



**CITY OF PATASKALA**

**ORDINANCE 2017-4297**

Passed November 11, 2017

**AN ORDINANCE TO ADD CHAPTER 719 TO THE CODIFIED ORDINANCES OF THE CITY OF PATASKALA, AND REPEAL ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH**

***WHEREAS***, the proposed amendment would establish a definition and standards for mobile food vendors, remove conflicting standards from the Code, and adjust the lettering and numbering of the Code accordingly.

***WHEREAS***, the City Planning and Zoning Commission initiated the amendment pursuant to Section 1217.02, and

***WHEREAS***, a public hearing was held by the City Planning and Zoning Commission on September 6, 2017 pursuant to Section 1217.07, and

***WHEREAS***, the notice of a public hearing to be held by the City Planning and Zoning Commission was published in a newspaper of general circulation on August 24, 2017 pursuant to Section 1217.08, and

***WHEREAS***, upon hearing the application the City Planning and Zoning Commission recommended approval of the amendment on September 6, 2017 pursuant to Section 1217.10, and

***WHEREAS***, a public hearing was held by Council on October 16, 2017 pursuant to Section 1217.11, and

***WHEREAS***, the amendment was on file for public examination for a minimum of 30 days preceding the Council public hearing pursuant to Section 1217.12, and

***WHEREAS***, Council hereby determines that all applicable procedures required by Chapter 1217 of the Codified Ordinances have been followed, and that notice was given and a public hearing was held as required by Section 1217.11 of the Codified Ordinances, and Council hereby adopts the recommendation of the City Planning and Zoning Commission as provided for in Section 1217.13 of the Codified Ordinances;

***WHEREAS***, the Council of the City of Pataskala has determined that it is necessary to amend the Zoning Code of the Codified Ordinances.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PATASKALA, COUNTY OF LICKING, STATE OF OHIO, A MAJORITY OF ALL MEMBERS ELECTED OR APPOINTED THERETO CONCURRING, THAT:**

**Section 1:** That Chapter 719 be added to the Business Regulations of the Codified Ordinances of the City of Pataskala to read as found in Exhibit A.

**Section 2:** 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 Council and that all deliberations of the Council and any of the decision making bodies of the City of Pataskala which resulted in such formal actions were in meetings open to the public in compliance with all legal requirements of the State of Ohio.

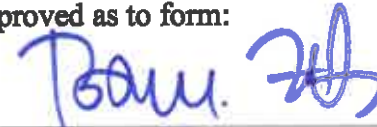
**Section 3:** This Ordinance shall become effective from and after the earliest period allowed by the Charter of the City of Pataskala.

**ATTEST:**

  
\_\_\_\_\_  
Kathy M. Hoskinson, Clerk of Council

  
\_\_\_\_\_  
Michael W. Compton, Mayor

Approved as to form:

  
\_\_\_\_\_  
Brian M. Zets, Law Director

# EXHIBIT A

## CHAPTER 719 MOBILE FOOD VENDORS

**719.01 Definitions**

**719.02 Purpose**

**719.03 Permitted**

**719.04 Permit Required**

**719.05 Insurance Required for Operation**

**719.06 Permit Contents**

**719.07 General Requirements**

**719.08 Revocation of Permit**

**719.09 Transfer of Permit Prohibited**

**719.10 Outdoor Public Entertainment Activity,  
Licensed Mobile Food Vendors**

**719.11 Appeals**

**719.12 Severability**

**719.13 Enforcement and Penalty**

### 719.01 DEFINITIONS

**Department of Health:** Shall have the same meaning as “licensor” for a mobile vending health license in Ohio Revised Code 3717.01(O).

**Food:** 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.

**Food Delivery Operation:** A food service operation from which food is ordered off-site by a customer, prepared, and delivered to the customer. "Food delivery operation" includes, by way of example and not by way of limitation, pizza delivery, sandwich delivery, restaurant delivery services, or "food delivery sales operations" as defined in Ohio Revised Code 3717.01(H).

**Food Service Operation:** For the purposes of a mobile food vending license, 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 subsection, "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.

**Food Trailer:** Any vehicle without motive power that is designed to be drawn by a motor vehicle and is specifically designed for food vending operations.

