinances;

(15) Any waste container violation under Section 1411.081 of the Codified Ordinances; and

(16) Any violation of 147.04 Prohibited Standing or Parking Places, No vehicle shall be parked on any lot other than in an enclosed structure thereon or on the driveway from the public right-of-way to the enclosed structure or 147.04 Prohibited Standing or Parking Places (b) On a sidewalk, except a bicycle;

(17) Any violation under Section 1405.24 of the Codified Ordinances;

(18) Any violation under Section 1405.245 of the Codified Ordinances;

(19) Any violation under Section 1609.07 of the Codified Ordinances;

(46)(20) Any offense that is a felony under the Ohio Revised Code.

(b) The Chief of Police or his designee, upon finding that two or more nuisance activities declared in this section have occurred within any 12-month period, may cause a written notice and order to be served on the owner of the property declaring that such property is a nuisance property. The notice and order shall set forth the nature of the nuisances, the estimated costs to abate any future nuisances, and state that the owner may avoid being charged the costs of abatement by taking steps to prevent any further nuisance activity as set forth in this section. The notice shall further state that if a third or subsequent nuisance activity as declared in this section occurs within 12 months of the written notice, the City may abate the nuisance by responding to the activities using administrative and law enforcement actions, and the costs of such abatement shall be assessed on the nuisance property. Notice shall be served as set forth in Sections 531.02 and 531.03 of the Codified Ordinances.

(c) If within 12 months after the written notice referred to in division (b) of this section has occurred, a third nuisance activity as declared in this section occurs, the City may abate the nuisance by responding to the activity using administrative and law enforcement actions, and the costs of such abatement shall be assessed on the nuisance property in the same manner as in Section 531.04 of the Codified Ordinances, and the costs shall be calculated as set forth in division (e) of this section. The City shall provide notice to the owner of the nuisance property of the City's intent to assess the costs of abatement against the owner's property at least 30 days before such costs are certified to the County for assessment against the property, and such notice shall contain a description of the nuisance activity that is the basis for the notice of intent to assess the property, and the cost to abate. Notice shall be served as set forth in Section 531.03 of the Codified Ordinances.

(d) The owner of a nuisance property who receives a notice from the Chief of Police or his designee pursuant to this section may appeal such notice by submitting a written request for reconsideration to the Chief of Police within 30 days of the date of the notice. If the Chief of Police finds that the facts presented do no support the declaration of a nuisance, the Chief shall rescind the notice. Otherwise, the Chief shall deny the request and refer the appeal for hearing by the Board of Zoning Appeals. Any such appeal shall not stay any actions by the City to abate the first or any subsequent nuisance activity. In any such appeal, the City must show by a preponderance of the evidence that each violation stated in the notice being appealed has occurred, and that the declaration of the property as a nuisance property or of the intent of the City to assess the property for abatement costs, whichever is applicable, is justified. The City shall be deemed to have failed to have met this standard if the owner demonstrates by a preponderance of evidence that:

(1) He or she was not the owner at the time of any of the nuisance activity that is the basis of the notice; or

(2) He or she had knowledge of the nuisance activity, but has promptly and vigorously taken all actions necessary to abate each nuisance including, without limitation, compliance with the requirements of Ohio R.C. 5321.17(C) and 5321.04(A)(9); or

(3) He or she had **no** knowledge of the nuisance activity and could not, with reasonable care and diligence, have known of the nuisance activity; and upon receipt of the notice of the declaration of the property as a nuisance property, he or she promptly took all actions necessary to abate the nuisance including, without limitation, compliance with the requirements of Ohio R.C. 5321.17(C) and 5321.04(A)(9).

(e) Costs of abatement shall be assessed based upon an escalating defined cost. The escalating defined costs are: two hundred and fifty dollars (\$250.00) upon the first declaration of nuisance under this chapter; five hundred dollars (\$500.00) on the second nuisance declaration; seven hundred fifty dollars (\$750.00) on the third nuisance declaration; and one thousand dollars (\$1,000.00) on each subsequent nuisance declaration. If any violation of nuisance activities described in division (a)(1) through (a)(16) above involves the possession and/or discharge of a firearm in violation of any Federal, State or local law, there shall be an additional cost assessed of two thousand dollars (\$2,000) to each enumerated cost listed in this section.

(f) The declaration of a nuisance property, an order to abate a nuisance, or the assessment of costs by the City on a property, do not affect or limit the City's right

or authority to bring criminal prosecution or other legal action against any person for violation of the City's ordinances.”

(Ord. 41-04. Passed 7-26-04; Ord. 35-06. Passed 6-26-06; Ord. 10-08. Passed 3-24-08; Ord. 36-11. Passed 3-26-12; Ord. 27-12. Passed 2-11-13; Ord. 08-17. Passed 6-12-17.)

Section 2: That 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 on or after November 25, 1975, that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: This ordinance shall take effect and be enforced from and after the earliest period allowed by law and upon signature of the mayor.

Passed this _____ day of _____, 2020.

Joseph Frank, Council President

Attest:

Approved:

Keith A. Benjamin, Clerk of Council

Georgine Welo, Mayor

Approved as to form:

Michael P. Lograsso, Director of Law