

CHAPTER 703  
Mobile Food Vendors

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703.01 DEFINITIONS.

For the purposes of this chapter, a Mobile Food Vendor shall be defined as any person who sells, offers for sale, or distributes free of charge, food or beverages to the public from a fixed location from any unit (vehicle, trailer, cart, wagon, or similar use) which is designed to be readily moveable. A unit shall not include tents or similar portable structures. The food may be cooked, wrapped, packaged, processed and/or portioned for service, sale, or distribution in the Mobile Food Vendor unit.

(Ord. 12-39. Passed 10-1-12.)

703.02 MOBILE FOOD VENDOR LICENSE REQUIRED.

(a) It shall be unlawful for any person to engage in the business of operating a Mobile Food Vendor unit without first obtaining a Mobile Food Vendor License from the Municipality of Germantown. This Mobile Food Vendor License shall be non-transferrable to any other Mobile Food Vendor or location not approved as part of the License application.

(b) This Mobile Food Vendor License shall be valid for twelve (12) months from the date of issuance. It shall be renewable thereafter for a twelve-month term, conditional on satisfactory compliance with the requirements of this Section and all applicable laws.

(c) At a minimum, the Mobile Food Vendor shall provide the following information in the Mobile Food Vendor License application:

- (1) The name and contact information of the applicant(s)
- (2) The address of the property or properties where the Mobile Food Vendor operation is to be conducted.
- (3) Written permission of the property owner(s) consenting to the Mobile Food Vendor operation on his/her property.
- (4) Proposed operating hours.

- (5) Maps and drawings of the proposed site(s) for the Mobile Food Vendor operation showing the location of all buildings, parking and loading areas, streets and driveway approaches, open spaces, refuse and service areas, utilities, signs, landscaping, and any such other site information as the Municipality may require.
- (6) A narrative statement describing the proposed Mobile Food Vendor operation.
- (7) A photograph of any Mobile Food Vendor unit to be used in operation of the business.
- (8) A signed indemnification statement and copy of liability insurance for the business in an amount not less than one-million dollars (\$1,000,000), naming the Municipality of Germantown as an additional insured, as further described below.
- (9) Proof of access to permanent restrooms for use by the employees, and with a hand sink for use by employees, as evidenced by written agreement between the vendor and the business or entity which will provide such access, if such restrooms are not provided by the employer on site.
- (10) The Police Department shall conduct a background check of the applicant(s).
- (11) A valid copy of all required licenses or permits required by governmental health or transportation authorities, including but not limited to, the Public Health - Dayton & Montgomery County and the Department of Motor Vehicles.
- (12) Any additional information deemed necessary by the Municipality.

(d) The approved operating location(s) shall be indicated on the license. The license must be prominently displayed on the Mobile Food Vendor unit along with any other required licenses, and shall be available for inspection upon request.

(e) The Mobile Food Vendor License is non-transferable and may be used only by the applicant(s), partners, or entities capable of taking title to whom the license was granted. Any change in the individual, partners, or entities capable of taking title is a transfer of ownership interest and voids the license. Upon the death of the licensee(s), his/her heirs and assigns may, for thirty (30) days after the death of the licensee(s), continue to operate the mobile food vendor service using the valid license which should have been previously obtained by the licensee. The licensee's heirs and assigns may continue to operate the mobile food vendor service after the thirty (30) day period, as long as they have passed an acceptable background check as provided by this Section. If the business is to be sold or liquidated, the license is non-transferable at death.

(Ord. 12-39. Passed 10-1-12.)

#### 703.03 FEES.

(a) Upon application for a Mobile Food Vendor License, a non-refundable application fee of one-hundred dollars (\$100.00) shall be paid.

(b) Upon issuance of the Mobile Food Vendor License and annually thereafter, a non-refundable Mobile Food Vendor License Fee of thirty dollars (\$30.00) each year thereafter shall be due and payable. This annual fee is in addition to the Mobile Food Vendor Application Fee due with the initial application and in addition to fees as may be required by other governing jurisdictions. (Ord. 12-39. Passed 10-1-12.)

#### 703.04 LOCATION.

(a) Mobile Food Vendors shall be permitted only in the following zoning districts, except as otherwise provided in subsections (c) and (d) below:

Downtown Business, Commercial, Industrial, Agricultural.

(b) A Mobile Food Vendor License granted under this section shall permit one Mobile Food Vendor unit to be located on one of up to three non-residential properties within any permitted zoning district, with the written permission of the property owner(s) and consistent with the requirements of this Section and all other applicable laws. During the term of the Mobile Food Vendor License, the Mobile Food Vendor shall operate from one of the approved locations, but may relocate the unit to any other Municipality approved location at the vendor's discretion. These locations may be changed during the term of the permit upon submission of a new Mobile Food Vendor License application and payment of application fee as approved by the Municipality. No other Mobile Food Vendors may be permitted to operate at said locations during the term of the permit. Locations shall be approved on a first-come, first-served basis.

