

CHAPTER 729
Mobile Food Vehicle Vendors

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729.01 DEFINITIONS

Within this Chapter, words with specific defined meanings are as follows:

- A. "City" means the city of Oakwood, Ohio.
- B. "City Manager" means the City Manager or his/her designee.
- C. "Mobile food vehicle" means a commercially manufactured, self-contained, motorized, vehicle currently licensed by the Ohio Department of Motor Vehicles in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for service, sale or distribution.
- D. "Operate" or "operation" means engaging in the business or activity of mobile service, sale or distribution of ready-to-eat food.
- E. "Temporary use" means a short term or seasonal use intended to promote or sell specific merchandise or products and shall include, but not be limited to, special events, sidewalk sales, and outdoor seasonal sales.

729.02 AUTHORITY TO ISSUE PERMIT

The City Manager is hereby authorized to grant, issue, deny, condition, and revoke permits pursuant to this Chapter.

729.03 PERMIT REQUIRED

- A. Any person desiring to operate a mobile food vehicle shall make a written application for such permit to the City Manager's Office. The application for such permit shall be on forms provided by the City Manager and shall include the following:
 - 1. Name, signature and address of each applicant, and each corporate officer of the mobile food vehicle vending corporation if incorporated.

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2. A valid copy of all necessary licenses, permits or certificates required by the County of Montgomery, the State of Ohio or any subsidiary enforcement agencies or departments thereof, including, but not limited to: a valid Ohio Department of Motor Vehicle Registration and Certificate of Inspection and valid driver's licenses of all vehicle operators.
 3. A description of the event for which the applicant seeks a permit. The description should include, at a minimum, the following information:
 - a. The date of the event;
 - b. The name of the Oakwood property owner sponsoring the event;
 - c. The street address where the event is being held;
 - d. The hours/duration of the event;
 - e. The applicant's hours of operation at the event;
 - f. The name or general nature of the event (e.g., "That Day in May," graduation party, wedding, block party, etc.); and
 - g. A good faith estimate of the anticipated total number of participants/guests attending the event.
 4. A signed statement that the vendor shall indemnify and hold the City and its officers and employees harmless for any claims for damage to property or injury to persons which may be occasioned by any activity carried out under terms of the permit. Vendor shall furnish and maintain such public liability, food products liability, and property insurance, as will protect vendor and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than one million dollars (\$1,000,000) per occurrence. A permit issued pursuant to the provisions of this Chapter shall be invalid at any time the insurance required herein is not maintained.
- B. For purposes of this ordinance, any of the following shall constitute one (1) event for determining permit requirements:
1. Single-instance: An event that occurs once, on one specific day at a specific time. By way of example and not of limitation, a wedding or graduation party would constitute one (1) "single-instance" event.
 2. Multi-day: An event that occurs once, over a span of not more than three consecutive days. By way of example and not of limitation, a festival lasting three or fewer consecutive days would constitute one (1) "multi-day" event.
 3. Regularly-recurring: An event that occurs on a weekly or monthly basis, at a fixed location on or abutting a street closed to vehicular traffic, where such event is held on the same day and at generally the same time each week or month. For purposes of this provision, all weekly or monthly incidents of a "regularly-recurring" event, within the same calendar year, shall be taken together and deemed a single event. By way of example and not of limitation, all instances of a weekly farmers' market within one calendar year would constitute one (1) "recurring" event.
- C. Upon receipt and verification of a complete application, including all submittals that may be required and the appropriate permit fee, the City Manager shall grant and issue the permit unless grounds exist for denying the same.
- D. The City Manager shall deny a permit under this Chapter for any of the following reasons:
1. Failure to pay the appropriate permit fee;
 2. Failure to submit all required materials with the application for a permit under this Chapter;
 3. The applicant owes outstanding financial or other obligations to the City;

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4. If, in the City Manager's opinion, any of the following conditions exist and cannot be eliminated by the imposition of reasonable conditions on the permit:
 - a. The application was not submitted in connection with a particular event sponsored by an Oakwood property owner.
 - b. The issuance of the permit would result in mobile food vehicle operation before 9:00 am and/or after 9:00 pm.
 - c. The issuance of the permit would cause, contribute to, or exacerbate undesirable traffic or parking congestion.
 - d. The issuance of the permit would impede access to public buildings or facilities, or would interfere with the delivery of governmental and/or emergency services.
 - e. For a particular single-instance or multi-day event, or for a particular instance of a regularly-recurring event, three or more permits have already been issued (unless the City Manager determines that the anticipated crowd size and location can reasonably justify and accommodate additional permits). Permits are issued on a first-come-first-served basis; no more than three permits will be issued for a particular single-instance or multi-day event, or for a particular instance of a regularly-recurring event unless the City Manager makes the determination described in this paragraph.
 - f. The permit was requested in connection with operation on any alley; or on Far Hills Avenue, Shroyer Road, Patterson Road, East/West Schantz Avenue between Oakwood Avenue and the Oakwood/Kettering corporate line, or on Oakwood Avenue between Far Hills and Irving Avenues, or on Park Avenue between Far Hills and Harman Avenues; or on any street that may hereafter become designated as a thoroughfare street; unless such right-of-way has been closed to regular traffic for a particular event and the mobile food vehicle is participating in that event.
 - g. The issuance of the permit would endanger the public health, safety, and/or welfare.

