



ORDINANCE 20-2019

**AN ORDINANCE ADOPTING CHAPTER 730 FOOD TRUCK STANDARDS OF THE
CODIFIED ORDINANCES OF THE VILLAGE OF JOHNSTOWN, OHIO.**

WHEREAS, the Village Council of Johnstown, Ohio wishes to protect the health, safety and welfare of its residents; and

WHEREAS, the purpose of these regulations are to permit mobile food trucks on private property in the Village of Johnstown provided certain standards are met; and

WHEREAS, The Village Council finds that allowing food trucks to operate in Johnstown would promote diversification of the town's economy, employment opportunities and would support the incubation and growth of entrepreneurial/start-up businesses; and

WHEREAS, Food trucks bring benefits to communities; however they also bring unique regulation challenges; and

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF JOHNSTOWN, OHIO,
LICKING COUNTY, STATE OF OHIO;**

Section One. That Chapter 730 Food Truck Standards is hereby established as attached in "Exhibit "A" and incorporated herein.

Section Two. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that meetings of any of its committees that resulted in such formal action where meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code and the Charter for Johnstown, OHIO.

Date of Introduction: April 16, 2019
Public Hearing/Vote: October 1, 2019
Effective Date: October 31, 2019

BY: Lee



Mayor Benjamin Lee




ATTEST TO:

APPROVED AS TO FORM:



Teresa Monroe, Clerk of Council



Yazan Ashrawi, Law Director

EXHIBIT "A"

CHAPTER 730 FOOD TRUCK STANDARDS

730.01 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 food truck 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 licensed, motorized vehicle or mobile food unit which is temporarily located on a premise to sell food items to the general public.
- (e) "Hard Surface" means an area paved with concrete, asphalt or other similar products or combination of products
- (f) "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.
- (g) "Ice Cream Truck" means motor vehicles from which ice cream, popsicles, ice sherbets, frozen desserts or other similar items are sold.
- (h) "Food Truck Permit" means an official document issued by the Village Manager or Designee authorizing operation of a food truck within the corporate limits of the Village of Johnstown.
- (i) "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.)
- (j) "Permit Period" means the duration of the approved permit.
- (k) "Public Event" means any public activity or gathering or assemblage of people, other than a special event, that is open to the general public for admission, requires payment for entrance, attendance or participation, 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.
- (l) "Revoke" means to terminate all rights or privileges under a food truck permit for a period not to exceed ninety (90) days after which the individual must reapply for a permit.
- (m) "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 Village of Johnstown.
- (n) "Suspend" means to temporarily deprive a permittee of rights or privileges under a permit for a period not to exceed ninety (90) days.

(o) "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).

730.02 PERMIT REQUIRED FOR OPERATION.

(a) No individual or organization shall operate, or cause to be operated, any food truck within the corporate limits of the Village of Johnstown without a current and valid Food Truck 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 Village of Johnstown Codified Ordinances, whichever is applicable.

(b) Food trucks, to be located on private property, that only operate as part of a special event or public event shall not require a food truck permit. Such units must still comply with any health licensing requirements of the State of Ohio and register with the Village that they are doing business inside the municipal limits.

(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 food trucks.

(d) The Village Manager or Designee has the right and authority to issue permits on a Special Permit basis in certain specified district within the corporation limits of the Village of Johnstown upon which additional conditionalities – relative to any part of this ordinance - can be levied due to the nature and location of said districts. Strict adherence to these conditionalities are required and any deviation from noted amendments to a typical permit are considered grounds for license revocation.

730.03 APPLICATION FOR PERMIT.

(a) An application for a Food Truck permit must be submitted by the owner of the unit or owner of the business to the Village Manager or Designee. A separate application must be submitted for each unit. Application for a Food Truck permit shall be on a form prescribed by the Village of Johnstown and shall substantially comply with subsection (b) of this section.