**Food Truck:** A vehicle propelled by an engine which has been specifically designed or used for mobile food vending.

**Food Vending Operation:** 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 subsection “served” means a response made to 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 temperature at which it was received.

**Health License:** An official document issued by a department of health pursuant to Section 3701 of the Ohio Revised Code. Such document may be either an annual health license or a temporary health license.

**Mobile Food Vending Unit:** A food service operation or retail food establishment that is operated from a food truck, food trailer, pedi-food cart, or pushcart, and that can or does routinely change location. For the purposes of a Mobile Food Vendor Permit, “mobile food vending unit” excludes food delivery operation and vending machines, as defined in Ohio Revised Code 3717.01(L).

**Mobile Food Vendor:** 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, food trailer or food truck.

**Operator:** The individual or entity who manages one (1) or more mobile food vending units whether as the owner, an employee of the owner or as an independent contractor.

**Permanently Revoke:** For the purposes of a mobile food vending license, shall mean to terminate all rights and privileges under a license for a period of ninety (90) days or greater and to render the holder of a license ineligible to reapply for said license.

**Public Right of Way:** Any property owned by the City of Pataskala, including, but not limited to, any street, road, alley, or sidewalk.

**Revoke:** shall, for the purposes of a mobile food vending license, shall mean to terminate all rights or privileges under a license for a period not to exceed ninety (90) days after which the individual must reapply for a license.

#### **719.02 PURPOSE**

The purpose of this chapter is to permit Mobile Food Vendors, on a temporary basis, while protecting the health, safety and general welfare of the community.

#### **719.03 PERMITTED**

Mobile Food Vendors shall be permitted in the following zoning districts:

- A. Professional Research Office District (PRO)
- B. Downtown Business District (DB)
- C. Local Business District (LB)
- D. General Business District (GB)
- E. Light Manufacturing District (M-1)
- F. Planned Manufacturing District (PM)

Mobile Food Vendors may be permitted in other zoning districts at the discretion of the City Administrator or their designee.

#### **719.04 PERMIT REQUIRED**

- A. Unless otherwise stated in this chapter, no Mobile Food Vendor shall operate, or cause to be operated, any mobile food vending unit within the limits of the City of Pataskala without first obtaining a Mobile Food Vendor permit issued by the City Administrator or their designee. The mobile food vendor permit shall be valid for a period of 60 days from the date of issuance. A maximum of three (3) Mobile Food Vendor permits shall be issued per Mobile Food Vendor per calendar year.
- B. Unless otherwise stated in this chapter, no Mobile Food Vendor shall operate, or cause to be operated, any mobile food vending unit within the City of Pataskala without a current and valid health license issued in accordance with laws, rules and regulations established in the Ohio Revised Code, and the Ohio Administrative Code.
- C. Nothing in the chapter shall be construed as superseding, supplanting, or otherwise replacing any duty imposed by the Ohio Revised Code Chapter 3701 or 3717, or rules or regulations promulgated

thereunder, upon an applicant for a health license, or upon department of health in its responsibilities relative to Mobile Food Vendors.

#### **719.05 INSURANCE REQUIRED FOR OPERATION**

No Mobile Food Vendor shall operate, or cause to be operated, any mobile food vending unit within the City of Pataskala without doing both of the following:

- A. Provide to the City Administrator or their designee a certificate of general liability insurance from an insurance company duly licensed to transact such business in the State or of an insurance company not authorized to transact business in this state, provided such insurance is written through a citizen of this state licensed as provided by Ohio Revised Code Sections 5905.03, et seq., in the amount of no less than the state minimum liability insurance as same is defined by the Ohio Department of Insurance.
- B. Affirm, in writing, that the Mobile Food Vendor will forever indemnify and hold harmless the City of Pataskala and all of its agents, employees, officials (elected and appointed), representatives, and insurance providers from and against all claims, damages, losses, suits and actions, including attorney's fees, arising or resulting from operation of a mobile food vending unit in the City of Pataskala.