(c) Notwithstanding subsections (a), (b) and (d), the City Council is authorized to grant:

- (1) Permission to locate Mobile Food Vendor units on any Municipality-owned property consistent with these regulations, for an additional fee, to be negotiated subsequent to approval by Council.

(d) Notwithstanding subsections (a), (b) and (c), Mobile Food Vendor units shall not be located:

- (1) Within one-hundred (100) feet of property containing a restaurant located in an enclosed building, unless operated by the restaurant owner or written permission by the restaurant or property owner is provided. However, this restriction does not prevent approval of any new restaurant located in an enclosed building within one-hundred (100) feet of any pre-existing approved Mobile Food Vendor location. In that event, the Mobile Food Vendor may continue at the pre-approved location until the expiration of the permit term. Upon renewal of the permit, the Mobile Food Vendor must then relocate to meet the requirements of this subsection.
- (2) On property used exclusively for single-family residential purposes, irrespective of its zoning classification.
- (3) In the right-of-way adjacent to any land owned by a public or private school, unless written permission has been granted by the school.
- (4) In the right-of-way adjacent to any property containing a festival, special or civic event that is licensed or sanctioned by the Municipality, unless the Mobile Food Vendor is an authorized participant in such event.
- (5) On any unpaved surface.

- (6) Closer than five (5) feet to the public right-of-way, unless permission is granted by the Municipality to locate within the right-of-way as provided in subsection (c)(1) hereof. (Ord. 12-39. Passed 10-1-12.)

#### 703.05 GENERAL REQUIREMENTS.

Mobile Food Vendors shall meet the following requirements:

- (a) The license is valid for one Mobile Food Vendor unit only.
- (b) Mobile Food Vendor units shall not:
  - (1) Be in such a deteriorated physical condition as to adversely affect the character, appearance, image, or economic value of surrounding property.
  - (2) Exceed twenty-eight (28) feet in length, eight and one-half (8.5) feet in width, or ten (10) feet in height.
  - (3) Occupy parking spaces which result in a violation of the minimum parking requirements for the principal use or other permanent uses on the property.
  - (4) Remain attached to any vehicle used to haul the unit. Such hauling vehicle shall be detached from the unit and parked in a lawful parking space separate from the unit.
  - (5) Contain a drive-through.
  - (6) Substantially obstruct a public way, impair the movement of pedestrians or vehicles, or pose a hazard to public safety.
- (c) Mobile Food Vendors may set up tables and chairs in the space immediately adjacent to the unit, provided the tables and chairs are placed:
  - (1) Only on a paved surface.
  - (2) In a location that does not block the entrance or exit of any building or access to bus stops, fire escapes, sidewalks, or utility equipment.
  - (3) In a location that is not less than five (5) feet from any alley, pedestrian crosswalk, driveway approach, curb ramp, or fire hydrant.
  - (4) Such that an open area of not less than four (4) feet is available for pedestrian traffic around the tables and chairs.
  - (5) Such that no other requirement of this chapter is violated.
- (d) Adequate paved parking must be available immediately adjacent to the Mobile Food Vendor to ensure public safety of its patrons and the traveling public.
- (e) Mobile Food Vendors shall not block, obstruct, or otherwise restrict free passage of vehicles or pedestrians in the lawful use of streets or sidewalks or ingress or egress to property, or obstruct required sight distance.
- (f) Mobile Food Vendors shall provide proof of access to permanent restrooms with a hand sink for use by employees, as evidenced by written agreement between the vendor and the business or entity which will provide such access.

(g) Any power required for the Mobile Food Vendor unit shall not use utilities drawn from the public right-of-way. Electrical power from private property may be used when written consent is provided by the property owner. All other power sources must be self-contained, and no external generators shall be permitted. No power cable or equipment shall be extended across any public street, alley, or sidewalk.

(h) No Mobile Food Vendor shall use any outside sound amplifying equipment, music, or noisemakers such as bells, horns, or whistles.

(i) No outdoor storage of equipment shall be permitted.

(j) The Mobile Food Vendor shall maintain an area within a thirty (30) foot radius of the unit clear of all litter and debris arising from its operation, and shall remove all waste generated by the operation at the end of each business day, which shall not be placed in Municipality trash receptacles. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, or any other place except one trash receptacle provided and serviced by the Mobile Food Vendor for customer use. All such containers shall be leak-proof and nonabsorbent and shall be kept covered with tight-fitting lids at all times.