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

1. Name, permanent address, telephone number(s), electronic mail address, and a copy of driver's license for owner and operator (if different from owner);
2. Business name or DBA, permanent address, and telephone number, if different from the owner information;
3. Proof of Ohio Department of Taxation Transient Vendors License, if required by State law;
4. A physical description of the unit proposed to be permitted for food service operation;
5. Current and valid state vehicle registration information for the unit proposed to be permitted for food service operation;
6. Proof of a current and valid license issued by a department of health pursuant to Ohio Revised Code to conduct retail food operations.
7. Complete listing by type or category of the food items to be sold or offered for sale.
8. Federal Tax Identification number or Social Security Number if no Federal Tax Identification number is available. If the applicant is not current and compliant in the payment of any taxes on payroll and net profits, proof 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;
9. Proof of a filing number or exemption from the Ohio Department of Taxation;
10. Affirmation that, upon issuance of a permit, the applicant will provide to the Village Manager or Designee 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 fifteen (15) calendar days of any such change or prior to the applicant's next operation of the unit within the Village. Upon issuance of a food truck permit by the Village Manager or Designee, the applicant becomes solely responsible for submission of current certificates which extend or renew permits, licenses or

insurance coverage required as a condition of issuance of the food truck permit. Failure by the applicant to maintain such information current and correct shall be cause to revoke the food truck permit.

11. Location of the proposed business and a letter of authority from the location property's owner shall be submitted with the application.
12. Proof of liability and property damage insurance. Limits of such coverage shall be not less than \$300,000 for push carts and pedi-carts and not less than \$1,000,000 for food trucks and trailers.
13. Verification that proper fire suppression devices are in good working order and readily available in case of emergency.
14. Payment of a food truck permit:
 1. Daily permit: \$10 per operating day
 2. Monthly permit: \$50 per operating month
 3. Annual permit: \$200 per operating year

(c) The Village Manager or Designee must examine all applications for a Food Truck 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 determination regarding the application within thirty (30) days of initial submission.

(d) The Village Manager or Designee shall provide a written determination to each applicant. If a complete application for a Food Truck permit is not approved, any reason(s) for that determination must be provided to each applicant in writing.

730.04 OPERATING REQUIREMENTS.

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

(b) Food Trucks shall be located on a lot containing a principal building, and must be parked on a hard-surface.

(c) Site Requirements:

1. Food trucks must be located a minimum distance of 25 feet in all directions from any fire hydrant.
2. All parking required by the addition of the 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.
3. 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.
4. Associated seating must not occupy parking spaces that may be leased to other businesses and used to fulfill their minimum parking requirements.
5. Associated seating must be removed from all permitted locations during impermissible hours of operation and must not be stored, parked, or left overnight on any public street or sidewalk.
6. Associated seating areas must not occupy any handicap accessible parking spaces.
7. The Food Truck vendor is responsible for the proper disposal of waste and trash associated with the operation. Village 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.
8. 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 Village's sanitary sewer system.
9. No free-standing signage, except menu boards, or audio amplification is allowed as part of the food trucks vending operation.
10. Hours of operation are limited to the hours between 7:00 a.m. and 10:00 p.m., unless part of a special event. Outside of special events, food trucks are required to be removed from the premises during non-business hours.
11. Operator or their designee must be present at all times except in cases of an emergency.

12. Generators shall not produce or disperse noxious smoke or fumes, and shall not produce unreasonable noise such that it would interfere with the use and enjoyment of adjacent properties by a reasonable person located more than 50' from the generator.

(d) The following activities shall be exempted from the chapter within the Village:

1. Ice Cream Trucks; and
2. Non-Incorporated Children's Stands.

(e) A person operating a vending device may not engage in any of the following conduct:

1. Conduct business in such a way as would restrict or interfere with the ingress or egress of an abutting property owner or tenant, interfere with pedestrian traffic, create or become a public nuisance, increase traffic congestion or delay, constitute a hazard to traffic, life or property, or obstruct adequate access to fire, police, or sanitary vehicles
2. Stop, stand, park, or conduct business within five hundred (500) feet of any pre-kindergarten to twelfth grade from one hour before school starts, during the time school is in session, and not vend until one hour after school is out
3. Stop, stand, park, or conduct business at one location for a duration exceeding eighteen (18) hours per day unless part of a Special Event.