The City Manager or his or her designee shall give written notice to the applicant of a denial of any permit under this Chapter.

729.04 FORM AND CONDITION OF PERMIT

Every mobile food vehicle vending permit shall contain the following conditions:

- A. The permit is valid only for the date(s) and time(s) specified thereon;
- B. The permit holder is responsible for operation in accordance with all applicable laws;
- C. The permit shall not be transferable without written approval of the City Manager;
- D. The permit is valid for one mobile food vehicle only;
- E. The permit shall be placed on the mobile food vehicle's dashboard or hung from the inside rear view mirror where it can be readily seen by the public, and shall be displayed at all times of permitted operation; and
- F. Any other condition imposed by the City Manager pursuant to this Chapter.

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729.05 PERMIT FEE

All permit applications submitted under this Chapter shall include a non-refundable permit fee of ten dollars (\$10.00), provided however that the City Manager may increase this fee, not more than once per year, as he or she may determine is necessary to recover the city's reasonable costs incurred in administering this Chapter.

729.06 GENERAL OPERATING RESTRICTIONS

- A. It shall be unlawful for any person to operate a mobile food vehicle within the City, whether on public or private property, without first having obtained a valid mobile food vending permit as prescribed in this Chapter, or in violation of the terms of such permit if one has been issued.
- B. It shall be unlawful for any person to operate a vehicle other than a mobile food vehicle for the service, sale, or distribution of ready-to-eat food in the City.
- C. A mobile food vehicle shall not be operated or parked so as to obstruct or impede the normal movement of traffic.
- D. A mobile food vehicle shall be parked or stopped with the curb-side wheels parallel with and not more than twelve inches from the curb when food items are sold, dispensed or prepared.
- E. All items shall be sold, offered for sale or dispensed only from the right hand (curb-side) of a mobile food vehicle.
- F. Flashing lights shall be operated continuously at all times when a mobile food vehicle is parked or stopped so as to be clearly visible to drivers of other vehicles approaching such vehicle from the front or rear.
- G. Sound emanating from a mobile food vehicle shall be in accordance with all noise regulations under state and local law.
- H. The restrictions set forth above in sections 729.06(D), (E), and (F) shall not apply if the mobile food vehicle is operated on a public right-of-way that has been closed to regular vehicular traffic for a particular event, and only if and to the extent that the mobile food vehicle is participating in that event.

729.07 SUSPENSION AND REVOCATION

- A. The owner/operator of any mobile food vehicle permitted by the City shall comply with all provisions of Federal, State and local laws and ordinances.
- B. The owner/operator of any mobile food vehicle permitted by the City shall comply with all notices, orders, decisions and rules and regulations made by the City Manager, the Department of Public Safety, or any other City department.

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- C. Any person, firm, corporation or other entity violating the provisions of this Chapter may be liable for penalties as prescribed in Section 729.99 and may be subject to immediate closure by the Department of Public Safety and/or the City Manager's Office.

729.08 CLOSURE FOR OPERATION WITHOUT A PERMIT

Any mobile food vehicle operating without the required City permit shall be immediately closed by order of the Department of Public Safety and/or the City Manager's Office. Each day of operation without a permit shall constitute a separate violation.

729.09 APPEALS

The applicant may appeal the denial or revocation of a permit to the General Appeals Board, as constituted pursuant to Chapter 169 of the Oakwood Administrative Code, by filing a written notice of appeal with the Clerk of Council within ten days after such denial or revocation.

The following procedures shall govern appeals under this Section:

- A. In the event that a notice of appeal is incomplete or not timely filed, or is otherwise not filed consistent with this Section, the applicant's right of appeal shall lapse.
- B. The written appeal shall:
1. Cite specific provisions of this Chapter that are alleged to have been interpreted in error, or the specific grounds on which the appeal is being made;
 2. Include any required application fee in an amount set by the City Manager and set forth in the city's permit fee schedule; and
 3. Include such other information as may be necessary to render a reasonable decision.
- C. The applicant must appear, with or without counsel, at the hearing of the appeal. The applicant's failure to attend the appeal hearing shall constitute grounds for the dismissal of the appeal.
- D. The applicant, the City Manager, or the City Manager's designee, may appeal the decision of the Board of General Appeals in accordance with Section 169.01(C) of the Oakwood Administrative Code.

729.99 PENALTY

Whoever violates any of the provisions of this Chapter is guilty of an unclassified misdemeanor and shall be fined not more than one thousand dollars (\$1,000) for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

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