#### **719.06 PERMIT CONTENTS**

The following items shall be submitted as part of an application for a mobile food vendor permit:

- A. The mobile food vendor application form provided by the City Administrator or their designee and the proper filing fee.
- B. A site plan to include the following:
  1. A diagram indicating where the mobile food vending unit will park.
  2. Dimensions of the mobile food service unit including awnings, canopies and signage.
  3. All proposed signage and advertising.
  4. The location of parking for patrons.
  5. The location of the queue for patrons to line up.
  6. The location of all receptacles for trash and recycling.
  7. The location of all seating, tables, planters and other accessory items.
- C. Photographs of the mobile food vendor unit to include details of all signage and menus.
- D. A copy of the health license pursuant to Section 715.04.
- E. A copy of the liability insurance for the mobile food service unit pursuant to section 715.05.
- F. A map indicating the proposed location of where the mobile food service unit will conduct business and, where applicable, written permission from the property owner.
- G. Other information determined to be necessary by the City Administrator or their designee.

#### **719.07 GENERAL REQUIREMENTS**

A Mobile Food Vendor shall abide by all of the following requirements:

- A. A mobile food vending unit shall not be located in the public right-of-way unless permitted by the City Administrator or their designee.
- B. A mobile food vending unit shall not cause or allow to be placed or encroach in the public right-of-way any seating, signage, planters, or other temporary structures unless permitted by the City Administrator or their designee.
- C. All signs and graphics shall be attached to the mobile food vending unit. Free standing or off-premise advertising shall be prohibited.
- D. A mobile food vendor shall not cause or allow the illegal disposal or release of oils or greases.
- E. All required City, County and/or State permits shall be clearly displayed on the mobile food vending unit.

- F. A mobile food vending unit shall be located so that patrons shall be protected by placing the queue in a safe location that does not impede vehicular, bicycle, or pedestrian traffic.
- G. All cooking and preparation of food shall be conducted within the mobile food vending unit.
- H. The location of a mobile food vending unit shall have adequate parking so that its operation does not impede vehicular, bicycle or pedestrian traffic or create a safety hazard.
- I. Alcohol or tobacco shall not be served from a mobile food vending unit.
- J. The location of a mobile food vending unit shall be kept in a clean and sanitary condition at all times. The mobile food vendor shall have a minimum of one (1) trash receptacle and shall be responsible for the proper disposal of waste and trash associated with the mobile food vending unit. The mobile food vendor shall remove all waste and trash from their location at the end of each day and as needed to maintain cleanliness.
- K. A mobile food vendor shall not operate between the hours of 11:00pm and 7:00am, unless otherwise permitted by the City Administrator or their designee.
- L. Any connections for gas, electric and water shall not create a safety hazard nor shall they create a public nuisance.
- M. All mobile food vending units shall have a minimum of one (1) operable and current fire extinguisher mounted in the cooking area.
- N. Temporary restroom facilities shall not be permitted as part of the mobile food vendor operation unless permitted by the City Administrator or their designee.
- O. If at any time the Licking County Health Department revokes, suspends, or provides a notice of deficiency of the Food Service Operation License or Retail Food Establishment license, the mobile food vendor shall cease operation in the City of Pataskala.
- P. A mobile food vendor shall timely remit all applicable income taxes, income tax returns, and other taxes associated with the operation of a business in the City of Pataskala.
- Q. Refrain from otherwise causing or allowing the operation of a mobile food vending unit in a manner that violates this chapter or other applicable section of the City of Pataskala Code.
- R. Permanent changes to the site wherein the mobile food vendor is operating shall be prohibited.
- S. Mobile Food Vendors shall have no inherent rights within the zone in which they locate.

#### **719.08 REVOCATION OF PERMIT**

The City Administrator or their designee may revoke, or permanently revoke the permit of any Mobile Food Vendor who engages in any of the following conduct:

- A. Obtains a license by a false statement in their application.
- B. Fails to comply with the requirements for Mobile Food Vendors established in this chapter.
- C. Receives a citation for impeding the flow or operation of pedestrian and vehicle traffic, creating unsanitary conditions, becoming an attractive nuisance for children or any other violation of the City of Pataskala Code.
- D. Fails to maintain general liability insurance for each mobile food vending unit.
- E. Is convicted or pleads guilty for any crime committed in or from the mobile food vending unit.
- F. Any other form of misconduct, which shall mean conduct apart from the generally accepted practices of mobile food vending unit owners and employees, which demonstrates personal, corporate, managerial, ethical or professional characteristics or disposition rendering a person unsuitable to own or work in a mobile food vending unit.