(k) The Mobile Food Vendor shall provide a signed statement that the vendor will hold harmless the Municipality and its officers and employees, and shall indemnify the Municipality, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the Mobile Food Vendor License. The Mobile Food Vendor shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect the vendor, property owners, and the Municipality from all claims for damage to bodily injury, including death, which may arise from the operations under the Mobile Food Vendor License or in connection therewith. Such insurance shall be issued by an insurance company licensed to do business in the State of Ohio and shall provide coverage of not less than one million dollars (\$1,000,000) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice served upon the Municipality Manager of the Municipality of Germantown. A Mobile Food Vendor License issued pursuant to the provisions of this Section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the Municipality Manager of the Municipality of Germantown.

(l) No Mobile Food Vendor License shall be issued until the Mobile Food Vendor provides a valid copy of all required licenses or permits required by governmental health or transportation authorities, including but not limited to the Public Health - Dayton & Montgomery County and the Bureau of Motor Vehicles.  
(Ord. 12-39. Passed 10-1-12.)

#### 703.06 SIGNS.

Signs related to the Mobile Food Vendor shall only be permitted on the Mobile Food Vendor unit, not to extend above the top of the unit, and shall consist only of the vendor name and logo and any items provided for sale or distribution to the public. Sign area shall be limited to no more than one (1) square foot of sign area per lineal foot of the Mobile Food Vendor unit face, with no more than one sign per unit face. Some or all of the permitted sign area may be transferred to another unit face, provided the total sign area does not exceed fifty (50) percent of the unit face. No freestanding signs shall be permitted. All other requirements of the Codified Ordinances of the Municipality of Germantown, not in conflict with these requirements, shall apply to Mobile Food Vendors.  
(Ord. 12-39. Passed 10-1-12.)

**703.07 EXCEPTIONS.**

The regulations in this chapter do not apply to:

- (a) Mobile Food Vendors that supply food and/or beverages during any special public, school, or charitable event.
- (b) Temporary sales of seasonal produce as otherwise regulated by separate ordinance.  
(Ord. 12-39. Passed 10-1-12.)

**703.08 LICENSE ADVERSE ACTION.**

(a) Any Mobile Food Vendor who violates any provision of this Section shall be issued a written warning for the first violation. Any Mobile Food Vendor who commits a second violation of any provision of this Section, which may or may not be related to any other prior violation by the Mobile Food Vendor, shall be issued a fine in the amount of five hundred dollars (\$500.00), which shall be paid within ten business days; if said \$500.00 fine is not paid within 10 days the mobile food vendor shall be required to cease operation and the operator's mobile food vendor license shall be suspended until such time as the fine has been paid in full. A third violation of any provision of this Section by the Mobile Food Vendor, which may or may not be related to any other prior violation by the Mobile Food Vendor, will result in immediate revocation of the Mobile Food Vendor License and loss of eligibility for future Mobile Food Vendor Licenses.

(b) Notwithstanding subsection (a) hereof, an application for or an approved Mobile Food Vendor License may be immediately denied, revoked, suspended, or not renewed for any of the following reasons:

- (1) Conviction of the Mobile Food Vendor owner or any employee within the last ten years for a crime of violence, a crime involving moral turpitude, a crime involving drug convictions, or a crime involving sex offenses.
- (2) Fraud or misrepresentation contained in the license application.
- (3) Fraud or misrepresentation made in the course of conducting the Mobile Food Vendor business.
- (4) Conduct of the licensed Mobile Food Vendor business in such a manner as to create a public nuisance or to constitute a danger to the public health, safety, or welfare.
- (5) Abandonment of the location by failure to operate a Mobile Food Vendor operation during at least three-fourths (3/4) of the business days available.
- (6) Refusal of the Mobile Food Vendor to comply with any requirements of this Section or other applicable law.
- (7) For any good cause shown.

(c) When good cause has been demonstrated to deny, revoke, suspend, or not renew a Mobile Food Vendor license, the Municipality shall issue an order which shall become effective immediately upon service of a written notice to the licensee. Such notice shall specify the reason for denial, revocation, suspension, or non-renewal and may provide for conditions upon which the license may be approved or reinstated, upon compliance with said conditions. Should no conditions be given for the possible approval or reinstatement of the license, the order shall constitute a denial or revocation of the license.  
(Ord. 12-39. Passed 10-1-12.)

703.09 APPEAL.

Any person aggrieved by any administrative decision pursuant to this chapter may submit an appeal of said decision as provided in the Codified Ordinances Municipality of Germantown.

(Ord. 12-39. Passed 10-1-12.)