730.05 SPECIAL EVENTS AND PUBLIC EVENTS, PERMITS NOT REQUIRED.

(a) No food truck permit shall be required for any food truck that operates exclusively as a subset of a Village approved Special Event, within the approved areas and time frames.

(b) No food truck permit shall be issued within the right-of-way or on Village property, unless part of a Special Event.

730.06 OPERATION ON PRIVATE PROPERTY.

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

(b) Same Food Truck cannot operate on the same private property for more than three (3) consecutive days within the same rolling thirty (30) day period throughout the duration of the permit timeline.

(c) Operation of a Food Truck on private property must be in compliance with all applicable zoning requirements related to commercial activity on private property.

(d) Any operation of street vending on residential property is prohibited.

730.07 EXPIRATION AND RENEWAL OF PERMIT.

(a) Each permit issued under this chapter shall expire on the following schedule;

1. Daily permits expire at the end of the operating day.
2. Any monthly permit issued before the [15]th of a month shall expire at the end of that calendar month. Any monthly permit issued on the [15]th of the month or later shall expire at the end of the following calendar month.
3. Yearly permits expire the [15]th day of March. Any annual permit issued between January [1]st and March [15]th shall expire on March [15]th of the following year.

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

730.08 TRANSFER OF PERMIT PROHIBITED.

No Food Truck Permit issued under this chapter shall be transferred or assigned by the named permittee to any other individual or organization, or to any other Food Truck. Should a change in ownership of Food Truck occur at any time, the succeeding owner must comply with the application, inspection and fee requirements of this chapter.

730.09 PERMIT SUSPENSION, REVOCATION.

(a) Permits issued under this chapter may be suspended or revoked by the Village Manager or Designee 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 Food Truck permit as issued; or
4. Failure to have valid permits or licenses required by the Licking County Health Department or any other Village, state or federal agency; or
5. Conviction of any criminal or traffic offense while using a 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 Food Truck in violation of any provision of this chapter.
8. Any other form of misconduct, which shall mean conduct apart from the generally accepted practices of food truck owners and employees, which demonstrates personal, corporate, managerial, ethical or professional characteristics or disposition rendering a person unsuitable to own or work in a food truck.

730.10 APPEALS

(a) If the Manager or Designee denies a permit after receiving a full and complete application, or the suspension or revocation by the Village of any permit, the applicant or permittee may appeal the order to Council

(b) All requests for appeals must be accompanied by the fee as established by the Village Council.

(c) Notice of the appeal shall be in writing, shall state the grounds for appeal, and shall be filed with the Clerk of Council within twenty days after the making of order denying a permit, or suspending or revoking the permit. Village Council shall fix a time, not later than thirty days thereafter, for the hearing of the appeal, at which hearing all parties interested shall be afforded an opportunity to be heard. Council shall approve, modify or annul the order from which the appeal was perfected within thirty days after the hearing. The findings of Council shall be conclusive and final on all parties thereto.

(d) The Mayor shall have authority to decide any request for continuance of the hearing, or continue the matter on his/her own motion.

(e) At a minimum, the appellant must provide the following information:

1. Name, address, and telephone number of the appellant;
2. The nature and the date of the action of the denial, revocation, suspension;
3. How the appellant is personally affected by the action and how any harm was unique to the appellant and differs from that suffered by the community at large; and
4. Why the appellant believes the Village Manager or Designee's interpretation is incorrect

(f) No action of the Village Manager or Designee shall be overturned in whole or in part unless the Village Council has determined that all of the following conditions have been met:

1. The appeal was made in a timely fashion;
2. The appellant had standing to make the appeal;
3. The Village Manager or Designee improperly interpreted the ordinance

(g) The Village Council shall render their decision no later than thirty days from the date of the hearing on the appeal.

(h) No appeal shall be upheld unless approved by at least a majority of the entire membership of the Village Council

730.11 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.

730.99 PENALTY.

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

1. Whoever violates Section 730.02 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. A violation of any section of chapter 730 may be grounds for the suspension, revocation or permanent revocation of the 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 Village of Johnstown Codified Ordinances.