#### **719.09 TRANSFER OF PERMIT PROHIBITED**

No permit issued under this chapter shall be transferred or assigned by the named Mobile Food Vendor to any other individual or organization.

**719.10 OUTDOOR PUBLIC ENTERTAINMENT ACTIVITY, LICENSED MOBILE FOOD VENDORS**

- A. No Mobile Food Vendor permit shall be required for any Mobile Food Vending Unit that operates exclusively within an Outdoor Public Entertainment Activity permit.
- B. Nothing in this section shall limit periodic inspections by the City of Pataskala or the Licking County Health Department.

**719.11 APPEALS**

Any Mobile Food Vendor who has been refused a permit under this chapter or has had a permit issued under this chapter suspended or revoked, may appeal such decision to Council for the City of Pataskala within 30 days of the refusal, suspension or revocation.

**719.12 SEVERABILITY**

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.

**719.13 ENFORCEMENT AND PENALTY**

The City Administrator or their designee shall determine compliance with the provisions of this chapter.

Whoever violates any section of this chapter shall be guilty of a minor misdemeanor. Any such violation shall constitute a separate offence on each successive day continued. Strict liability is intended to be imposed for a violation of this chapter.

**EXHIBIT A**  
**REDLINE**

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**Operator:** The individual or entity who manages one (1) or more mobile food vending units whether as the owner, an employee of the owner or as an independent contractor.

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- B. ~~No Mobile Food Vendor shall~~ Unless otherwise stated in this chapter, no Mobile Food Vendor shall operate, or cause to be operated, any mobile food vending unit within the City of Pataskala without a current and valid health license issued in accordance with laws, rules and regulations established in the Ohio Revised Code, and the Ohio Administrative Code.
- C. Nothing in the chapter shall be construed as superseding, supplanting, or otherwise replacing any duty imposed by the Ohio Revised Code Chapter 3701 or 3717, or rules or regulations promulgated thereunder, upon an applicant for a health license, or upon department of health in its responsibilities relative to Mobile Food Vendors.

#### **719.05 INSURANCE REQUIRED FOR OPERATION**

No Mobile Food Vendor shall operate, or cause to be operated, any mobile food vending unit within the City of Pataskala without doing both of the following:

- A. Provide to the City Administrator or their designee a certificate of general liability insurance from an insurance company duly licensed to transact such business in the State or of an insurance company not authorized to transact business in this state, provided such insurance is written through a citizen of this state licensed as provided by Ohio Revised Code Sections 5905.03, et seq., in the amount of no less than the state minimum liability insurance as same is defined by the Ohio Department of Insurance.
- B. Affirm, in writing, that the Mobile Food Vendor will forever indemnify and hold harmless the City of Pataskala and all of its agents, employees, officials (elected and appointed), representatives, and insurance providers from and against all claims, damages, losses, suits and actions, including attorney's fees, arising or resulting from operation of a mobile food vending unit in the City of Pataskala.

#### **719.07 PERMIT CONTENTS**

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  - 6. The location of all receptacles for trash and recycling.
  - 7. The location of all seating, tables, planters and other accessory items.
- C. Photographs of the mobile food vendor unit to include details of all signage and menus.
- D. A copy of the health license pursuant to Section 715.04.
- E. A copy of the liability insurance for the mobile food service unit pursuant to section 715.05.
- F. A map indicating the proposed location of where the mobile food service unit will conduct business and, where applicable, along with written permission from the property owner. ~~If multiple locations are proposed, the mobile food vendor shall submit a separate mobile food vendor permit application for each location.~~
- G. Other information determined to be necessary by the City Administrator or their designee.

#### **719.07 GENERAL REQUIREMENTS**

A Mobile Food Vendor shall abide by all of the following requirements:

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#### **719.12 SEVERABILITY**

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.

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The City Administrator or their designee shall determine compliance with the provisions of this chapter.

Whoever violates any section of this chapter shall be guilty of a minor misdemeanor. Any such violation shall constitute a separate offence on each successive day continued. Strict liability is intended to be imposed for a violation of this chapter.